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DEREGULATION

ABC2 Television Interview
with
Barrie Cassidy
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SUBJECTS: Unfair dismissal laws and BHP Billiton/Rio Tinto merger off

CASSIDY: Craig Emerson, good morning, welcome.

EMERSON: Good morning Barrie.

CASSIDY: Take us through the essential differences that will impact now on small business.

EMERSON: We will have flexibility provisions in awards and agreements. That will provide the flexibility to enable small business owners and their employees to tailor their arrangements, their working arrangements, to suit their personal circumstances but it will be subject to an overall safety net, an effective safety net. In the area of unfair dismissals Barrie we will have a very simple system that will enable small business employers to manage their workforce but restore some basic rights to nearly four million working Australians who are employed in small businesses.

What that really means is there is a full 12 months during which the employer can assess whether the employee is up to scratch or not. During that period no claim for unfair dismissal can be made. After that a very very simple six paragraph fair dismissal code, which if followed, constitutes a fair dismissal.

I would then add Barrie that in circumstances of a downturn in sales, where an employer has to put someone off, that's a redundancy and is not affected by the unfair dismissal laws.

So overall, fair and flexible for small business and it should be a net advantage for small business.

The final thing I'll say is that the previous government had a red tape nightmare in place for small businesses where there were 150,000

agreements awaiting approval from the previous government around this time last year or a little bit before it. Our system is much simpler, much fairer, much less bureaucratic.

CASSIDY: Let's take that first point. Are you saying that if somebody says that 'look it suits me from six until three and then I can pick the kids up from school' that's the way it will be? To what extent can they make those sorts of demands on the employer?

EMERSON: Well as I say, there's a basic safety net so that there are guaranteed conditions but they can get into a discussion about flexible arrangements to suit their personal circumstances. They can't just demand I want to work this way or that way but there will be a capacity for the employer and the employee to come to arrangements that suit the circumstances of not just the employee Barrie but of the employer. We're leaving a lot of flexibility for both parties to work that out but we always said in Forward with Fairness before the election that we would restore a basic safety net of working conditions for working Australians and that's what we've done.

CASSIDY: Now if you employ fewer than 15 employees you get 12 months to figure out whether that person is worth keeping on. If you employ more than 15 then you get six months. Is that suggesting that if you employ more than 15 people you can be more decisive and make up your mind about an employee faster than the other one?

EMERSON: No. In relation to smaller business we recognise that they don't have human resource management departments and all of the other facilities that larger businesses have and we think that this is an important concession in relation to unfair dismissals for small businesses. We did take this to the last election. The Australian people voted very strongly to tear up WorkChoices and introduce this sort of system so we are keeping our promises.

CASSIDY: And what are the processes you need to go through now with unfair dismissals?

EMERSON: Well in the case of someone who has behaved very badly, theft or fraud or violence in the workplace, that can be summary dismissal. You just say 'you're finished' because we don't expect employers to keep people on in those circumstances. But if an employee after that 12 month period, and their performance isn't coming up to scratch, then all the employer has to do is give the employee a warning, preferably in writing but we're not even prescribing it has to be in writing, and then give the employee a reasonable opportunity to improve his or her performance.

No three written warnings, appropriately spaced over time, no legalistic processes. We developed this in heavy consultation with a group of people representing unions but importantly as well as a reference group, a working group, representing small business interests - people who actually practice in this area - and that's what we came up with. And everyone that I've spoken to

and everyone that has made public statements about this, apart from the Coalition, has said it's terrific. We've been supported in the outcome of this by the National Farmers Federation, COSBOA, the Pharmacy Guild, Master Builders, the AIG, so it's been a pretty strong endorsement from small business representative organisations.

CASSIDY: Well if I could ask the Minister for Small Business a question about a very big business and that is BHP Billiton pulling out of the merger with Rio Tinto. What does that tell you about the state of the economy generally?

EMERSON: I think it tells us that the share prices of both of those major companies have fallen over the last while and BHP felt that the venture of bringing in Rio involved too much debt, an unmanageable debt to equity ratio. So it was a commercial decision and that decision has been made. But there is also some good news associated with that Barrie - and I always look for a bit of good news - and that is BHP has said they are now going to invest \$5 billion extra in the West Australian mining industry so that's great for Australia.

CASSIDY: Craig Emerson thanks for joining us.

EMERSON: Thanks Barrie.

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