



The Workforce of the Future?

Canberra, Tuesday 24 August 2004

Programme

9-00 am	<i>Registration</i>	
9-30 am	Welcome and introductions	Ken Phillips (ICA)
9-45 am	The people and their issues	
	Independent contractors speak	Short video
	Workforce of the future	Bob Day (ICA)
	ICs in the transport industry	James Taylor (Fleets Flyers)
	ICs in the IT industry	Kim Moeller (Patriot Alliance)
	The Odco arrangements	Judy Meinen (Labour Force Australia)
11-00 am	<i>Morning Tea</i>	
11-30 am	I work from home!	Angela MacRae (Business Consultant)
	ICs in the rural sector	Graham Blight (Farmer)
12-10 pm	The legal definitions	
	International perspective	Peter Anderson (ACCI)
	What the courts say	Tanya Cirkovic (Tanya Cirkovic & Ass.)
	Ideas for legislative definitions	Ferdie Kroon (HIA)
1-30 pm	<i>Lunch</i>	
2-30 pm	The regulation issues	
	Taxation	Judy Hartcher (Chair) (CPA)
	Trade practices & commercial law	Tony Sullivan & Panel (ATO)
		Nicholas Heys (ACCC)
3-40 pm	<i>Afternoon Tea</i>	
4.00 pm	OHS & EEO	Breen Creighton (Corrs Chambers)
	Across the government sector	Sandra Parker (DEWR)
		Eden Zanatta (Dept Veterans Affairs)
5-20 pm	Comments	Judy Hartcher (CPA)
5-30 pm	<i>Break</i>	
6-30 pm	<i>Pre-dinner drinks</i>	
7-00 pm	Dinner	
	Keynote speaker	Ron Silberberg (HIA)

Presenters

KEN PHILLIPS is Executive Director of Independent Contractors of Australia. He is a lobbyist specializing in work-related issues, and in that capacity consults to a wide range of organizations and businesses on practical processes for continuing reform inside businesses. Ken writes regularly in journals, magazines and newspapers and is most often recognized for his articles in the *Australian Financial Review*. He promotes the concept of 'markets in the firm'. He has been a primary school and TAFE teacher, a union official, company secretary for a chain of meat businesses, ran a jobs placement programme for an Asian community, and has run retail businesses for more than fifteen years.

Ken will welcome delegates, outline the arrangements and protocols for conducting the Summit and thank the presenters and organizations who have contributed to making the Summit possible.

BOB DAY is founder and Chairman of Independent Contractors of Australia, National Vice-President of the Housing Industry Association, Member of the National Work for the Dole Advisory Committee, Chairman of North East Vocational College and founder of Oz Homes Foundation. Bob was appointed an Officer of the Order of Australia in 2003 and awarded the Centenary of Federation medal for services to housing and charity. Bob's national company owns some of the best-known brand names in the housing construction industry.

With independent contractors now constituting more than 25% of the private sector Workforce, Bob will consider ICs as the 'workforce of the future.' What are the benefits to people? What are the issues? What are the implications of attempting to constrain the growth of independent contracting?

JAMES TAYLOR has a long history in the transport industry, particularly in New South Wales. He is Director of Fleets Flyers and current President of the NSW Courier and Taxi Truck Association. Like everyone operating in the transport sector, James was affected by the two Vabu (Crisis Couriers) decisions.

Some of the most significant industrial relations, tax and deeming court cases concerning independent contractors have occurred in the transport sector. The Vabu cases are perhaps the most high profile. James will consider such issues as; how dependent is the transport industry on independent contractors; What would happen if the use of ICs in the industry were regulated out of existence and how does Australia compare with overseas?

KIM MOELLER has been working with IT contractors for over 10 years. In that time, he has been a significant influence on an IT contract company that made *BRW's* Fastest Growing Private Companies list twice. He was also on the executive of Unisys People and the ACT Branch Manager of Unisys People—a company that grew from \$0 to \$45 million in revenues in less than 3 years and utilized almost 1,000 contractors. More recently, Kim was the ACT senior business development manager for Candle Australia, a major IT contracting firm. Currently, Kim is the General Manager and part-owner of Patriot Alliance.

Kim is well placed to consider the IT industry, one of the great drivers of productivity growth in the economy. But IT is as much a revolution in its people engagement systems as it is a revolution in new technology. Most frequently, work is organized around cascading contracts, multiple labour hire arrangements and other service provider mechanisms that make the industry look like a stock exchange for services rather than traditional command-and-control systems. Just how does the industry operate? How important are ICs? And what are the impacts of applying traditional labour regulation to the industry?

JUDY MEINEN is a director of Labour Force Australia Pty Ltd, the licensor of the Odco Contracting System, which operates nationally through a network of licensed agencies. Judy has some 17 years' practical experience working in and with the Odco system. She oversees the design and monitoring of the regulation management systems that Odco licensees use to ensure compliance with the range of State and Federal regulations applying to Odco labour hire.

