

7 June, 2018

Mr Mark Fitt

Secretary

Senate Economics Legislation Committee

PO Box 6100

Parliament House

Canberra ACT 2600

Via email: economics.sen@aph.gov.au

Dear Mr Fitt,

Inquiry into the Treasury Laws Amendment (2018 Measures No. 4) Bill 2018

Responding to a question taken on notice

The ACTU took on notice the following question from Senator Ketter:

Senator KETTER: How large is this issue of contract or labour hire staff in the workforce?

Data from the ABS would suggest there are over 1 million “independent contractors” in Australia. Nearly one third of them are engaged in the construction industry. In fact, the CFMEU have suggested that between 26% and 46% of so-called independent contractors in their industry are engaged on sham contracts.¹

In recent decades the use of so-called independent contractors has increased significantly in other sectors of the economy including the public and private sectors. One example of this trend is the professional, scientific, and technical services industry which is now the second largest employer of “independent contractors” with roughly 16% of all contractors operating in this sector.

¹ CFMEU, Race to the Bottom, CFMEU Research Paper, 2011

However, a substantial proportion of the workers that fall into this category are not really “independent”. Many of them are economically dependent on a single employer and have limited discretion over when or how they work. In many cases these bogus contractors work alongside regular employees doing the same or similar tasks and even using tools, equipment and other inputs supplied by the same employer.

It is evident from data compiled by the ABS that a majority of workers currently classified as “independent contractors” would not meet the standard definition of independent. In fact, a massive 64% of people who are classified as “independent contractors” indicated they do not have authority over their own work.

Unfortunately, reliable data on the extent of labour-hire employment arrangements is out dated and patchy. Back in 2008 the ABS estimated that 576,700 workers, or 5% of employed people, had found their current job through a labour hire agency. Some 97% of these workers were engaged as employees and 3% were estimated to be independent contractors. Regularly updated statistics are urgently required to monitor these trends.

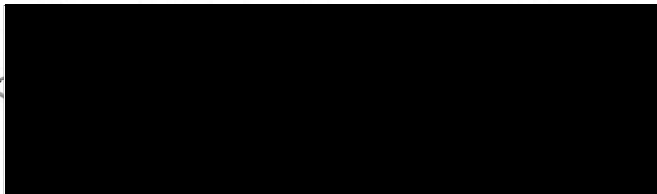
It has been estimated that there are between 2,000 and 3,500 private employment agencies operating in Australia. The top ten agencies have a combined market share of less than 20% of the total market and fewer than 2% of agencies employee more than 100 workers. While the industry is largely directed by big firms such as Skilled, Manpower, Spotless, Programmed Maintenance Services and Chandler Macleod, there are a large number of small players and considerable scope for unethical practices.

It is also increasingly common for the Commonwealth and state governments to utilise labour hire, rather than directly employing public servants to carry out core public service work of policy advice, program design and service delivery. Governments are using labour hire as a vehicle to outsource public service work, undermine collective bargaining and the rights of workers, and to avoid Ministerial accountability and transparency. Cuts to public service jobs and setting arbitrary ‘staffing caps’ also contribute to the increasing government use of labour hire, as there are simply not enough public servants to do the work. The actual numbers of labour hire workers engaged by state and Commonwealth government is unknown as agencies do not record or publicise that information, however an analysis of data on labour hire arrangements and total expenditure on labour hire provided to the Australian Senate showed that at least \$447m was spent in 2015-16 on more than 4,000 labour hire employees federally. Actual spending on labour hire will be even higher as those figures did not include all federal agencies. The use of labour hire

in the public service is detrimental to workers, and inimical to the accountability, transparency and democratic control of Government and public services.

The ACTU believes that the superannuation guarantee should be extended to all workers, including contractors and labour hire workers, and with that all protections from superannuation guarantee non-payment provided for under the law.

Yours sincerely

A large black rectangular box redacting the signature of Scott Connolly.

Scott Connolly
Assistant Secretary