TRADE UNIONS, NEW TECHNOLOGY AND INCOMES POLICY: DISCLOSURE AND USE OF COMPANY INFORMATION

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This article views prospective change in the industrial relations system, during the Hawke Government era, from an information system perspective. Exogenous forces emanating from technological change, cyclical and structural unemployment, and the framework of an incomes-prices policy, suggest that contentious policy issues of company information disclosure to unions and employees will occupy a prominent place on the agenda for the future of Australian industrial relations. Problems of disclosure are analysed against international trends, and reform proposals for Australian disclosure policies are critically examined. Some options are elaborated for the development of improved disclosure practices.

Keywords: industrial relations trends, company information disclosure

INTRODUCTION

What is an industrial relations system? From an information science perspective, the Australian industrial relations system may be construed as a set of information flows between units of a tri-partite institutional structure; where the effectiveness of institutional behaviour in raising productivity and achieving equitable and stable labour settlements depends primarily upon the ability of the parties to gather, record, organise, analyse and act upon information. Thus minimum legal requirements for managements to disclose otherwise-confidential company information to employees, or their representatives, have been in operation in the United States of America and most European economies for many years. The European Economic Community has been long considering enactment of further legislation to improve disclosure practices throughout the community, and the implications have become extensively analysed among academics and practitioners.[1] Yet, in Australia, information disclosure to unions is rare and is not encouraged by law. The debate is still

largely dormant. Is it therefore the case that Australian unions (unlike those elsewhere) are already supplied with sufficient data to discharge their duties responsibly? Or is the Australian system of industrial relations designed such that disclosure of information is superfluous or irrelevant? Or does an authentic deficiency exist and, if so, what actions should be taken by the unions, management or law to remedy the situation? These are complex questions which require, if not complex answers, the simpler tasks of clarifying the issue for the 1980s.

While Australian employees and their representatives have access to a wide range of public data, this information base suffers from operational drawbacks in that it is aggregated and historical in much of its orientation. Until the National Economic Summit conference, in April 1983, official Government projections of some major macroeconomic variables influencing the composition and development of the Australian labour market had long been withheld from the labour market parties. Public accounts, whether of public companies or statutory bodies, also have failings which are well-documented. And where 'employee reports' have been presented, they would appear to be more orientated towards the interests of the donor rather than those of the recipient. From a unionist's vantage point, Government statistics, published annual accounts and employee reports are scarcely consonant, in their current formats, with the needs of potential users of information in labour market negotiations and awards.

APPROPRIATE INFORMATION AND UNIONS

What types of information constitute 'appropriate information' for trade unions? Modern 'information processing' models of business organization emphasize that organizational design is a problem of envisaging and building in the right number and right kinds of information channels or systems according to the needs of the organization. They highlight the fact that for a business organization to function effectively, management must be able to bargain effectively with employees and *vice versa*. Different decision points (or negotiations) within the organization hierarchy will require varying types of informational input in order to improve the quality of the participant's decision-making. In general, the relevant vector is that reserve of information which is currently available to management and which would, if made available, affect the behaviour of trade unions. Much of this would be numeric, chiefly accounting or statistical data, but in addition

statements of intentions may well be relevant. It would be futile to attempt to conceive of every category of data which might have a bearing upon union needs. However, examples of the 'appropriate information', as presented to European unions, often through the medium of workers' councils, would include organizational descriptions, analyses of profit and cost structures, balance sheets, details of employment levels and earnings, forecasts of company and industry performance, and plans for changes in employment levels, introduction of new technology or changes in product lines. Quite apart from conventional perceptions of 'industrial relations' or 'personnel' orbits, certain *operational* decisions are made by management which have far-reaching effects on the workforce, especially where the organization or operations of a company are to undergo significant adjustments in a recessionary environment. These circumstances, such as expansion, mergers, takeovers, investment, redundancies and shutdowns, are usually the focus of detailed forward planning by management. Yet, despite the effect on workers' attitudes and lives, and the importance of anticipating the workforce's reaction to such proposals, discussion with unions is often non-existent or too late to effect any meaningful difference.

A more general imperative for information disclosure patently exists in the Australian labour market context of the 1980s. Spurred by the redundancy waves of late 1982, and the increasing intensity of employment insecurity in many sectors throughout 1983, demands from unions for information upon certain aspects of changing employment conditions have become stronger and more widespread. When rapid technological changes also threaten working practices, the importance of forecasts and company plans is increased. Extra importance is assigned by the workforce to manpower forecasts, training procedures and investment plans, together with more information upon generalised objectives and policies for achieving them. Lastly, the development of an experimental incomes and prices policy, within the format of a Social Contract, requires an expanded flow of communications both within undertakings, and between enterprises and Government.[2]

Technological change obviously creates constant problems of obsolescence. Much of the unfolding pattern of technological and social change becomes even more unpredictable in conditions of chronic recession. The psychological problem for the organization, as Schein demonstrates, is "how to develop in its personnel the kind of flexibility and adaptability that may well be needed for the organization to survive in the face of a changing environment".[3] Yet most Australian unions report that they have not been given prior warning of new automation and new processes, and that the

introduction of new machinery had not been discussed with union delegates or workers.[4] The effect of technology on employment and job security in Australian conditions of information deprivation is compounded by the weaknesses of job protection legislation. Boulton succinctly emphasizes that,

> Most workers in Australia are employed under awards or agreements which allow an employer, for any reason whatsoever, to terminate their employment upon giving one week's notice. There is virtually no legislative protection for workers in redundancy situations and in only a few cases is redundancy protection accorded through awards or agreements. Workers have only limited protection against unfair dismissal. Unions have no right to be consulted about changes that may significantly affect the jobs of their members.[5]

Section 88G of the *New South Wales Industrial Arbitration Act*, which requires employers to provide three months' notice of retrenchment due to mechanisation or technological change, has been taken up in only a minority of awards. Even the modest provisions of the *New South Wales Employment Protection Act (1982)* involving seven days notice of retrenchments for sectors under State awards (but not Federal awards) appear insignificant alongside the minimum standards set for notice of termination in the British *Employment Protection Act (1975)* and the *Employment Protection (Consolidation) Act (1978)*. It is not surprising that Australian redundancy situations often lead to industrial disputation and that technological change becomes a fertile source of industrial conflict.

