The wild blue YONDER

The ACTU's turn to enterprise bargaining has been the cause of much soul-searching and controversy. Here Roy Green recalls the manoeuvres leading up to the fateful decision. He suggests that, whatever the dangers, the ACTU really had no choice.

Shrugging off its critics, the ACTU's powerful wages committee in July unanimously reaffirmed the direction of its wages strategy. But what is the ACTU's strategy, and why are they pursuing it with such single-minded determination despite the apparent setbacks and reported divisions within their own ranks?

On the eve of the meeting, in language redolent of earlier wage campaigns, ACTU president Martin Ferguson declared that it was a mistake to believe the Industrial Relations Commission was the fount of all wisdom and a protector of workers. He said, "History proves it is the role of the union movement to achieve breakthroughs on wages and conditions, sometimes, if necessary after a period of prolonged struggle".

The similarity, however, is deceptive. The campaign to secure Accord Mark VI is unlike any previous wage campaign. It is not just about short-term improvements in wages and conditions, but the future of Australia's entire wage fixing system, particularly the role of the IRC and the scope afforded to workplace productivity bargaining.

To understand the ACTU's dilemma, we need to go back to the 'two-tier' wage system of 1987, which permitted a limited form of productivity bargaining under the 'restructuring and efficiency' principle. In retrospect, the introduction of this principle by the IRC may come to be seen as the decisive break with the traditional approach to wage fixing, whereby productivity gains were distributed nationally according to notions of 'comparative wage justice'.

The origins of the traditional approach may be traced to the 'historic compromise' earlier this century, which made tariff protection for manufacturing firms conditional upon payment of a 'fair and reasonable' wage to the workforce. The determination of this basic wage became the function of a central arbitration body and, although 'capacity to pay' was a factor to be weighed against the 'needs' of the
worker, it was not until 1961 that it encompassed measures of national productivity.

The problems with this approach were three-fold. First, the basic wage was a somewhat arbitrarily fixed 'family wage' based on the needs of a male breadwinner and his family rather than a rate for the job. This meant, of course, that women's pay was fixed at a lesser rate and, even after the equal pay decisions of recent years, there is still no procedure for making 'comparable worth' claims based on proper job evaluation.

The second problem, from a trade union perspective, was that reliance upon central wage fixing could all too easily be accompanied by an atrophy of workplace organisation, except to the extent that unions regularly pursued 'overaward' claims at enterprise level.

The third problem became evident as a result of the substantial tariff reductions implemented by the present Labor government. While the trade crisis of 1985/86 provided the immediate pretext for a reassessment of the traditional approach to wage fixing, it was the exposure of Australian firms to international competition which threw into sharp relief the relative inefficiency of much of our private manufacturing sector.

Essentially, the two-tier wage system replaced across-the-board pay rises with a flat rate increase (the 'first tier') plus a percentage increase (the 'second tier') which could only be paid in return for significant changes to work practices at the enterprise level. The idea was to bring about dynamic efficiency gains through a shift in focus to workplace bargaining, but in practice the system degenerated into a narrow cost-offsets approach.

Award restructuring, the brainchild of Laurie Carmichael and the ACTU, was designed to redress the deficiencies of the two-tier approach and create a fairer and more effective framework for decentralised wage bargaining. It would first realign wage rates within and between awards to develop genuine career paths for employees and improve the position of the low paid, especially women, through 'supplementary payments'.

It would also put greater pressure on employers to achieve workplace efficiency gains through better training, work organisation and new technology, rather than through the erosion of hard-won working conditions.

In a series of national wage decisions in 1988/89, the concept of award restructuring was embraced by the IRC and distilled into a new 'structural efficiency' principle, which radically broadened the agenda of industry and enterprise negotiations. Now pay increases were made conditional upon modernising individual awards. However, as the IRC noted on a number of occasions, progress tended to be slow and uneven across industries and occupations. And this was meant to be the easy part—the 'paper work' as Carmichael described it. Still to come was the requirement to translate the revised awards into action at enterprise level, with completely new skill levels, job responsibilities and pay structures.

Meanwhile, employer groups were getting impatient. In 1989, the Business Council of Australia released a weighty report advocating the merits of an accelerated transition to more decentralised bargaining arrangements, if necessary bypassing the award system altogether. Already the large companies represented by the BCA were taking advantage of the greater flexibility offered by the 1986 Industrial Relations Act to negotiate imaginative enterprise-based agreements with the unions.

The realisation was also dawning at the ACTU that time was running out. At the next election there was every chance that the Labor government would be unseated by a doctrinaire conservative one which would move rapidly to establish a framework for enterprise bargaining without the safeguards sought by the unions. Although the ACTU had embarked upon an ambitious program of union reform through amalgamation and, most importantly, the development of 'single bargaining units' at the workplace, the program had scarcely got under way.

