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OPINION PIECE BY Ai GROUP CHIEF EXECUTIVE, INNES WILLOX

Time to end unfair attacks on labour hire industry

Why the current economically reckless war on labour hire? It makes no sense. The labour hire industry employs hundreds of thousands of Australians (about 2 per cent of the workforce), and hundreds of thousands more obtain their jobs with other businesses through a labour hire firm.

Over the past few years, one constant has been the ongoing attempts by Labor and the unions to portray the labour hire industry as full of shonky operators who underpay their staff. Of course, there is a small number of employers and employees who do the wrong thing in every industry. However, there is no evidence that the incidence of wrongdoing in the labour hire industry is greater than any other industry or to anything like the extent its detractors would like you to believe.

The Fair Work Act and awards apply to labour hire businesses and employees, just like everyone else. Last year, penalties for breaches of awards and workplace laws increased by up to 20 times.

The key aspect of labour hire is that the workers are employed by a labour hire company and are placed with other businesses. Businesses use labour hire to address seasonal demand, to cover unplanned absences, and to access staff with particular skills.

Many employees prefer the flexibility that labour hire employment offers them. They enjoy significant flexibility over their hours and work locations. They enjoy a lot of variety and rapidly gain new skills and experiences.

Labour hire businesses typically provide work health and safety training and direct management support to their employees. Many provide best-practice employment conditions. Hundreds of thousands of employees choose to work in the labour hire industry.

Labor State Governments in Queensland, South Australia and Victoria recently introduced labour hire licensing legislation. The legislation is imposing a major regulatory burden and increased costs on labour hire businesses.

In addition, Federal Labor has announced a policy to implement a national licensing scheme. An appropriate national scheme would be better than having separate schemes in each State and Territory, but there is no sign that the State Parliaments intend to repeal the legislation they have passed.

Federal Labor has also announced a policy to give labour hire employees the same entitlements as the employees in the workplaces in which they work. Labour hire businesses should not be forced through legislation to apply the wage rates and employment conditions of other businesses. The proposal is unfair and unworkable. For example, if a business implements an employee share scheme for its employees, how can a labour hire supplier to that business be expected to offer its employees shares in another company? Also, if a retailer offers its employees discounted groceries, how is a labour hire provider supposed to do the same? Further, if an airline offers its employees access to heavily discounted airfares, it is unfair and unworkable to expect a labour hire supplier to do the same.

Labour hire businesses need to be able to make their own decisions, in conjunction with their own employees, on what salaries and employment conditions are appropriate, so long as the relevant awards and workplace laws are complied with.

Some of the largest labour hire companies operating in Australia are multi-national firms. The current war on labour hire sends completely the wrong message to overseas head offices – that Australia is not a good place to invest.

The problems are not limited to union campaigns and ill-conceived policy proposals. The recent decision of the Full Federal Court in the *WorkPac v Skene* case flies in the face of widespread industry practice and threatens the flexibility that is so important to industry.

Paul Skene was employed by labour hire company WorkPac as a casual. He worked on a regular roster for a two-year period. The Court decided that Skene was not a "casual employee" under the Fair Work Act and awarded him annual leave. According to the Court, the fact that an employee is engaged as a casual, paid a casual loading and meets the definition of a casual in an award is not determinative of whether the employee is a "casual employee" for the purposes of the Act.

The Court's interpretation is unworkable. It creates huge cost risks for all industries – not just the labour hire industry. The Australian Government needs to move quickly to insert a definition of "casual employee" in the Act clarifying that if a person is engaged and paid as a casual, they are a casual.

Given that the demand for labour hire can be uncertain, most employees in the labour hire industry are engaged as casuals. It is a myth that the level of casual employment has been increasing – it has been about 20% of the workforce for the past 20 years. It is also a myth that labour hire employment as a proportion of the workforce has been increasing. The growth of the industry has flattened over recent years.

Taking away the flexibility that labour hire businesses and their clients need would reduce productivity, competitiveness and employment. It would also be unfair on hundreds of thousands of labour hire employees.

It is time to stop the unfair attacks on Australia's labour hire industry. The industry needs to be given the recognition that it deserves, as one that provides substantial benefits to businesses, employees and the broader community.

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