

ACTU response to Question on Notice from Senator David Pocock

Senate Economics Committee Inquiry into the Future Made in Australia Bill 2024.

Question: I'm interested in recommendation 7 - the recommendation that recipients of FMA support adhere to the community benefit principles.

Why do you think this is a necessary integrity measure, and how could that be implemented?

Answer:

We thank the Senator for his question. His question is directed at recommendation 7 in the ACTU submission, but also touches on language in recommendation 6, so this answer addresses both.

Intended beneficiaries of the Community Benefit Principles should be able to:

- Get access to information to know if those Principles are being adhered to;
- Raise a complaint if they believe the Principles are being breached; and
- Get that breach remedied.

Recommendation 7 in the ACTU submission aims to ensure that the proposed Future Made in Australia (FMA) Rules, which will govern how businesses receiving FMA support are meeting the Community Benefit Principles, include these essential elements of transparency, dispute resolution and effective remedy.

We put this position as a matter of principle: if a purpose of FMA support is to benefit a community or a person, then that community or person should have a say over whether or not that has actually taken place.

It is also a matter of practicality: in the absence of intended beneficiaries being able to monitor compliance, it is left to regulators to do so who are typically under resourced, lack the relevant information, and often lack the expertise in a particular issue or sector. Unfortunately this is our experience with a range of procurement and investment processes in both the public and private sectors.

A complaints mechanism will only work if it can secure an effective remedy. So the Rules and any funding or investment arrangements, including the proposed FMA Plans need to provide for this. This would include not just penalties for a breach of the principles, but also binding requirements on a non-compliant business to take specific actions to remedy a breach.

Aside from promoting transparency and accountability, this recommendation would also help with building community trust in the FMA work and provide a key feedback loop to identify emerging problems and rectify them.

The amendment is also drafted in high level terms, to still enable the Rules to exactly spell out how these features might be embedded in the different ways FMA support is delivered.

Finally, the ACTU also put forward recommendation 6, to ensure that the Rules apply not just to businesses applying for FMA support but also to those actually receiving it. This is to overcome a concern that adherence to the Community Benefit Principles becomes just a one-off assessment, made upon application, rather than a continuing requirement to meet the Principles by a recipient of FMA support.

This would address the real concern that, e.g. a business takes on apprentices to meet the Community Benefit Principles relating to skills, but then treats them terribly knowing they wont be held to account. Or it conducts an initial consultation with first nations communities, but then ignores them after FMA support is secured.

We would be pleased to provide further information on these or any other issues in our submission.