



**A•S•U**  
**Australian Services Union**

## **ASU Submission**

**Keeping Jobs from Going Offshore (Protection of  
Personal Information) Bill 2009**

### **Inquiry**

**Senate Standing Committee on Environment  
Communication and the Arts**

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## 1. Introduction

1.1. The Australian Services Union (ASU) is one of Australia's largest unions, representing approximately 120,000 employees.

1.2. The ASU was created in 1993. It brought together three large unions – the Federated Clerks Union, the Municipal Officers Association and the Municipal Employees Union, as well as a number of smaller organisations representing social welfare, information technology workers and transport workers.

1.3. Today, the ASU's members work in a wide variety of industries and occupations and especially in the following industries and occupations:

- Local government (both blue and white collar employment)
- Call centres
- Clerical and administrative employees in commerce and industry generally
- Social and community services, including employment services
- Transport, including passenger air and rail transport, road, rail and air freight
- Electricity generation, transmission and distribution
- Water industry
- Higher education (Queensland and South Australia)

1.4. The ASU has members in every State and Territory of Australia, as well as in many regional centres as well.

1.5. The Australian Services Union takes a long standing interest in the issue of offshoring. The ASU has members in a range of companies affected by the proposed legislation. We have members in both in house call centres and call centres companies which perform "contract" call centre functions for other companies. The ASU also has members in private sector – clerical and administrative work in a variety of companies including private legal firms as well as IT professionals in companies like Qantas and IBM.

1.6. With the Finance Sector Union (FSU) and other services unions we have campaigned for disclosure of call centre location and written consent requirements for the transfer of personal information to mitigate the worst aspects of offshoring from a consumer's perspective and to stop the movement of Australian jobs in the services industry offshore. We support the recommendations of the FSU in their submission to this inquiry.

## **2. Offshoring in the Australian services industry**

2.1. Offshoring poses a much bigger threat to Australian jobs than most people think. It's not just a phenomenon that threatens jobs in call centres. (Though with one in forty Australian employees working in call centres the threat posed to that industry is significant.) Offshoring now threatens all Australian jobs that are computer based. Globalisation and the rapid evolution of technology means most Australian services jobs can be performed overseas. If the current trends continue that is the direction for thousands of jobs and much of the Australian services industry.

2.2. In May 2008 the Services Unions of Australia commissioned a report by the National Institute of Economic and Industry Research to investigate the impact of offshoring on services jobs in Australia.<sup>1</sup> Its findings were bleak. The worst case scenario was that Australia could lose 1000 jobs a week offshore over the next 20 years. Up to 850,000 jobs are at risk. Two years on from this report nothing has changed. Australian services workers compete in a global marketplace of highly skilled workers with lower wages and conditions. Under the current policy settings we are failing to compete, and losing jobs overseas as a result.

2.3. Just last month *Lawyers Weekly* reported that Pangea3 a legal process outsourcing business is doing business with Australian law firms. The company operates out of India and boasts that "it's like attorneys on tap. You turn on the tap and get a whole stream of well qualified, very articulate and very smart lawyers who can pick up whatever you want them to pick up."<sup>2</sup> A few years ago who would have foreseen that a highly skilled and jurisdiction specific profession like law might

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<sup>1</sup> National Institute of Economic and Industry Research, *Offshore and off work. The future of Australian service industries in a global economy. A call to action*, (May 2008)

<sup>2</sup> Antony Alex, Pangea3 Vice President Legal Services quoted in Angela Priestley, 'Lawyers on tap', *Lawyers Weekly*, (Chatswood NSW), 28 May 2010

be threatened by offshoring? Yet with 70,000 law students graduating from Indian law schools every year it is a reality that now threatens Australian jobs in that profession.

2.4. While this may be a new phenomena in legal services, offshoring is a well established practice in information technology and private sector clerical and administrative work. ASU members working in Qantas Information Technology Pty Ltd have faced mass redundancies over the last decade as Qantas moved much of its IT functions to India. Qantas has outsourced an estimated 1000 IT jobs over the last 12 years.<sup>3</sup> The lion's share of this has been outsourced offshore. The impact of this on the Australian workforce has been devastating.

2.5. Earlier this year IBM sought to offshore approximately 150 jobs from systems operations centres in Baulkham Hills NSW, Cumberland Forest NSW and Clayton Victoria and up to 800 jobs Australia wide, to centres in Bangalore, India and China.

2.6. These are just two examples that illustrate the extend of the job cuts when companies decide to offshore and the impact they have on the Australian workforce.