The ACTU had a difficult choice. They could cling ever more tightly to the skirts of the IRC and follow each worthwhile but increasingly ponderous step down the 'structural efficiency' path in return for meagre pay instalments. Or they could rise to the challenge issued by the BCA and turn it to their advantage, as they had done originally with the promotion of award restructuring as a 'managed' transition to a more decentralised system.

After all, a commitment to enterprise bargaining at this stage on the ACTU's terms would not only provide a much needed impetus to the process of labour market reform, but would also offer the prospect of substantial pay rises for workers fed up with restraint. In addition, of course, it would surely take the wind out of the Coalition's sails in the one area where they were able to present a distinctive and potentially popular policy.

So it was that on a hot February afternoon in Canberra, a month before the 1990 election, the entire ACTU wages committee, led by Bill Kelty, met Paul Keating and the Minister for Industrial Relations Peter Morris for twelve hours of negotiations on the shape of a new wage agreement, 'Accord Mark VI'. As expected, after a vigorous debate at its conference four months earlier, the ACTU wanted two cost of living adjustments to follow the expiry of the current wage round that September.

More controversially, however, the ACTU argued that the time had come to abandon the 'no extra claims' commitment, the cornerstone of pay restraint since 1983, and open the way for unions to negotiate additional wage rises based on "achieved increases in productivity and profitability". Although these wage rises would take effect at enterprise level, the metal unions also retained the option of negotiating productivity agreements within an industry framework, primarily to gain the support of the Metal Trades Industry Association.
The government broadly accepted the merits of the ACTU’s case, with two provisos: that the two cost of living adjustments would continue to be linked to the progress of award restructuring; and that the productivity-based wage increases had to be accommodated within the government’s aggregate wage target of 6.25% for 1991/92. After some hurried calculations, Bill Kelty made the necessary commitments, little knowing that the recession and the IRC would soon make them redundant.

Even before Labor was returned to office in March 1990, George Campbell, the newly-elected secretary of the Amalgamated Metal Workers’ Union, began to sound out the MTIA on what he imagined would be a path-breaking metal industry agreement to place before the IRC’s national wage hearing later in the year. But he was firmly rebuffed—not just on account of the size and timing of the pay increases, but also on the basis of the very nature of productivity bargaining contemplated by Accord Mark VI.

MTIA chief Bert Evans rejected workplace productivity bargaining for three reasons. First, recalling the experience of the 1981/82 pay round, he argued that over-award payments would ‘flow on’ to workers in other firms irrespective of productivity gains. Second, bargaining at enterprise level was inconsistent with the steady progress being made on award restructuring. And third, perhaps to frighten the AMWU, “enterprise bargaining is only feasible if you have enterprise unions”.

Against the MTIA, it was argued on the first point that the economic circumstances were now very different from 1981/82, as was the role of both the unions and the commission. If a round of workplace bargaining was to go ahead, it could more easily be accommodated in a depressed economic climate than when activity began to pick up again. Indeed, a degree of flexibility at this stage, as well as generating productivity improvements, might even reduce wage pressures further down the track.

On the second point, the metal unions responded that it was precisely because award restructuring was bogged down that it needed a further boost to secure its effective implementation at enterprise level. The advantage of properly conducted productivity bargaining was that it would give employers and unions the freedom not only to negotiate fundamental changes at the workplace but also to share the rewards of productivity growth on a long-term basis.

Finally, no one could deny that enterprise bargaining was associated with enterprise unions in Japan. But was it also the case in countries such as the US and Britain, where enterprise bargaining was entrenched, or in Germany and Sweden where, as in Australia, it was in the process of being adopted? In those countries, unions organised along industry or occupational lines had not dissolved themselves into enterprise unions but, instead, operated workplace bargaining units in the form of ‘joint union committees’ or ‘works councils’.

After a series of rolling stoppages in the metal industry, the parties eventually resolved their differences in an unwieldy but mutually acceptable compromise. The MTIA would agree to the idea of special productivity payments at enterprise level, but only on certain stringent conditions. These were that the payments had a predetermined cap, as in the 1987 second tier wage round, and that they were not overaward payments but part of the terms of the award.

In other words, each enterprise, on reaching a productivity agreement, would have to seek approval from an industrial tribunal to access the award and make the agreed payments to their workforce. It was not just the ACTU and the government which reacted with horror to this scenario. Other employer groups, particularly the Confederation of Australian Industry, saw greater potential for a flow-on to other industries from an award variation in the pace-setting metal industry than from any number of overaward payments.

