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Over a decade ago the Cole Royal Commission into the Building and Construction Industry exposed rivers of gold flowing to the union movement. Millions of dollars found their way to unions from overpriced income protection insurance products they pushed on employers, and from funds which unions coerced employers to contribute to.

A lot of time and money has been spent since that Royal Commission's findings at great cost to employers, employees and the community. Unfortunately the Cole recommendations related to those inappropriate revenue flows were never acted upon. The practices continue to this day. There is a real opportunity for the Heydon Royal Commission into Trade Union Governance and Corruption to look again at these issues and recommend appropriate changes. For guidance, it could look at the recommendations made by Commissioner Cole.

To this day, hundreds of employers in the construction and electrical contracting industries are being coerced to pay for income protection insurance products provided by insurance companies that are in turn paying massive commissions to unions – millions of dollars each year. The commissions are often labelled as "management fees" in the organisations' financial accounts. Many companies can purchase insurance products providing equivalent or better benefits to employees for one fifth of the cost of the insurance products forced on them by unions. Employers and employees are clearly disadvantaged from what is going on, as is the broader community. These practices make employers less competitive, reduce employment and drive up the cost of vital community infrastructure.

Redundancy funds in the construction and electrical contracting industries were another problem identified by Commissioner Cole. It is not appropriate for employers to be coerced to pay into redundancy funds which regularly distribute surpluses back to unions. The money contributed to redundancy funds is contributed by individual employers for the benefit of individual employees. It is not contributed for the benefit of union head offices. As Commissioner Cole stated in his final report: "*If funds were used only for the purposes for which they were established, contributions could be reduced – thus reducing building costs – or benefits to employees could be increased*."

Industry-wide pattern agreements play a major role in facilitating coercion of employers in the construction and electrical contracting industries. The requirements to pay for particular insurance products and to contribute to particular funds are locked in to pattern agreements. Employers who resist signing the pattern agreement are targeted by the unions. In addition, the unions target any head contractor that wants to sub-contract work to the company. It is little wonder that many employers perceive that they have no realistic option other than signing the unions' pattern agreement. This is plainly wrong and this conduct needs to be stamped out.

The Australian Industry Group has provided detailed information to the Heydon Royal Commission about these inappropriate practices and has urged the Royal Commission to make a series of recommendations to address the problems. There are number of key changes which are needed:

- Industry-wide pattern agreements should be outlawed, as recommended by the Cole Royal Commission.

- The recommendations made by the Cole Royal Commission regarding governance arrangements, disclosure requirements and distribution of surpluses from redundancy funds should be implemented.

- Industrial action in pursuit of claims for insurance products should not be permitted if the insurance provider is paying commission to a union. Such claims are not legitimately "*matters pertaining to the employment relationship*" – the key principle which underpinned the High Court's *Electrolux* decision. Rather, these are matters pertaining to union head offices. Also, industrial action in pursuit of claims for contributions to a redundancy fund should be outlawed if the fund does not meet stringent governance standards.

- An enterprise agreement provision which requires an employer to pay for an insurance product should be an "*unlawful term*" under the *Fair Work Act* if the insurance provider is paying commission to a union. The list of unlawful terms in the Act should also include any provision which requires that contributions be made to any redundancy fund which does not meet stringent governance standards. Unlawful terms cannot be included in an enterprise agreement.

Unions, and the insurance companies that they have commercial arrangements with, are reaping massive financial rewards at the expense of employers, employees and the broader community. This cannot be allowed to continue past another Royal Commission.