Opening Statement to the Senate Committee Inquiry into the *Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2017*

30 October 2017

Ai Group welcomes the opportunity to appear at the hearing today.

We have filed a written submission in this inquiry expressing our views on the *Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2017*.

Schedule 2 of the Bill addresses the widespread, highly inappropriate current practice of unions deriving millions of dollars a year from money contributed by employers to employee entitlement funds which are meant to be for the benefit of their own employees.

Throughout the Heydon Royal Commission, a key issue focussed upon by Ai Group was the millions of dollars in revenue that flows every year to unions from the inappropriate practices of some construction and electrical contracting industry redundancy funds, including:

- The regular distribution of millions of dollars in so-called "surpluses" to unions, from the investment earnings on funds contributed by employers for the benefit of their employees;
- Discriminating between union members and non-union members when providing certain benefits;
- Making payments to workers on strike under the guise of "hardship payments".

Money paid into employee entitlement funds is paid by employers for the benefit of their own employees – not for the benefit of union head offices.

Employees' entitlements need to be protected from "cash-grabs" by unions.

The vast sums that construction unions receive each year from employee entitlement funds allows them to operate a law-breaking model. They can readily afford the fines that

they incur for breaking the law because the funds that they receive from employee entitlement funds far exceed the fines incurred.

In any civilized society, all organisations and citizens need to comply with the law.

The application of appropriate governance standards to employee entitlement funds is long overdue.

Superannuation funds are subject to rigorous governance standards, but these do not apply to construction and electrical contracting industry redundancy funds, even though over two billion dollars of employee entitlements are held in these funds.

Members of superannuation funds rightly expect to, and do, benefit from the investment earnings on employer contributions to superannuation funds. It is not right that investment earnings on employer contributions to most construction and electrical contracting industry redundancy funds are diverted to union head offices.

This practice is ripping-off workers and needs to be stamped out as recommended by both the Heydon and Cole Royal Commissions.

The Senate Committee has received submissions from a number of parties with clear vested interests in ensuring that appropriate governance standards are not implemented for employee entitlement funds. The arguments that they have raised in their submissions about why new governance arrangements are not needed were considered in detail by both the Heydon and Cole Royal Commissions and roundly rejected.

The Heydon Royal Commission uncovered numerous examples of inappropriate conduct relating to worker entitlement funds.

For example, the Royal Commission uncovered the fact that construction industry employers had contributed $2.6 million for drug and alcohol rehabilititation services, and the CFMEU has siphoned off half of that money into its general revenue.

It is unfathomable how any party could legitimately argue against an appropriate governance regime being established for worker entitlement funds that hold over $2 billion dollars in employee entitlements.

Funds like Incolink, Protect and BERT had modest beginnings, but these funds now hold vast amounts of worker entitlements and an appropriate governance regime urgently needs to be introduced.

Schedule 4 of the Bill contains critical reforms through the introduction of appropriate governance arrangements for worker entitlement funds. The parties that are arguing against appropriate governance arrangements for worker entitlement funds typically have a vested interest in the current inappropriate arrangements not being disturbed. The arrangements need to be disturbed because they are not operating in the interests of workers. Anyone that looks at the issues fairly and impartially can see that.

Schedule 5 of the Bill implements recommendation 47 of the Heydon Royal Commission by requiring that registered organisations disclose to employers and employees the financial benefits (e.g. commissions) that they receive from income protection insurance and other products that they promote or arrange.

Currently, millions of dollars per year flow to unions from very large, inappropriate commissions paid to them by insurance companies which offer substandard income protection insurance products at grossly inflated prices.

Unions are misusing the enterprise bargaining laws to coerce employers to purchase these substandard, grossly overpriced insurance products, including through the use of industry-wide pattern agreements.

If there was free competition in the market it is highly unlikely that these insurance products would be purchased because employers are typically able to purchase insurance products that provide much more favourable benefits for workers at a much lower cost (e.g. through an industry superannuation fund or through the insurance company which the company uses for other types of insurance). Many employers have advised Ai Group that they can purchase income protection insurance for 1/3 to 1/5 of the cost of the insurance products that the unions coerce them to purchase.

It is obvious that unions are currently enriching themselves at the expense of both workers and employers.

In conclusion, the Bill contains vital reforms that will provide much needed protection for workers' entitlements. It is essential that the Bill is passed without delay.