The IRC too was placed in a dilemma. Its natural instinct was to supervise closely any move to decentralise negotiations; but, on the other hand, it resiled from the prospect of having to ratify formally every productivity deal in every enterprise in every industry. Nevertheless, Deputy President Keogh gave provisional blessing to the metal industry agreement, pending the outcome of the national wage case.

In opening the wage case, the IRC called for written submissions from the parties and followed these up a month later with a list of over 60 questions. In their submissions, the ACTU and federal government argued strongly for the implementation of Accord Mark VI, whereby productivity payments would be based on ‘section 115 agreements’, paid rates awards or, in the case of minimum rates awards, overaward payments. In addition, the ACTU amended its submission in response to the metal industry agreement to include the option of productivity payments in the appendices to awards.
The ACTU's Grant Belchamber, in the course of the hearing, stated that every element of the claim was "fundamental to the integrity of the package as a whole". Moreover, in words which would have to be matched by action, "the ACTU and the trade union movement will not give a commitment to work within a wage fixing system which does not deliver the totality of that package".

The MTIA also embraced the metals agreement in its submission, but again made clear its reservations about productivity bargaining. The CAI, on the other hand, preferred productivity-based wage increases to take the form of overaward payments. And the BCA—surprisingly, in view of its earlier vocal support for enterprise bargaining—expressed no attitude towards the details of its implementation.

The 'war of words' reflects a deeper struggle for credibility

When the IRC finally released its national wage decision in April, it was as though a bomb had blown up in the face of the ACTU. It came as a particular shock to Kelty who, at that time, in the UK extolling the virtues of the Accord as a co-operative approach to wages policy. Concluding that unions and employers "have still to develop the maturity necessary for the further shift of emphasis now proposed", the IRC endorsed the MTIA view that it was preferable to continue with the process of award restructuring, based on the existing structural efficiency principle, with only a few modifications. To make things worse for the ACTU, the very employer groups which had advocated enterprise bargaining now took malicious pleasure in calling upon the ACTU to accept a process they had themselves criticised for its lack of results. At least the MTIA was predictable.

It was in this emotion-charged atmosphere that the ACTU and the government decided to press ahead with the implementation of Accord Mark VI, come what may, in the trough of a major recession. The MTIA's Bert Evans impressed them to wait until the IRC's promised November implementation. It was in this emotion-charged atmosphere that the ACTU claimed to have secured deals covering two million workers.

The problem for the ACTU was that many of these agreements were, at the insistence of employers, subject to ratification by the IRC. In the public sector, federal Industrial Relations Minister Peter Cook was prepared to deliver the Accord Mark VI package for public servants, including a 'market rates' adjustment, without the endorsement of the IRC. But in the private sector, provisional agreements in road transport, building, finance, metals and the waterfront were being closely scrutinised by the IRC for any significant discrepancies with its April decision.

In a superficial sense, the stand-off between the ACTU and IRC has come down to a 'war of words'. For example, the acceptability of an agreement now seems to depend on the form of words used by a union in its commitment to make 'no extra claims'. However, this matter of semantics reflects a deeper struggle for credibility on the part of the protagonists, as they seek to define the shape of a new wage fixing system.

The IRC cannot afford to let itself be seen merely as a rubber stamp for the unions or the government of the day. Yet the ACTU, after a profits boom fuelled largely by wage restraint, must deliver a framework allowing greater flexibility at the workplace. And the government, too, in the words of Senator Cook, has "a commitment to micro-reform and a very short agenda to get there...I would hope that everyone would appreciate that and play along".

So where to now? In the short term, the IRC may well be persuaded to bring forward its November review of the wage decision to September. It will then have another chance to tackle the difficult issues of how much scope to permit enterprise bargaining within a centralised wage fixing system, and how to balance the principles governing productivity deals with the wider considerations of fairness and comparability for the workforce as a whole.

No one can pretend that the resolution of these questions will be simple or straightforward. In the longer term, their resolution will depend not on Bill Kelty, Bert Evans or the IRC, but on the quality of management and union representation at workplaces across Australia. In a recent speech to employers, IRC president Barry Maddrin made reference to Mikhail Gorbachev's defence of perestroika at the 19th all-union congress of the Soviet Communist Party. "The questions asked, rhetorically, include: whether the cause will fail in the face of complexity and the unusualness of the task; whether those who prefer stagnation will triumph; or whether the task will fail because too many want to fall asleep today and wake up when everything is all right." That is not a bad way to reopen the 1991 national wage case.

ROY GREEN teaches in economics at Newcastle University and was an adviser to two former industrial relations ministers.

Responses to this article will appear in upcoming issues.