

SUBMISSION ON TERMS OF REFERENCE EMPLOYMENT WHITE PAPER

30 NOVEMBER 2022

The Australian Retailers Association (ARA) is Australia's oldest, largest and most diverse retail body, representing a \$400 billion sector that employs 1.3 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies independent, national and international retail members.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate in all states and across all categories - from food to fashion, hairdressing to hardware, and everything in between.

SUMMARY

The ARA supports the submission made by the Australian Chamber of Commerce and Industry (ACCI) but have also provided some retail industry perspectives on the terms of reference in the submission.

- **We need to address labour shortages, increase skilled migration and invest in skills**
The ongoing labour and skills crisis continues to disproportionately impact the retail sector and requires action to increase skilled migration and improve workforce participation, supported by continued investment in re-skilling and up-skilling of the existing workforce.
- **We need to simplify awards and bargaining to drive productivity and wages growth**
Increasing productivity in the retail sector can be achieved through simplification of the modern awards and enterprise bargaining regulatory framework. While reforms are already underway, we recommend further consideration of improvements to enterprise bargaining, specifically a re-think on the extension of multi-employer bargaining. Productivity in the retail sector could be improved with the introduction of more flexibility around part-time arrangements, rostering and the ability for retail employees to work a 'split-shift'.
- **We need full deregulation of trading hours, nationally**
Retail trading hours should be deregulated to support more flexible working arrangements in the retail sector and to safeguard the ability of Australian retailers to remain competitive.

The ARA has consulted with members in the development of this submission. We recommend that government conduct further consultation with all stakeholders into 2023 as the Employment White Paper is developed.

INTRODUCTION

The ARA was an engaged participant in the Jobs and Skills Summit earlier this year. ARA CEO Paul Zahra found the summit to be a useful forum in bringing together a broad range of stakeholders to focus on Australia's labour and skills crisis in a spirit of co-operation.

In the lead up to Christmas, traditionally the busiest time for our sector, there are more than 46,000 job vacancies in retail. Coupled with another COVID-19 wave, these vacancies are impacting the ability of some retailers to trade without restrictions and benefit from consumers' willingness to spend.

Since the Summit, we also note the introduction of the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022 (**the Bill**). As our submission to the Senate Education and Employment Committee noted, we support most measures outlined in the legislation. However, we did not support the extension of multi-employer bargaining because of concerns it will lead to drawn out bargaining processes and potential disputes, rather than achieve the Government's objectives of higher wages and improved bargaining outcomes.

Regarding the development of the Employment White Paper (**the White Paper**), the ARA supports an approach that is grounded in data and evidence, informed by relevant international comparisons and stakeholder consultation.

We also support a methodological approach to this consultation during the drafting of the White Paper, with regular engagement with relevant stakeholders. We note that the White Paper is not due to be released until September 2023 and that this consultation will be the only consultation between now and the publication of the White Paper. If this is the case, we urge the Taskforce to continue consultations as the White Paper is developed in 2023 and that all stakeholders be offered further opportunities to engage with the process.

As noted, the ARA supports the ACCI submission. However, we have also outlined some retail industry perspectives on the terms of reference for the White Paper below. Our comments are informed by consultation with our members.

RETAIL INDUSTRY PERSPECTIVES ON THE TERMS OF REFERENCE

1. Full employment and increasing labour productivity and incomes

As noted by ACCI, Australia's productivity performance has waned, and we are operating at a clear competitive disadvantage against comparable countries.

A key reason for this is our overly complex and rigid industrial relations system. This is apparent in the retail sector where the modern awards are overly complicated, with the high level of regulation impeding flexibility.

We note that the changes to the Better Off Overall Test (**BOOT**) in the Bill will go a long way to encouraging enterprise bargaining and support the improvements made to the BOOT. However, we are concerned about amendments that seek to retain the prospective employees test in the BOOT, as this will only serve to complicate and slow down the bargaining process.

The ARA submits that improved productivity could also be achieved by simplification of the modern awards system. For example, in the retail sector, the General Retail Industry Award (**GRIA**) underpins many enterprise agreements in place for retail employees. We strongly believe that the GRIA, and other awards in the retail sector, need to be modernised to enable greater flexibility and efficiency which will drive productivity across the sector.

