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Working for business.  
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Committee Secretary  
Senate Community Affairs Legislation Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

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Dear Committee Secretary,

**Re: Fairer Paid Parental Leave Bill 2016**

The Australian Chamber thanks the Committee for this opportunity to comment on the *Fairer Paid Parental Leave Bill 2016* (Cth)(Bill).

We note that on 25 June 2015 an earlier iteration of the Bill, the *Fairer Paid Parental Leave Bill 2015*, was referred to the Senate Community Affairs Legislation Committee for inquiry and report. The Australian Chamber made a submission as a part of that process (attached for reference) and the principles underpinning those submissions are relevant to this inquiry.

The Australian Chamber maintains its position that a balanced paid parental leave scheme should be underpinned by the policy objectives of (a) maximum impact for child-bearing employees and their partners and (b) minimum administrative and cost impost on employers.

The Bill, like its earlier iteration, removes the requirement for employers to administer government-funded parental leave pay. This measure had previously been introduced in 19 March 2014 in the *Paid Parental Leave Amendment Bill 2014* (Cth).

The effect of the measure is that eligible employees will be paid directly by the Department of Human Services unless an employer elects to provide the government-funded parental leave pay to their employee and their employee agrees to this. This measure, intended to ease administrative burdens on business, is strongly supported by the Australian Chamber. As noted in our earlier submissions, the Australian Chamber considers the existing paymaster obligations to be imbalanced, unjustifiably imposing a significant compliance burden on employers.

The Australian Chamber supports a government-funded paid parental leave scheme set at the level of the National Minimum Wage as a part of the social safety net. We appreciate that such a scheme needs to be fiscally responsible and fair to Australian taxpayers. We acknowledge divergent views on whether employees should receive

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government-funded financial support in circumstances where they already receive paid parental leave from their employer.

In this regard, we note that the Bill prevents parents entitled to parental leave payments from their employers from also receiving the full amount of parental leave pay under the government-funded scheme.

We note that the Bill varies from its earlier iteration in that the eligibility for government-funded parental leave pay will be limited according to the number of weeks of employer-provided paid primary carer leave (rather than the aggregate amount paid). The Explanatory Memorandum explains that the change will “better target the Paid Parental Leave scheme and ensure working parents have access to at least 18 weeks of paid time off work to care for their child”.

The effect of this is that where a person is entitled to employer-provided leave of less than 18 weeks, the employee may be eligible for government-funded paid parental leave for the residual number of weeks up to the 18 week maximum.

The measures mean that an employee receiving 18 weeks or more of paid primary carer leave that is valued at equal to or more than the National Minimum Wage will not be entitled to government-funded parental leave pay.

As it stands the *Paid Parental Leave Act 2010* (Cth)(PPL Act) supplements employer-derived entitlements. Subsection 3A(3) expressly provides that the financial support provided by the PPL Act is “intended to complement and supplement existing entitlements to paid or unpaid parental leave in connection with the birth or adoption of a child”.

The Australian Chamber supports the Government’s commitment to fiscal repair, which we understand is motivating its proposal to prevent parents entitled to receive parental leave payments from their employers from also receiving the full amount of paid parental leave under the government-funded scheme. However this measure presents practical difficulties for employers.

Employers who fund parental leave benefits do so of their own volition or through negotiation, typically as a means of attracting and retaining valued employees and securing competitive advantage in the labour market. Private employer schemes were typically designed to supplement the government-funded scheme. The Australian Chamber has previously said that private sector employers will likely seek to restructure the benefits they offer in a way that complements the amended government-funded scheme , so as to enable their employees to continue to receive the government-funded parental leave payments.

We noted that this is because employers will recognise that if they do not, employees will receive less overall financial support. Clearly private-sector employers that



provide parental leave benefits to their employees of their own volition will want the value of these to be preserved so that their employees are not disadvantaged.

The Australian Chamber has previously explained that some employers may seek to provide benefits such as return-to-work bonuses, childcare support or other benefits by way of assistance to their parenting employees with young families. Payments linked to a primary carer's return to work should not be considered primary carer's pay for the purposes of determining eligibility for the government-funded scheme.

Practical difficulties arise where employers lack the flexibility to alter their paid parental leave scheme easily, such as where an entitlement to paid parental leave is contained within an enterprise agreement. Australian Chamber members have raised concerns that the changes may result in bargaining pressure in circumstances where agreement terms have been negotiated on the understanding that the government-funded paid parental leave scheme underpinned them. Exempting some payments from the definition of primary carer's leave with a view to addressing these concerns, at least as a transitional measure, should be considered.

In relation to the measures that would prevent parents entitled to parental leave payments from their employers from also receiving the full amount of parental leave pay under the government-funded scheme, we maintain our concern that the full cost saving envisaged by the Government may not materialise. As such we question whether the likely disruption to existing employer-funded schemes and at the enterprise bargaining table is warranted.

However we reaffirm our strong support for the proposed measures that would remove the obligation the PPL Act imposes on employers to pay and administer employee entitlements under the government-funded scheme, unless an employer opts to do so.

The Australian Chamber strongly supports policies intended to ease the administrative burden upon business. While we have reservations regarding the intended cost saving in this Bill, we encourage the Parliament to pursue broader policies directed at fiscal repair with the goal of reducing government spending as a share of GDP to 25 per cent.

Yours faithfully,

**AUSTRALIAN CHAMBER OF COMMERCE AND INDUSTRY**