The Odco arrangements were born out of the Troubleshooters judgments of the early 1990s. Odco is subject to criticism, if not demonization, and is frequently accused of being a process for avoiding regulation. However, the arrangements have clearly established a firm presence in the Australian economy. Judy is well placed to explain how the licensor of the arrangements has sought to grapple with the diverse national regulations confronting independent contractor systems and the difficulties associated with legitimately and appropriately complying with such regulations.

ANGELA MACRAE is an economist whose postgraduate studies revolved around tax and superannuation policy. In the lead-up to the tax reforms of 2000, Angela was the tax reform spokesperson and National Tax Director for CPA Australia. After the implementation of GST and PAYG, Angela was contracted to the Prime Minister's Office to assist with resolving GST and BAS problems. Since starting a family, she now describes herself as a 'work from home consultant' juggling her duties caring for her young baby, with tax writing and policy advising, running exercises classes and supplying secretarial services.

Angela is in the unique position of being intimately involved with the government machinery which created tax regulation for ICs. She will discuss how her perspective on IC regulation has changed now that she is a contractor herself, explain why contracting involves so much more than tax considerations, why minimal regulation is so important for microbusinesses—and why the government should care more about the little guys in designing regulations.

GRAHAM BLIGHT is a rice and grain farmer located in the Riverina district of New South Wales. He was president of the National Farmers Federation from 1991 to 1994 and president of the World Farmers Federation from 1994 to 1998. Graham is an active lobbyist on farming issues and a frequent industry representative on trade and free trade delegations.

Graham will look at the use of ICs in the rural/farming sector and the practical issues that confront the sector such as; how important are independent contractors to viable and progressive farming; to what extent do free trade issues impact on labour engagement arrangements in farming; and is the award system relevant for farming?

PETER ANDERSON is Director of Workplace Policy for the Australian Chamber of Commerce and Industry (ACCI), the peak national body of employer organizations in Australia. Peter is a solicitor, has been Executive Director of the Retail Traders Association of South Australia, worked for the South Australian government's industrial relations, workers' compensation and OHS reforms, and was chief of staff to the South Australian Premier in 1996. Before joining ACCI, Peter worked for two Federal Workplace Relations ministers. Peter attends International Labour Organisation meetings as the key Australian employer representative. In 2003, he participated in the ILO discussion on the 'Scope of the employment relationship', an issue critical to the independent contractor community.

Peter's involvement at the ILO uniquely enables him to consider how well the issue of independent contracting is handled internationally. Peter will consider such issues as: What are the definitions used to identify employment and independent contracting? Does focusing on definitions assist or hinder suitable regulation? Can one simple definition cover all issues?

TANYA CIRKOVIC is a graduate in Law and Arts, majoring in Literature. Tanya began practising law with Kroger & Kroger in the 1980s and was part of the team that registered one of the first company-focused enterprise agreements in Australia. She has operated Tanya Cirkovic & Associates for more than a decade, specializing in the industrial relations field and with a strong consultancy aspect designed to help clients prevent problems rather than simply solving them. One such project involved the overhaul of Telstra's industrial relations practice. Tanya has run some of the most important legal test cases in Australia on employment versus independent contracting determinations.

Tanya will detail the common-law definitions of independent contracting and how these impact on the practical issues for independent contractors, businesses and regulators in identifying status. She will consider such questions as: Is the common law clear or confused, as many claim, and is the idea of a 'dependent contractor' recognized as legitimate by the courts?

FERDIE KROON is Assistant Director, Compliance, Housing Industry Association—National Office. Ferdie has an extensive background in the human resources, industrial relations, legal services and related policy areas, working first with the Department of Defence and then with the HIA.

The Housing Industry Association and its members have, perhaps for longer than any industry sector in Australia, had to deal daily with the practical issues of regulation compliance in relation to independent contractors. They were and continue to be at the forefront of tax regulation and compliance issues. Ferdie will consider some of the policy problems experienced by the housing sector and present a policy proposal for resolving issues developed by the HIA and based around the use of PSI as legislative modelling.

JUDY HARTCHER is CPA Australia's Business Policy Adviser and small business spokesperson. Judy has responsibility for the development policy, research and projects on business issues, particularly as they affect small business. She has over 12 years' experience in small business,

including six years in the federal small business policy area in Canberra, and two years with the ACCC. Prior to her time in Canberra, Judy owned and operated a small business in Mackay, Queensland and managed a regional enterprise development agency that facilitated business start-ups, provided business advice and introduced regional business development initiatives.

Judy represents CPA Australia on the National Small Business Forum, Small Business Coalition and ACCC Small Business Advisory Group and a range of other consultative forums. Her tertiary qualifications include a Bachelor of Business (Professional Accounting) and a Master of Business Administration.

Judy's position with CPA Australia and her background uniquely place her to Chair the regulation section of the Summit and to guide discussion where needed.

AUSTRALIAN TAXATION OFFICE—PANEL

Tony Sullivan is Assistant Commissioner Small Business Compliance for the ATO. Tony will be lead presenter for a panel of ATO officers considering tax issues. The panel includes *Mick Lyons*, National Technical Leader in the ATO Small Business Line, *Simon Mathews* Assistant Commissioner (Senior Tax Council) and *Peter Callahan* Project Leader, Personal Services Income Measures.