We believe that this will be more effective than multi-employer bargaining in achieving desired outcomes to benefit employees and employers alike.

Specifically, productivity could be improved with the introduction of more flexibility around part-time arrangements, rostering and the ability of employees to work a 'split-shift'. We submit that simplification and modernisation of the GRIA and other retail awards could provide this flexibility for employers and employees alike.

2. Future of work

The retail sector has proven resilient through three years of disruption due to the global pandemic that put pressure on both supply chains and labour resources. These challenges have also come at a time of digital transformation and increasing competition from offshore online retailers.

While we must continue to build and strengthen resilience to global disruptions such as the pandemic, climate change and extreme weather events, and this work is ongoing; Government needs to focus on how it can support retailers to remain competitive.

This means a focus on labour and skills that encompasses skilled migration as well as upskilling of the existing workforce. Retail is often misperceived as a workforce built on unskilled labour, particularly when it comes to frontline roles, but the sector is increasingly reliant on employees possessing high levels of digital literacy and data management skills as well as higher level skills in problem solving and conflict resolution.

It also means a re-think of how retailers are allowed to do business. In several states, retail trading hours are still over-regulated and unnecessarily restricted. Sunday closings and other retail trading hours restrictions are obsolete and unnecessary in an age when consumers have 24/7 access to online retailers, anywhere in the world and customer expectations are that businesses will operate whenever there is demand.

We strongly recommend a nationally consistent approach to deregulate trading hours that will improve retailers' productivity, create more hours of employment and enable greater flexibility, particularly for small business employers to trade at a time that suits their business and meets local customer demand. This will also ensure Australian retailers remain competitive as the economy is increasingly digitalised and technology driven.

3. Job security, fair pay and conditions, and the role of workplace relations

As previously noted, we support the ACCI submission and the views it has outlined regarding the workplace relations system.

Retail is Australia's largest private sector employer. While the ARA's membership includes some of the largest employers in the country, we also represent many mid-level businesses along with smaller businesses that employ only a small number of retail and hospitality workers.

Small and mid-level retailers do not always have the resources to engage in complicated bargaining processes or to interpret awards that require a legal degree to understand. As outlined above, simplification of the modern awards and bargaining systems, the introduction of flexibility around rostering and part-time arrangements, we believe, will result in increased productivity, better employment growth and sustainable wages growth.

Finally, we note there needs to be flexibility for both employees and employers. The pandemic has shown that flexibility in employee's working arrangements is quite achievable and has many benefits. We should also look at how flexibility can be improved for employers so that businesses can innovate and adjust to changing demands, particularly as we enter a likely global economic recession.

4. Pay equity, gender pay gap and a more inclusive workforce

The ARA notes its support for the provisions in the Bill to address the gender pay gap and improve pay equity. The ARA and its members are also committed to building more inclusive workforces as we believe this leads to improvements in both productivity but also employee well-being and in the case of retail, customer satisfaction. Our commitment is evidenced by our member advisory committee on diversity, equality and inclusion and our [position statement](#) developed and informed by that committee.

5. Labour force participation, labour supply and improving employment opportunities

The ARA agrees with ACCI's proposition that increasing workforce participation is critical to improving productivity and that we should focus specifically on improving the participation among the following cohorts:

- Women
- People with disability
- Youth
- Older Australians
- Indigenous Australians
- LGBTQ+ people
- People from culturally and linguistically diverse backgrounds

As noted above, the ARA strongly supports diversification of the retail workforce to improve equity and productivity and we have developed our own position statements on [gender equality](#) and [LGBTQ+ equality](#) as well as a [Reconciliation Action Plan](#) to this end. Further, the Retail Institute, a Registered Training Organisation, managed by the ARA also targets the above cohorts in programs designed to connect jobseekers with a retail career pathway.

Contact and questions

The ARA appreciates the opportunity to provide comments on the terms of reference and we look forward to further engagement as the White Paper is developed.

Any questions about this submission can be directed to policy@retail.org.au.