Yet this type of information is only one aspect of the broad range of informational inputs experienced by overseas unions, though it is possibly the area in which most controversy occurs. For overseas unions, information inflows centre upon the collective bargaining process, the function of which is largely achieved through, or subsumed by, the arbitration system in Australia. It could be argued that, since it is the process of negotiation that is altered by the presence of the arbitration system and not the *substance* of the transactions taking place within it, then information inputs into the process should be similar.

THE ARBITRATION SYSTEM AND COLLECTIVE BARGAINING

In Western-style economies, control over company information is held to pass with other property rights to the owners of a business.

Hence the High Court and the Australian Conciliation and Arbitration Commission incline to the view that 'information' encompasses an area of business activity with which industrial tribunals should not interfere. As a matter of law, it has been held that Federal industrial tribunals do not possess jurisdiction to deal with claims relating to 'managerial prerogatives' as distinct from 'industrial matters'. As a matter of industrial principle, tribunals have held to the view that they will not impinge upon 'managerial discretions' unless a strong case for so doing is established. Where a claim relates to a 'management matter' and not to an 'industrial matter', the Commission has no jurisdiction and no award may be made. Whatever exact interpretation might be placed upon the judicial content of the proceedings of the Federal industrial tribunals, any settlement that strays too far from that which would be achieved under collective bargaining, given the negotiating strengths of the relevant parties, and the abilities of the employers to meet the demands and the needs of the workforce, is likely to be shortlived. And yet, while the existence of arbitration may not radically alter the balance of power relationships between the relative parties, it may alter the *nature* of the negotiating process since the arbitration system often seems to be a barrier to *informed* discussion between unions and employers. The extent to which the arbitration system itself requires its own informational inputs of a financial nature is debatable. Furthermore, the extent to which the arbitration system can serve as a mechanism by which trade unions can obtain information relevant to their needs, is highly variable; but, in its present format, the system would seem to act as a major constraint on the development of information disclosure in Australia. However, it is reasonable to expect that the future of the arbitration system during the 1980s, whatever the outcome of current trends towards restored centralised wage fixation, will include either a greater role for structured collective bargaining, or a more mature system of arbitration in which information would play a greater part.[6] Whatever the precise future of the arbitration system, direct negotiation between unions and management is a fundamental *modus operandi* of Australian industrial relations.

A singular characteristic of the Australian economy is the paramountcy of multinational firms in many Australian industries, which strengthens the *prima faciae* case for the provision of more corporate information to unions and governments. The central union concern is the difficulty of 'piercing the corporate veil' and establishing contact with the real decision makers. This is linked to the phenomenon of central control. For instance, information on isues which could affect employment and consequently the

industrial relations of an enterprise may be the province of the marketing and investment directorates of a multinational enterprise at the central office overseas. A substantial proportion of employment in Australia is subject to direct foreign control or influence in operating decisions. Yet national ['local'] managers often have very little room for negotiation, and limited access to decision-making information; and are too frequently merely the executants, in Australia, of head office decisions. Collecting the necessary information to achieve transnational countervailing power is usually perceived by unions as a strategic objective, sought chiefly within an international set of political parameters. Outer parameters embrace not only trade union international secretariats, but also UN efforts to establish a code of conduct for transnationals, and efforts to implement OECD guidelines for transnational enterprises.

Undoubtedly, arbitration and collective bargaining are undergoing structural change under the influence of differing determinants. The continuance of chronic unemployment, industrial rationalization, technological change, and the interventionist and protectionist activities of government are believed to have been strong influences upon the direction of change. As Moore explains in the case of Britain,

> Unions have sought to negotiate across a wider spectrum of subjects, concerning themselves with the determinants of profits, pay and conditions as well as with this more conventional agenda itself. This increase in comprehensiveness has been matched by a greater depth in detail of the supporting analysis and argument which underpin wage claims. And alongside these responses has been a revised perspective of the appropriate time horizons, with unions increasingly anxious to take a forward view of the companies' development and performance. The informational consequences are again clear: this brand of collective bargaining can no longer be sustained by an informational base which is limited to a retrospective view of past events, whether through a company's annual report and accounts or through information of its own choice provided for collective bargaining.[7]

Naturally, in a system like that of Australia, where collective bargaining is not the dominant method of overt settlement, the mix of influences will differ; but the overall response has tended to be markedly similar.

INTERNATIONAL COMPARISONS: WHERE AUSTRALIA LAGS

Information disclosure may be justified by a variety of arguments ranging from efficiency and industrial democracy to political economy. But it cannot be justified as a panacea for good industrial relations, for the problems which beset that objective are too deep-seated to be solved by an increase in paperwork. Nevertheless, improved information disclosure is one element, if never sufficient on its own, in the development of stable industrial relations. Where Australia has fallen behind in relation to the rest of the industrialized world, it has done so quite markedly. The industrial relations system of the United States is one interesting comparison, since collective bargaining is conducted within a legalistic framework provided by the *National Labor Relations Act* of 1935 and the *Labor-Management Relations Act* of 1947. Section 204(a)(1) of the *Labor Relations Act* admonishes both employers and employees to "exert every reasonable effort to make and maintain agreements concerning rates to pay, hours, and working conditions". Consequently, an employer is under obligation to furnish all information necessary and relevant to the performance of the union's collective bargaining responsibilities. This applies to the administration as well as the negotiation of the labour agreement. While the influence of the law does not have an all-pervasive effect, it demonstrates some of the problems and possibilities of ensuring the release of managerial information by the operation of law. To a very limited extent, some American personnel and industrial relations practices are sometimes imported into Australia via the influence of American-owned multinational companies.