TONY SULLIVAN has held a range of senior management positions in the ATO in the operations, corporate services, and compliance areas. More recently, this has included responsibility for implementation of the personal services income legislation. Tony's particular interest in management theory, concepts and practice saw him lead an APS-wide project resulting in publication of guidelines on Risk Management for use by managers across the APS. He is a regular participant in ATO external consultative forums.

MICK LYONS has principally worked in the technical areas of the ATO. For the past 6 years he has been involved in implementing tax reform, including the new Alienation of Personal Services Income measures. Currently he is working in the alienation of personal services income test case programme announced by the Commissioner last year.

SIMON MATHEWS has been with the ATO for 14 years working mainly on alienation of personal services income and is currently in the alienation of personal services income test case programme.

PPETER CALLAHAN has extensive experience in senior ATO positions, including Assessing, Appeals, Taxpayer Service and Child Support Agency. He has been project leader for the personal services income measures for the past four years. Peter holds a Bachelor of Commerce, is a Fellow of CPA Australia and member of the Geelong Branch Council of CPA Australia.

Tony Sullivan will present an outline on the operation and administration of the relevant tax law applying to PSI as a platform from which tax policy on independent contractors can be understood. Within this context the PSI lay explanation distributed by Independent Contractors of Australia can give conference delegates some background perspectives which may be discussed. Some updates, where possible, on the ATO's test case programme may also be covered, giving additional understanding of the law.

NICHOLAS HEYS is Assistant Director of the Australian Competition and Consumer Commission Small Business Section. The Small Business Section has primary responsibility for promotion of small business issues within the ACCC. The section works closely with industry associations and small business organizations to ensure that the small business community is aware of its rights under the *Trade Practices Act*. The Act prohibits anti-competitive and unfair trading, in particular the unconscionable conduct provisions which ensure that big businesses in a commercial relationship with small businesses do not take an unfair advantage of those smaller businesses.

Nick will discuss how independent contractors fit into the parameters of the *Trade Practices Act* and the various State Fair Trading Acts, how independent contractor regulation and compliance issues within the framework of small business regulation are handled by the ACCC and explore some of the policy issues that may currently be inadequately addressed—such as difficulty with the cross-over to industrial relations legislation.

BREEN CREIGHTON is a Partner at Corrs Chambers Westgarth. He was National Practice Group Leader of the Workplace Relations Group from 2001 to 2003. He has held academic appointments in Australia and overseas, including principal legal officer in the Freedom of Association Branch of the ILO in Geneva, and Legal Officer at the ACTU. Breen has published extensively in the fields of labour law and labour relations. Corrs Chambers Westgarth is one of Australia's leading national law firms with a reputation built over 150 years of innovation and client focus.

Breen will review the application of occupational health and safety legislation to independent contractors in the various Australian jurisdictions (and in the UK). He will draw on some of the recommendations set out in the Maxwell Report in Victoria, and will also focus upon the interrelationship between OHS and EEO by reference to their impact on independent contracting issues.

SANDRA PARKER (DEWR) & EDEN ZANATTA (DVA)

SANDRA PARKER is currently acting as Group Manager in the Workplace Relations Policy Group of the Department of Employment and Workplace Relations. She was appointed to the department in September 2003.

During 2002-03, Sandra worked as an Assistant Secretary at the Commonwealth Office of the Status of Women (OSW), Department of the Prime Minister and Cabinet and prior to this she managed vocational education and training policy and programmes at the Commonwealth and state levels.

EDEN ZANATTA, B LegS, CPA, is currently Senior Legal Officer, Contracts Advisory Unit, Department of Veterans' Affairs. Prior experience includes working as a contractor and project manager, and extensive experience in the Australian Taxation Office at both national and state levels. He has participated in tax reform and many legislative projects and held various technical and management positions.

Over the last few years, the federal government has found that it has become a heavy user of independent contractor services. As a consequence, the public policy issues have come into stark relief for the public service, leading to the establishment of an inter-departmental committee considering them across the whole of government sector. Sandra will report on some of the issues and considerations being investigated by the committee, both in terms of public service contracts and broader public policy approaches.

On a day-to-day practical level, the Department of Veterans Affairs is a constant user of independent contractor services. Eden will case study the approaches of the DVA and consider some of the issues with which they are confronted and how they have addressed those issues to date.

RON SILBERBERG, B.Ec, PhD, is the Managing Director of the Housing Industry Association which represents more than 30,000 members in the housing industry. From 1981-1986 he was Deputy Director of the Housing Industry Association; in 1987 was National Executive Director, and since 1997 has been its Managing Director.

Ron was responsible for designing the First Home Owners' Scheme, the successful campaign leading to restoration of negative gearing, the reversal of the 12.5 percent sales tax on building materials; the doubling of the first home owners grant for new housing; securing the Federal Government's agreement for a broad ranging Productivity Commission Inquiry into Housing Affordability; and most recently initiating the National Summit on Housing Affordability held at Parliament House in June 2004.

Ron has considerable experience in representation before Federal Ministers, parliamentarians and senior officials.

Ron will deliver the keynote address for the Summit, drawing out issues and providing opportunity for discussion.