### **3. Offshoring and Australian public policy**

3.1. It is important to note that we are not losing services business and jobs overseas just because labour costs are cheaper overseas; we are failing to compete in skills, innovation and market leadership. As the NIEIR research explained;

While offshoring is generally seen as a cost (labour) driven exercise, it is worth noting that the major services trading nations are not low wage countries. Countries do have a strong services sector without a low wage economy. Even in less developed countries such as India (a services trade leader) rates of pay are rapidly accelerating toward global parity. Over the medium to longer term, the mobile nature of services will create a steady pressure toward global labour cost parity. What will differentiate countries engaged in services trade will be the competencies they have to offer; their knowledge leadership in terms of technical evolution and innovation; brand and market leadership, and; possessing a critical mass of competitive accessible skills.

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<sup>3</sup> Fran Foo, 'Qantas inks IBM outsourcing deal', *The Australian*, September 9 2009

Current policy settings in Australia are not addressing the need to build critical competencies. Fault for this rests with a failure of the previous government to acknowledge the crucial role services need to play in ensuring Australia's future beyond a resource quarry and lack of leadership in key services industries. Australia cannot allow the services sector to follow the same path as manufacturing where competencies (skill and knowledge combined with invested capital) are transferred overseas effectively removing the sector's foundations.<sup>4</sup>

3.2. One of the short term measures the paper recommended was 'right to know' legislation requiring companies to disclose their location to empower consumers to make the choice about where they want their services delivered from. This will address part of the offshoring phenomenon in call centres but not other industries.

3.3. However more comprehensive action is required to address the problem for the wider services industry. The NIEIR research recommend the establishment of a Service Sector Taskforce to provide advice to a Service Sector Cabinet Subcommittee. The taskforce should give consideration and advice on:

- issues of knowledge and market linkages
- leadership development
- investment attraction
- scaling up by clustering firms to compete in a global market
- physical infrastructure to support market access
- cost reduction through the tax system and infrastructure
- marketing and branding the Australia services industry in the international market

3.4. It is only with this sort of leadership and concerted action that the Australian government can turn around the flood of Australian jobs overseas and save the services industry in Australia.

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<sup>4</sup> National Institute of Economic and Industry Research, *Offshore and off work. The future of Australian service industries in a global economy. A call to action*, (May 2008)

## 4. U.S. moves to prevent offshoring

4.1. This sort of leadership and public policy action is occurring in other First World Economies. 'Right to know' legislation was introduced in France over a half a decade ago and there are now moves in the U.S. to legislate for domiciled call centre work. Senator Charles (Chuck) Schumer is seeking to introduce legislation into the United States Senate that would alert U.S. consumers if their calls were originating from a call centre outside the U.S. and charge 25 cents per call tax on any customer service inquiry calls from consumers that are transferred outside the US. Schumer was quoted as saying that "This bill will not only serve to maintain call centre jobs currently in the United States, but also provide a reason for companies that have already outsourced jobs to bring them back,"<sup>5</sup> Many states in the U.S. already have legislation requiring that services such as utilities locate their call centre within the state they are servicing.

4.2. The rest of the world is recognising the need to safeguard their domestic services jobs and industry, and protect consumers against unregulated, unsecured outsourced services delivered offshore. Australia needs to take action.

## 5. Australian Government procurement

5.1. Government procurement presents an opportunity and direct policy lever with which the government can influence the employment practices of call centres, ICT contractors and other suppliers in the services industry. The Australian Government should use their significant purchasing power to ensure those contracted to supply services to the Australian Government employ Australian labour and keep their operations onshore.

5.2. In July 2009 the Australian Government made a strong statement about the use of contractors and sub contractors and committed to improve its procurement practices.<sup>6</sup> The statement acknowledged that contracting is 'sometimes used as a

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<sup>5</sup> Chris Michaud, 'Senator wants disclosure on outsourced calls', *Reuters*, (New York), May 20 2010

<sup>6</sup> Australian Government, *Australian Government Procurement Statement*, (July 2009)

vehicle to undermine the entitlements of employees.’<sup>7</sup> The government committed to only contract out its functions when it is in the public interest to do so. The government also committed to a range of initiatives to monitor the sub- contracting arrangements of its suppliers.

5.3. From this statement emerged the *Fair Work principles* released in July 2009 which detailed the Australian Government’s expectations of its procurers and suppliers.<sup>8</sup> The principles prescribe that suppliers must comply with Australian workplace laws and ethical standards and warn that contractors who breach these standards will be unable to secure future government contracts. The principles also require those contracted suppliers, as far as practicable, place the same legal and ethical obligations on their sub contractors and are transparent about where and to whom they sub contract work.