American industrial relations may be characterized as fixed-term contracts negotiated at plant level by collective bargaining, which tends to expand in general scope, but where there exists only limited bargaining over managerial prerogatives. Although the legislation within which collective bargaining operates does not specifically lay down the provision of company-held information to the unions engaged in bargaining, it does require the parties to "bargain in good faith". Case law has established that this requirement includes the supply of relevant and necessary information to union representatives for without such information the union as bargaining agent would be unable to perform its duties properly. The employer's refusal to supply information is as much a violation of the duty to bargain in good faith as if he had failed to meet and confer with the union. However, the extent of "relevant

and necessary' information has been restrictively interpreted. Wage earnings and manpower details within the plant are normally presumed to be of significance, and in certain circumstances comparative earnings data have been provided. In addition, the American penchant for bargaining over fringe benefits requires that insurance and pension details should be available. Managements are required to furnish details of incomes and expenditures only where they have cited inability to pay increased wages as a defence against union claims. Information must be presented promptly, throughout the life of a contract and in a "useful" format, though not necessarily the original documents. Prior break-down of negotiations is usually considered adequate defence against a requirement to disclose, as is evidence that union demands for information are simply postures to harass management.

These requirements are obviously no great hardship for the American company, and are considered by some managements to have facilitated manpower cutbacks and assisted labour cost control during the current recession. The provision of manpower information is not a crucial element. The company is also able to introduce inability to pay as a consideration when it feels it to be an advantage, whilst unions cannot raise the issue of excess profits should they consider this to be relevant. In addition, it has been shown that disclosure practice at some companies is not in compliance with National Labor Relations Bureau (NLRB) case law. Standards of disclosure in the United States are clearly affected by the environment. Lack of managerial information to some extent reflects the nature of American 'quasi-business' unionism as well as the tendency for legal systems to align with economic conservatism. Thus, unions in America have accepted a certain category of information which assists with regulating the labour/management interface and can even moderate wage demands under certain circumstances. This is not to the liking of all unionists. One survey found that virtually all union respondents expressed a strong preference for availability of company accounting information that was independently audited, provided on an ongoing basis rather than at the bargaining table only, and provided non-selectively in years of high and low corporate profitability. Union officers generally object to incomplete and selective information as well as to a broad range of corporate accounting practices they termed deceptive. The survey noted that "a large percentage of writers, mediators, union officials, and industrial relations managers showed enthusiasm for enlarging the process of providing the union negotiator with detailed management data".[8]

Collective bargaining in the United Kingdom is characterized, and differentiated from the Australian system, by its voluntary nature, although one area in which the law plays a role is the disclosure of information to trade unions and employees. The *Employment Protection Act* of 1975 has been the most innovative, since Section 17 requires an employer to disclose to trade unions information for collective bargaining "without which the trade union representative would to a material extent be impeded" and "which it would be in accordance with good industrial relations practices that he should disclose". The vague wording of this Act stemmed from the *Commission on Industrial Relations Report No. 31* (1972), which felt that any list of actual disclosures was impractical due to the variety of both the level and scope of collective bargaining. However, the introduction of the Act has not promoted an uncontrolled flood of disclosure to unions; and to some extent this is explained by the standard criticisms of the Act:

> In particular three aspects of the Act might effectively emasculate the disclosure provisions:
> a) The list of exceptions to the general duty (Sec.18(1));
> b) The fact that the union will be unable to inspect any original documentation (Sec.18(2)(a)); and c) The question of what amount of work or expenditure is reasonable in proportion to the value of the information (Sec.18(2((b)).[9]

These appear to constitute effective blockages at the disposal of any employer attempting to circumvent the legislation. This is particularly true of Section 18(2)(b), insofar as it is extremely difficult *ex ante* to define what the value of the information will be. A second major criticism relates to the cumbersome and lengthy appeals procedure. Unless disputes are dealt with expeditiously, they tend to produce frustration, particularly if the data or information sought is out of date when the declaration is finally made. Despite the limited success of legislative innovations, other progress has been made; notably in the use of accounting, economic and statistical data in the preparation of some of the more substantial British wage claims, often in consultation with professional or academic assistance. Unionists now regard the acquisition of detailed information as of high importance: "getting regular information in a standard form is vital if trade union representatives are ever going to begin effectively to monitor such questions as investment levels or import penetration, and to devise positive strategies where improvement is needed".[10]

It is difficult to summarise the precise disclosure requirements of other countries in Western Europe, but it can be seen that these

often widely extend to include financial data and future-orientated data such as plans and forecasts. The relevant Belgian law, for example, gives the enterprise councils to which it applies the right to detailed information on the progress of the enterprise, including, for instance, details of production costs and plans concerning future investments. Further, the enterprise council has the right to be consulted on any measure which might alter working conditions, the structure of the enterprise, or output.[11] Broadly similar rights are conferred by law in Germany, France, Luxembourg and the Netherlands, and by national agreement in Denmark and Italy. As in the United Kingdom, there have been moves to improve participative arrangements and information flows through the rule of law. Two proposals, though neither yet fully enacted, would significantly affect company structure within the EEC. These are the draft Fifth Directive of Company Law and the Statute of European Companies. Both proposals provide for extensive information disclosure to supervisory boards which would include employee representatives. A further development is the requirement by French law for companies employing more than 750 workers to submit an annual social balance sheet to their works councils. While this statutory version of social accounting is interpreted fairly narrowly, it has been exceeded on a voluntary basis by a number of German companies presenting more comprehensive social reports.

There is evidence that in Westen Europe practice does not necessarily correspond with theory. Only half of firms surveyed in Belgium provided the necessary information under the 1973 Royal Decree (amended 1981). Nevertheless, European disclosure practice seems well in advance of Australian and ahead of that in America and Britain; and just as the British Commission on Industrial Relations report suggests "that a developed policy on disclosure is often a feature of a situation where industrial relations are generally good",[12] it can be claimed, arguably, that the high standard of disclosure in Europe is a *product* of good industrial relations, although how the 'goodness' of industrial relations is evaluated rather depends on what society expects from the system.

