

14 June 2012

Ms Sabina Wynn
Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

sent via email: tina.obrien@alrc.gov.au

Business
Council of
Australia



Review of age barriers to work in Commonwealth laws

Dear Ms Wynn

The Business Council of Australia (BCA) appreciates the opportunity to make a submission to the inquiry into Commonwealth legal barriers to employing people 45 years and over.

The BCA brings together the chief executives of 100 of Australia's leading companies. For almost 30 years, the BCA has provided a unique forum for some of Australia's most experienced corporate leaders to contribute to public policy reform that affects business and the community as a whole. Our vision is for Australia to be the best place in the world in which to live, learn, work and do business.

While there has been a strong increase in the labour force participation of older Australians over the past 10 years, suggesting that the problem of age-based discrimination is falling, Australia still has lower levels of older worker participation than other OECD countries.

The BCA strongly supports initiatives that encourage the full economic and social participation of all Australians. We have been working to increase the participation of older workers, and have developed with the ACTU a guide to help business support and encourage older workers to remain in the workforce (see: <http://www.bca.com.au/Content/91719.aspx>).

We consider that reductions in age-based discrimination should be addressed by educating employers about the benefits of older workers. This is preferable to increasing legal protections because:

- Regulating private recruitment agencies (question 34) unnecessarily duplicates existing legislation. It is already unlawful to discriminate on the basis of age under the *Age Discrimination Act 2004 (Cth)*.
- Amending the *Fair Work Act 2009 (Cth)* to include age as a basis on which an employee can request flexible working arrangements (question 35) may only tip the balance of choice even more firmly in favour of younger workers. As the Fair Work Act already allows for carer responsibilities and disability to be a basis for workers of all ages to request flexible work arrangements, there would be a risk of increased regulatory compliance costs in return for small (or no) additional benefits for older workers.

In conclusion, the BCA opposes the proposals suggested in questions 34 and 35 of the issues paper because we consider that other methods of addressing age discrimination would be more effective.

If you would like to follow up any matters in this submission, please do not hesitate to contact Claire Thomas, Director Policy, on 03 8664 2626 or email: claire.thomas@bca.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jennifer Westacott', written in a cursive style.

Jennifer Westacott
Chief Executive