5.4. The statement and principles are certainly an improvement on the procurement practices of the Howard Government. However there is more that could be done to ensure that Australian Government suppliers employ Australian labour and maintain or restore their operations on shore. The principles notably do not require that overseas suppliers or sub- contractors comply with the same standards as domestic suppliers. Overseas suppliers must merely comply with the domestic laws of the country in which they are operating. This enables offshoring and can encourage a regulatory race to the bottom. The race to the bottom occurs where countries compete for offshoring work by offering companies a lax regulatory environment and poor labour standards to conduct their business (or engage a subcontractor). It gives Australian suppliers a free pass to engage unscrupulous suppliers overseas, and fails to hold suppliers responsible and accountable for labour practices in their supply chain.

5.5. The NSW Code of Practice for Procurement has much stronger language to address this issue.<sup>9</sup> The Code defines ‘best practice’ for government procurers as continuous improvement and performance in ethical business practices, workplace practices, and supply chain management. It critically holds government suppliers

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<sup>7</sup> *Ibid* p9

<sup>8</sup> Australian Government Department of Education, Employment and Workplace Relations, *Fair Work Principles Jan 2010 User guide*, (2009)

<sup>9</sup> New South Wales Government, *Code of Practice for Procurement*, (18 January 2005)

responsible for the activities of their sub contractors. 'A service provider who contracts with the client agency is accountable to the client agency for the standards of performance, behaviour and ethical conduct of all service providers down the contract chain.'<sup>10</sup>

5.6. Many Commonwealth government departments engage suppliers to deliver call centre services, information technology or clerical and administrative work. It seems reasonable that work should be delivered onshore providing Australian's with employment and stimulating the local economy. Government procurement presents another opportunity and policy lever for the government to strengthen the domestic services industry and prevent more offshoring.

5.7. The NSW Government Code of Practice for Procurement presents a good model as to how a government can go about ensuring its services are delivered ethically and legally throughout the supply chain. The Australian Government should consider stronger language and enforcement that holds Australian business responsible for the activities of their suppliers offshore. It is only when business is responsible for their supply chain that they assess the real cost of offshoring. We know that on this evaluation, when all costs are considered, the Australian services industry is competitive. Through its procurement practices the Australian Government can level the playing field that enables Australian businesses such as call centres and ICT providers to compete for sub contracting work. We urge the government to look at examples such as NSW to regulate the supply chain for government services and give Australian jobs and businesses a fair go in the market for government contracts and sub contractors.

## **6. Measures proposed in the 'Keeping jobs from going offshore (protection of personal information) Bill 2009**

6.1. The two measures proposed in the Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009 would go some way to improving the situation for existing services workers and help to attract work back to Australia.

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<sup>10</sup> *Ibid* 5.1



## 6.2. **'Right to know' legislation**

6.3. The requirement that companies must disclose their location only requires companies to be honest about their labour practices and allows consumers to vote with their feet. We know that consumers care about where call centres and other service providers are located and want local and responsive services when conducting their banking, booking their holidays or inquiring about services.

6.4. Companies know this too, it's why Australian companies put Indian workers in their outsourced call centres through two to three weeks of "accent neutralisation" training before they start. The smart companies know they can't just fake it and have kept their local call centres. Those companies reap the rewards from high levels of customer satisfaction and a loyal Australian workforce.

6.5. 'Right to know' legislation merely brings the services industry into line with other Australian industries such as manufacturing and food that are subject to 'country of origin' labelling requirements and other first world countries who have introduced similar legislation.

6.6. This was a recommendation of the 2008 NIELR research and the joint policy paper of Services Union of Australia in July 2008. It is a proposal the ASU supports.

## 6.7. **Written consent requirements**

6.8. The ASU supports legislation that requires written consent before financial or personal information is transferred offshore. The Australian Government is limited in its powers to regulate activities in a foreign jurisdiction even when they are operated by an Australian business or dealing with Australian consumers. Just as Australia can't regulate international labour markets and set fair minimum conditions, it also can't regulate how information is stored and used overseas.

6.9. When using internet banking or other financial services through an overseas call centre consumers are exposed to a greater security risk than would exist if the information was contained within this jurisdiction. Where a service is outsourced

offshore we cannot ever fully know where our electronic data is going, as we don't even know the location of the call centre with which we are transacting. The same risk applies to other services that have been outsourced offshore. In the current legislative environment consumers do not know when a company has outsourced offshore a particular back of house function, such as IT or their legal work, and with it transferred our personal information overseas.

6.10. There is clearly a risk to the consumer in their information being transferred overseas and it is reasonable their written consent should be obtained before this occurs.

## **7. Conclusion**

7.1. We have seen offshoring occur in all parts of the services economy; call centres, IT, court reporting, travel services, legal services and more. These proposed measures go some way to improving the situation, "right to know" legislation will help stop the offshoring of call centres, and written consent requirements will help mitigate the security risk for consumers that is inherent with all offshore outsourcing. However these measures are only part of the picture, urgent and comprehensive action is needed to stop the offshoring of Australian jobs and save the Australian services industry.