PROBLEMS OF INFORMATION DISCLOSURE

The conventional management response to a request for information disclosure is to claim that such information is confidential, and that disclosure would be damaging to the commercial interests of the company. Such a defence tends to have

an immediate plausibility for the confidentiality of industrial secrets is, to some extent, a sacred cow that is continually paraded around the market place. However, on closer examination, the importance of confidentiality is found to be much more restricted than is commonly supposed. Yet some minimum safeguards to protect certain limited categories of information should be available. One possibility is to follow the Belgian example where requests for confidentiality are reviewed and evaluated by a panel. In some cases it is the existence of detail which makes information sensitive; and whereas union representatives should have access to detail, it may well be unnecessary for this detail to be made public. In the case of either official or negotiated exemption from disclosure, it is important for management to limit requests for confidentiality to what is truly significant. This follows from the adverse effect that concealment can have on industrial relations, since the consequences of failing to provide information might be more damaging in industrial relations terms than the dangers of such information becoming common knowledge.

Any movement towards full disclosure cannot be rapid because the trust of both parties requires gradual development. Unions may develop a trust in the credibility of management-provided information, and management a trust in union usage of the information provided. The move from a low-trust to a high-trust relationship in this area, as in others, will essentially have to be instigated by management since unions can only, in their current environment, react to management initiatives. Patently, disclosure of previously-confidential information cannot reconcile any divergent objectives of the differing parties, and in certain circumstances may prolong such conflicts. Yet it can also contribute towards the negotiation and resolution of these objectives. Managerial attitudes towards information disclosure can be expected to vary, from an enlightened view to the perception of information itself as a source of security and status. Managerial reluctance to divulge information can be a genuine concern for the interests of the organization, or a method by which it is hoped to maintain and legitimize managerial authority. Whatever the motivation, it is apparent that many union aspirations will have to be achieved in the face of adverse managerial perceptions.

The major constraint, however, lies elsewhere. Even in Europe, unions have not always fully utilised legal rights to information, and are often unprepared to pursue the right to information as a policy objective. Solid and sustained pressure is notably absent in Australia where trade unions have a scepticism about the role of

legislation in industrial relations and the credibility and impartiality of management facts and figures. But the chief reasons are first, the quality of a union's organizational ability to acquire and use information effectively; and, secondly, the extent to which it is capable of identifying and pursuing objectives — as opposed to dealing only with decisions after the event rather than seeking to influence them in the course of a company's policy formation process. The tendency for Australian unions to act as reactive institutions, in common with most unions elsewhere, has been well noted. It is probably the main constraint on developing more advanced practices of information sharing in Australia. Not only must unions obtain the necessary skills to handle complex informational inputs, and develop inter- and intra-union communications to ensure data is available to all unionists requiring it, but the demand for information both generally and specifically, must come from *within* the unions. If information is foisted on unions from other sources, the likelihood is that it will not satisfy union needs and that they will be ill-prepared to deal with it.

Neither should the difficulties of providing data, especially financial data, be underestimated. It has proved beyond the capabilities of the accounting profession to provide an adequate response to the problems of inflation accounting, let alone the less demanding need of shareholders' reports. There are four main groups of technical problems which place constraints upon information usefulness: inflation accounting, aggregation levels, auditing and forecasting. Unions require inflation-adjusted accounting information, but also require sufficient detail to enable them to concur with, or challenge, the method of calculation. Some of the problems can be bypassed, since one of the most significant adjustments is that for depreciation, long regarded by unionists as suspicious even before arbitrary adjustments for inflation. Of greater significance to unionists is the level and type of new and replacement investment, an item which may tend to replace depreciation as an appropriation of profit and become a matter for elaboration. Australian unions seeking information from multinational enterprises at the transnational 'consolidated' level experience further difficulties. Non-comparability of accounting systems across countries compounds the problem of collecting and processing information from multinational corporations. Different affiliates even use different accounting policies; and in attempting to discern the profitability of an industry, for example, some variation will be simply due to differing policies on items such as stock valuation, depreciation rates, reserves and provisions. At the

profit centre level, complex difficulties are raised by transfer pricing arrangements, especially where they straddle national boundaries. For disclosure to be effective, it must also be seen and believed. However, there are limits to the cost and inconvenience in auditing to the standard required by unions. The technical problems involved in statements of corporate plans and forecasts are also formidable in an era of high economic uncertainty.[13]

Two major problems of the presentation of information to employees and unions are those of comprehension and behavioural implications. Where management tend to compress information into pictorial, magazine-style employee reports, the presentation tends to become less favourable to analysis. The opposite response — of providing detailed numerical information — may be met initially by incomprehension; but, with expert guidance, unionists will be able to select the key statistics and gradually develop the skills, through usage, to handle the information.

Yet management may face crucial problems in eliciting appropriate information for presentation from existing management systems subject, as they are, to information overload, error, omission and distortion. A continuous source of difficulty is a failure of co-ordination between those who design management information systems and managers who use them. Redesign for information-sharing compounds the problems of extraction and presentation. Management analysts frequently observe that the behavioural assumptions of management accounting are seldom those applicable to a participative management system and that enterprises may continue to rely upon a static information pattern even when enterprise parameters are undergoing abrupt change (for example, through new technology, diversification, market growth or shrinkage). Management, which should exert an integrating influence on different sources of information, often retains a narrow capacity to manage knowledge. A major source of many of the problems noted in accounting control systems, and the patterns of information presented by them, resides in the attitudes and beliefs of those who design them. There is abundant evidence that accounting control systems, and the information they produce, do not always elicit responses from the employees exposed to them that are congruent with the achievement of organizational tasks and maintenance goals. Even when presented in as factual and detached a manner as possible, legitimate accounting presentations nevertheless carry important behavioural implications for employees. Even evaluation by net value-added may be as valid as the present pattern for ensuring that a company shall maintain its financial stability and avoid the wasteful use of resources, but has

the advantage of extracting items such as pay or contributions to community services out of the category of costs and expressing them, like profit, as shares in the net proceeds of the enterprise.

THE EVOLUTIONARY PATTERN OF DISCLOSURE

The principal problems of information disclosure reveal certain major constraints upon the development of improved disclosure practices. Consequently, unions must develop the skills not only to understand the information, but also to appreciate its shortcomings and to be able to appraise critically the methods of computation. Given these skills, the value of information will be sufficient to enable decisions to be made upon a more rational basis with a greater factual input and a reduction of untested assumptions. A further requirement is the lessening of managerial reluctance to divulge much of the information which unions may see as vital. This problem together with need for unions to make preparations to deal with information, and to investigate and support demands for disclosure, requires the development of appropriate union policies upon information.

However, the development of information disclosure practices in Australia cannot be a spontaneous process. It can be induced only by conscious efforts, on the part of all the organizations involved, to develop policies to provide and use information in an optimum manner. Some short- and long-term objectives which might be examined by unions, managements and governments can be summarised as follows:-

Union initiatives

(i) The case of Bennetts v the NSW Board of Fire Commissioners is now some fifteen years old, but no challenge on this ruling on the rights of 'worker directors' to have access to and convey information has yet been made. Whether or not the central tenet is sound, there is considerable room for clarification of the position of worker directors with regard to their access to information, and the conditions under which they may release such information to their constituents. It is, therefore, worth considering the suitability of mounting a test case on this subject.

(ii) Within the arbitration system, there are precedents for the introduction of information disclosure requirements into the flow of awards. It may then be possible to spread both

the scope and effect of these awards by expanding gradually the information covered, the States in which such awards are available, and the awareness of unions regarding the possibilities of such awards. Throughout 1982, the ACTU has undertaken certain moves to improve employees' rights with respect to job protection, including rights to certain categories of information, by attempted use of the test case.

(iii) The development of effective disclosure cannot be achieved solely by use of law, especially where the tribunal limits are fixed by statutory definitions of industrial matters. It is therefore more appropriate for some unions wishing to gain ready access to information to initiate direct negotiations with employers; ideally to arrange information agreements setting out the rights of each side and their responsibilities. The evolutionary path offers the advantage that those unions capable of immediately using information, and with the commitment and strength to make gains, will be able to act as path-finders, especially where far-sighted employers are willing to concede the legitimacy of union and employees' access to information.

(iv) If it is anticipated that information of significance will become more readily available during the 1980s, it should be advantageous for unions to obtain the necessary skills to handle and utilize such a volume of information.[13] Therefore, further emphasis might be placed upon trade union training, including increased inputs into skills programmes for union officers at local and plant levels; and financial provision should be made for access to professional experts, either internal or external to the union, capable of analysing information.

(v) Even with open access to information, unions can fail to utilize this asset effectively owing to organizational faults and structural failures. Hence new channels and methods by which information is communicated to different levels of the union down to job representatives, and made available to those requiring it, are of importance. It is also important that inter-union difficulties are minimised or avoided and, where necessary, joint committees should be established, to collate and disseminate information. Trade union structure and communications, in relation to informational inputs and outputs, should be kept under close review.

(vi) Although some Australian unions (notably in telecommunications) have become international innovators in experiments upon the negotiated introduction of new

technology, it would be far-sighted for the union movement to monitor and assess the newer interactions between information and negotiating strategy, and information and award strategy. The classic overseas example of sophisticated bargaining strategy, utilizing information within a systems approach, is that established by the British APEX (Association of Professional, Executive, Clerical and Computer Staff) to regulate the introduction of word processing and other office automation. A diagrammatic flow guide, extensively used by APEX negotiators, is but one example of the type of information about union information uses that should be evaluated by, and disseminated among, Australian unions.[14]

Managerial initiatives

(i) Throughout 1983, there can be little doubt that managements, and applications for award variations, will be preoccupied with redundancy and attached conditions. Yet this does provide the opportunity for enlightened managements to become increasingly involved in the negotiation of information agreements with unions. Such agreements would be most effective as examples, especially if forward-looking managements used their expertise in information resource management to produce workable agreements on minimal areas rather than to try to block any developments at all. Obviously, it is important for management to limit the costs of providing data, and to retain control of confidential information; but the costs to industrial relations, in a worsening economic environment, of failure to provide access to information should be anticipated. Where data are genuinely privileged, or where disclosure would be commercially damaging, information should be retained as a basic right of management.

(ii) Whilst the fundamental objectives of unions and management might rarely converge, open encouragement of informed and rational discussion, and negotiated compromise, centred upon data acknowledged by all parties, can facilitate the development of higher-trust industrial relationships. This initiative can be effectively promoted only through a continuing managerial commitment to employee involvement.

(iii) If managements accept that in time they may not possess monopolistic control over information, and may be

requested or required to divulge information to various parties, then it would be in the economic interests of efficiency and cost effectiveness to give urgent attention to the informational needs of employees and to develop the necessary systems and skills to satisfy these needs. Australian management needs to develop an information policy which surpasses that of conventional employee reporting. Management could legitimately conceive of a *quid pro quo*, from the unions, in return for a change in the status of company information.

Government initiatives

(i) Approximately one third of the Australian workforce is within the public sector, and therefore employed by Government, in one guise or another. Thus, an extensive example could be set for the economy by gradually and directly increasing the information available to public sector employees and their representatives. In many instances, the constraints of confidentiality are eased by the weakness of market competition, or concerns of the stock market, as in the case of State instrumentalities and certain public corporations. It is also possible that the more experimental State governments can supplement, or set an example to, the Federal Government in this sphere of initial trial and error activity.

(ii) The possibility of legislation to increase the information input into the arbitration system, or a disclosure requirement for employing organizations, allows considerable scope for Government encouragement of increased disclosure. Whilst such a legislative approach cannot create effective information disclosure, the ostensible dependence in their present formats of unions and employers associations on the arbitration system makes the likelihood of disclosure development, independent of legal impetus and encouragement, more remote than under a more voluntary industrial relations system. It is feasible that where the legal system has taken upon itself such a pervasive influence on industrial relations practices, it may also have to take exceptional responsibility for innovation.

(iii) Australian unions are, in common with many others, under-financed, and have consequently committed only limited resources to training. It is desirable, therefore, that the Government should be induced to invest further resources

in the sponsorship of union training programmes, if the optimum social benefits from increased disclosure are to be achieved quickly.

These routes and objectives merely comprise one scenario. They are not envisaged as an action-checklist that the various participants should unquestioningly follow. They may have more pressing calls upon their time, or on resources; or they may find more effective methods, or that some of these proposals run counter to other policies being employed. However, the research evidence convincingly demonstrates that these suggestions are some pointers which, if at least debated, would eventually promote evolutionary Australian policies during the 1980s, for the orderly disclosure of industrial information and its effective utilization.

EMPLOYEE REPORTS AND INFORMATION DISCLOSURE

Traditional communication procedures and methods are undoubtedly ill-equipped to cope effectively with many of the information aspects of the complex pressures of the 1980s, arising from growth in unemployment and the dislocations of technological change. Where companies and industries are seriously affected by the environmental pressures of industrial conversion, new stresses are placed upon the bargaining and arbitration processes. As Wirtz observes, "It is one thing to bargain about terms and conditions of employment; and quite another to bargain about the conditions on which men are to yield their jobs to machines".[15] Information and efficient communication channels are essential to reduce the fear that exists among employees concerning their fate in the face of chance. The absence of meaningful two-way communications between Australian management and employees is thus a justifiable lament; and one attempt to fill the communications gap has been the rapidly increasing managerial practice of issuing employee reports. As a central method of information disclosure, however, employee reports in their present form are ineffective: they do not, in general, provide information that might be of operational use to employees or their representatives. Most give no information on value added, capital investment, earnings per employee, productivity, organizational structure, future plans and forecasts; although most are glossy and colourful pictorial presentations.

Whatever the reasons management may invoke to explain the excessive truncation of employee reports, the maximum extent of information disclosure is necessarily limited by an 'information boundary'. The crux of the information argument is that many of

the major decisions to be made in industrial relations are themselves contingent on higher levels, and context-creating decisions, which do not necessarily appear as industrial relations decisions *per se*. The cut-off point for employee information, the inner edge of the information boundary, traces the indistinct zone between joint consultation. Fundamentally, the zone exists because there are a number of major decision areas in business organizations which are not, of themselves, concerned with employee relations, but which in outcome do create a context within which industrial relations decisions are then made. Such decisions might include expansion, diversification, contraction, location or relocation, acquisition or divestiture, merger, takeover or reverse-takeover, redefinition of the organization's business activities, capital investment, technological change and so on. Such decisions are actually dealing with some of the variables which are known to exercise a key influence on industrial relations behaviour. The information relevant to these decision is so complex in nature and vast in scope that it cannot be fully collated and conveyed to employees, via employee reports and other means, without full-scale entry into systems of co-determination in company decision-making. While this organizational entry into co-determination has developed in some overseas economies, in varying ways, it is far from being a feature of Australian industrial society. This is the ultimate organization restriction upon employee information.

AGENDA FOR THE FUTURE: AN INFORMATION OVERVIEW

Most research findings point to a clear trend: company information disclosure occupies a prominent place on the agenda for the future of Australian industrial relations. Yet there is also substance in the judgement that Australian trade unions and employees are inadequately provided with financial and non-financial information. Disclosure practices seem diminutive when compared with practices in other advanced western economies, and rudimentary when evaluated against normative criteria of what would entail 'good' practice. Despite formidable constraints upon improved disclosure, none are absolute, and they can be gradually overcome. The leading issues are threefold. What should be the *extent* of disclosure: What should be the *nature* of disclosure? What should be the *pace* of change? Since the industrial relations actors are part of the surrounding culture, the societal context itself illuminates some of the fundamental forces promoting the disclosure of information by businesses to their employees. The

trade unionist is not a separate creature apart from society; but is a citizen of society in all its manifestations, and is not therefore exempt from importing its influences into the workplace.

Throughout Australian society as a whole, there are multiple examples of growing demands for information, concerning a wide variety of subjects. This might be evidenced by the debate over, and pressures for, more open government; partly demonstrated by the insistence on consultation by environmentalists and consumer groups, by vocal campaigns for the enhanced rights of women, ethnic groups and disadvantaged minorities, and by dissatisfactions with the limited nature of mass media reporting. A common characteristic of these public calls for improved disclosure is not that they demand new information, for such information has always been available to privileged groups such as professional politicians, civil servants, investors, managers and financiers, but that the demand comes from groups of individuals who have previously have had no (or limited) access to significant information. Where requests for information have been successful, the situation has normally been one where a pressure group has been able to assert sufficient influence through collective action.

Naturally, it is beyond our scope to analyse the underlying sociological reasons for the growing demand for wider ownership of knowledge and decision-making influence. Yet parallels with the employee call for increased disclosure of information, in the industrial context, are too close for coincidence. Where improved standards of education provide the necessary ability to evaluate information, they will also provide self-confidence to resist pressure to abrogate responsibility to those supposedly better trained for the management of society. Equally, both unemployment for some groups and improved economic conditions for others may allow more members of society to devote time and resources to pressure groups reflecting their particular societal interests. Furthermore, spread of relatively cheaper information processing techniques makes extensive tracts of information more available to large sections of society which were previously denied ready access.

Such social trends would enable certain groups to obtain and utilise limited categories of information, but do not in themselves provide the motivation to do so. Arguably, this may come from group perceptions of a social system where representative democracy denies constituents concrete influence, as individuals, once votes have been cast, and from an awareness that the economic system embodies some of the features of a zero sum game. Such dissatisfactions may be expressed specifically as a

political grievance over a particular decision, but the actions of any pressure group to resist a decision are in effect a call for some devolution of power from the power elites of political and economic systems to groups adversely affected by the deficiencies of those systems. Such dissatisfactions could be expected to be most vocal during periods of uncertainty, rapid change and turbulence, where technological developments are more often seen as a threat than a benefit, where the environment is under greater challenge than ever before, and where the stability of society is no longer seen as assured. Apart from the chequered history of 'green bans', it is not suggested that traditional trade unionism is closely allied with the main forces of these socio-political processes. But there are striking similarities. Unionists are well-educated in respect to the firms and industries in which they are employed. They have, in certain circumstances, the resources to challenge major management decisions. They are aware that valuable information is available, and, above all, they doubt that management will manage with an eye on joint interests. It is, therefore, possible that certain trade unions, or employees, have a need for decision-making information that is inherently similar to the overall demand for information within society generally. Thus, although the industrial call for increased disclosure comes from a variety of sources and reasons, the momentum stems from underlying motivations which apply generally to the conflictual relationships of trade unions with management.

If the democratic justifications for advocating increased information disclosure in industry are defensible, then opponents have to dispute the merits of particular claims for information disclosure rather than raise the spectre of general constraints. Thus, the difficulty of confidentiality would not dispute the principle of any *right* to information, but would suggest that the practical problems in particular cases (arising, for example, from damage to competitive ability or an adverse effect on share values) are too restrictive to permit the unfettered exercise of such a right. Once situational problems are overcome, no further challenge can be made on general grounds. However, there are two arguments on which a fundamental challenge to the concept of disclosure of information can be made and these are, first, the claim that disclosure of information is a breach of legitimate managerial prerogatives, and second, the claim that trade unions, or individual employees, are unable to utilise information effectively.

Managerial prerogatives, however, are always contentious. There is no fixed line at which a managerial prerogative starts or finishes, since the line that Goodrich aptly termed the "frontier of control"

is a fluctuating boundary, around which management and unions skirmish to protect and advance their own claims, and over which relative peace exists only when there is a broad consensus as to the position of this frontier.[16] Should opponents of the disclosure of information perceive the frontier of control as sufficiently restrictive to exclude even minimal consultation or notification as being undue concessions, then they may logically object to the basic concept of disclosure. However, such an intransigent position is rarely a feature of Australian industrial leadership. The need to utilise employee expertise and to obtain co-operation in the making and implementation of decisions is becoming more widely accepted. Any false assessment of the shifting location of the frontier of control, given the strategic and destructive powers of unions and employers and the irregular development of the relationship between the two across industry, is an invitation to inefficiency and industrial strife during an era of rapid technological change and economic turbulence.

The second basic argument against the disclosure of information is the difficulty some trade unions and employees will experience in utilising information effectively. When considering the factors behind society's movement towards increased availability of information, it was suggested that there are broad structural determinants propelling the rising public interest in information. While Australian trade unions are aware that valuable information exists, and while they are, at least in some measure, dissatisfied with managerial decision-making, the resolution of discontent may yet experience frustrations. Initially, some union members and representatives may well have difficulty in acquiring the necessary skills to obtain and utilise information; for it is not general educational proficiency that is crucial, but expertise with management skills such as accountancy and corporate planning. It is also well known that many unions are significantly underfinanced. Given that trade unions must pursue a wide variety of goals, many may be forced to relegate agitation for improved information disclosure to a subservient role in union strategy. This conjecture, that some trade unions have insufficient expertise and/or resources to obtain or utilise information, would account for the ambivalence of Australian trade unions and their peak organisations. Unions regularly voice support for disclosure, in principle; and the ACTU declares that, "workers and their representatives shall have the right to all information relative to the operation of the enterprise or industry".[17] Yet unions, during the past decade, appear to have been unable consistently to obtain and exploit industrial information.

Some may argue that the limited agitation of trade unions for improved disclosure of information is consistent with the inherently reactive, or dependent, nature of trade unionism. Yet, some of the most vociferous agitation for disclosure of information has been the demand for consultation and influence over the planned introduction of new technology and pending redundancies. Increasingly, trade unions are finding that traditional modes of anticipating management reactions, and of responding to management initiatives are becoming inadequate. Confronted with an apparently increasing rate of change in Australian society, the potentially traumatic and often unpredictable effects of the introduction of new technology, the reduced transferability of remaining skills, and the ability of transnational organisations to withdraw capital from one location to another, many unions may be impelled to become more forward-looking.[18]

Just as the frontier of control oscillates, and varies with industry, so the ability of unions to utilise information varies across industry. These observations, by themselves, would suggest that the development path of disclosure of information practice will be uneven, but not haphazard. The industrial lead will be set by a few, perhaps by a few relatively wealthy unions, operating in those industries where union influence and managerial prerogatives merge into forms of joint regulation. Incomes-prices policy will function as a general stimulant. Where threats of large-scale technological change and associated redundancy are omnipresent to stimulate union activity, unusually rapid developments in information disclosure may be confidently expected during the 1980s.[19]

Finally, in the Australian context, there is a leading institutional determinant that will affect the development of the disclosure of information: the arbitration system itself. Nobody can foresee what enabling role that the arbitration process can play during the 1980s, especially given uncertainties arising from the current debate over the future form, method and scope of the Australian system. As a general rule, the arbitration system, by its very nature, cannot become involved in an iterative examination of managerial issues requiring extensive disclosure of information. The rejection of the financial position of a particular employer or industry as a matter of relevancy to a dispute would also appear to limit the extent of disclosure that is required in wage negotiation. If the Conciliation and Arbitration Commission and State Tribunals are to be an important influence upon disclosure, then it can be expected that this may occur through the inclusion of disclosure provisions in awards. Where disclosure arrangements are achieved in favourable

circumstances, the arbitration system may be envisaged as a means by which these advances can be diffused to other industries or firms that are at a comparative disadvantage. Against this likelihood, the conservative inclinations of legal systems may tend to act as an unwitting restraint on labour development as has been evidenced by international experience; and the interposition of hegemonic industrial tribunals between management and union could inhibit the type of detailed negotiation that stimulates disclosure of information. In the last analysis, it is the Federal and State Governments who alone would appear to possess the key powers to promote a 'Code of Information Disclosure Practice' within Australia.

CONCLUSION

There remains a leading question. What contribution, positive or negative, would information disclosure make to Australian industrial relations? The purpose, as stated at the outset, has not been to answer that question, but to provide a proper basis for its discussion. However, some tentative evaluations and projections can be made. First, information disclosure will not change control in the private corporation, but it can change the character of the decision made. Employees will not acquire control over corporate decision-making. But they will be less likely to function as passive endorsers of management policies, a situation which will be undoubtedly uncomfortable for management and for those directors who embrace the form but abjure the substance of decision-making. Second, information disclosure may alter the Australian genus of constrained collective bargaining, making negotiation a more rational process and placing less stress upon a heavily-burdened arbitration system. It remains an open question as to whether such a process will lead to a development of collective bargaining along new lines, or whether it will lead to a strengthening of the capability of compulsory arbitration to cope with an increased input of industrial conflict. The union will have more complete information about the corporation, its financial conditions and prospects; and management will know that the union has this information. It will not necessarily strengthen a union's bargaining position, or representation to Commissioners, for that information will not always support the union's case. The openness of information, however, can provide an opportunity for parties to discuss their differences in terms of perceived economic realities. To the extent that rational discussion has a place, in either

collective bargaining or tribunal proceedings, information disclosure will increase its potential. Optimistically, information disclosure may, to some extent, lower the adversarial profiles of the industrial parties by encouraging some to recognise that, while there are pluralistic and legitimate differences, there are also common interests in the success of the enterprise in a modern mixed economy.

NOTES AND REFERENCES

1. In the European Economic Community a draft directive (24 October 1980) outlines procedures for information and consulting the employees of undertakings with complex structures (including multinationals). This draft directive, known as the Vredeling Plan, stipulates that the management of a 'dominant' enterprise whose decision-making centre resides in a State Member of the Community, and which has one or more subsidiaries in the same State or at least one other member State, must supply the management of subsidiaries with relevant information every six months. Such information, to be communicated to the workers, should cover (a) structure and staff; (b) the economic and financial position; (c) the current state of affairs, production and sales and probable trends; (d) the employment situation and probable trends; (e) production and investment programmes; (f) rationalisation plans; (g) manufacturing and working methods, particularly the introduction of new working methods; and (h) all procedures and projects that could substantially affect the interests of the worker.

   The European unions have pressed for modifications to certain definitions (for example, replacing "dominant influence" by "notable influence"). Although approved in an amended form by the European Parliament (October 1982), the Vredeling Plan will not come into effect as a binding directive for national legislative implementation by Members until it has been adopted by the Council of Ministers. Debate over an amended text, in both Parliament and Council, looks as though it will continue throughout 1983.
2. For a Ministerial revelation of communication and information deficiencies in the operation of the British Social Contract experiment of 1974–8, see Barbara Castle, *The Castle Diaries 1974–6*, Widenfeld and Nicholson, London, 1980, pp. 318-20.

   The National Economic Summit (11-14 April, 1983) was a unique Australian forum for discussion of the economic policy *context* of incomes-prices policy. It was not an exercise in formulation of the configuration of incomes prices policy, which had been largely determined by the pre-election accord between the Australian Council of Trade Unions (ACTU) and the Australian Labor Party (ALP), but acted as a forum for the explosure of economic policy parties to new economic information relevant to the Labor Government's economic strategy. The final *Communique* (para.50) emphasised that, "the summit welcomes the wealth of information provided to participants. This move to a more open approach should be encouraged and the Government should ensure that sufficient resources are allocated on a continuing basis to collect, analyse and disseminate such information". It was agreed to initiate an Economic Planning Advisory Committee to "expand the information base available for economic policy formulation through broad indicative planning" (para.54) and "to encourage the process of consultation at all levels of the

community" (para.56). See *National Economic Summit Conference April 1983, Communique*, Parliament House, Canberra, 14 April 1983. See also, *Statement of Accord by The Australian Labor Party and the Australian Council of Trade Unions Regarding Economic Policy*, ACTU, Melbourne February 1983, pp. 1-11.

3. Edgar H. Schein, *Organizational Psychology*, Prentice-Hall, New Jersey, 1972, p. 19.
4. See Alan Boulton, *Technological Change and Industrial Problems — The Legal Aspects. A Report Prepared for the Committee of Inquiry Into Technological Change in Australia*, ACTU, Melbourne, 1980.
5. Alan Boulton, 'Job Protection and the Test Case Approach' in *Industrial Relations Reform*, University of New South Wales Occasional Paper No. 6, 1981, p. 17.
6. The National Summit agreed to "progress the development of a centralised wage system" through a series of conferences (begun in late April 1983) held under the auspices of the Australian Conciliation and Arbitration Commission. The notion of a 'centralised' system is, however, an ambiguous concept: to the ACTU it apparently implied the early replacement of the wage pause (due to end on 28 June 1983) by quarterly and fully-compensated cost of living adjustments. Following its decision to abandon wage indexation in 1981 — having concluded that none of the industrial parties share a concern to keep the system viable — the Commission's role was largely confined to ratifying wage agreements between unions and employers. The adoption of the wage freeze in December 1982 further inhibited the active scope of the Commission. Hence the Summit conference effectively resurrected the active role of the Commission while emphasizing "the need for a period of collective restraint".
7. R. Moore, *Disclosure of Company Information to Trade Unions (UK)*, South Australian Department of Labour and Industry, Adelaide, 1979, p. 9.
8. See S. Landekich, *The Use of Accounting Information in Labor Negotiations*, National Association of Accountants, New York, 1977.
9. B. Foley and K. Maunders, 'The CIR Report on disclosure of information: a critique', *Industrial Relations Journal*, 4, