



Resolution Number Ten

Submitted by National Secretary, Paul Howes.

Responding to the financial crisis – the role for regulatory reforms

Background

The Australian Workers' Union (AWU) has been at the forefront of efforts to ensure the workers of this country are adequately protected when companies become insolvent and risk losing their entitlements. The AWU has fought hard to achieve fairer redundancy for many workers in recent years.

However, the efforts of the Union have been hamstrung by antiquated and inadequate regulatory arrangements which see major creditors like banks and financial institutions able to recoup all of their costs from an insolvent company while the workers in the same company are unable to rank equally with these entities. At the same time we have seen company directors and senior managers hugely remunerated even while their companies struggle and workers get laid off.

The AWU has long argued that we need reform of the Corporations law which would entitle workers to achieve tier 1 status as secured creditors against the assets of the firm in the same way as the lending institutions are able to achieve. This would go a long way in ensuring that our workers are not left stranded when the remaining funds of struggling companies which become insolvent are insufficient to pay their entitlements in full. It would also serve as a disincentive to companies using up workers' funds as a cheap form of finance when they get into trouble in the knowledge that these entitlements will not be paid anyway in the event of foreclosure.

Other protections available to workers in the case of company failures are employee entitlement schemes. The AWU has also been critical of the Federal Government's General Employee Entitlements Redundancy Scheme (GEERS) scheme which is inadequate in making up the gap in entitlements for workers. We have sought the GEERS Scheme be reformed or replaced. It should be replaced with a more comprehensive scheme that guarantees workers their actual accrued entitlements and redundancy pay as per the relevant industrial instrument applying at that company's workplace, including superannuation and long service leave.

The AWU has organized entitlement protection insurance through IUS to top up GEERS entitlements. The AWU is also increasing its capacity to sue employers and directors for unpaid entitlements.

In view of the economic slowdown and its likely fallout in terms of further bankruptcies and insolvencies, the AWU calls on the Rudd Government to introduce a new GEERS Package as a policy priority in 2009 which would have a number of benefits. First, it would aim to close completely the gap in entitlements for workers where required therefore not leaving workers stranded. The AWU should not have to resort to suing directors in order to recover unpaid entitlements.

Second, it would provide an important stimulus to economic activity at a time when every policy lever is needed to promote spending activity in the economy. One of the major



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impacts of insolvencies is the immediate negative impact on spending because of lost income and fear of future income loss by our workers.

Reform of GEERS in this way which would not see it as merely a stop gap measure but as a positive policy tool in addressing the economic slowdown at a critical time and be an important step the Government could take in support of jobs and living standards.

Finally, the AWU recommends the Government through its regulators such as APRA and ASIC insist that company directors and senior officers are not able to reward themselves for short term economic performance regardless of longer term performance.

Personal financial rewards should be linked through escrow or redeemable options and share arrangements over at least a 10 and preferably 15 year time frame. This will better reflect the relative contribution of the director to the performance of a company over time as opposed to allowing cashing in on factors such as high commodity prices or takeover activity. This would serve to remove the incentive for short term CEOs, equity buyouts and board decision-making which focuses on the short term financial benefits to board members at the expense of the longer term performance of the company and the benefits to its workers and their families over time.

Resolution

This National Conference calls on the Rudd Government to review the Corporations law to remove the injustice to workers whose entitlements rank lower in the event of insolvency to banks and financial institutions secured against the assets of the company.

This National Conference calls on the Rudd Government to immediately implement a revamped GEERS Scheme which fully closes the gap in entitlements for workers so that in future workers are not left out of pocket in circumstances which are not of their making.

This National Conference calls on the Rudd Government to understand the value of the reformed GEERS scheme to boost spending in the economy at this critical time.

This National Conference calls on the Rudd Government to establish regulatory guidelines through its financial market regulators which would set a minimum time limit of 10 years for performance related remuneration of board members and senior executive consistent with longer term company performance.

Moved:

Seconded:

Outcome: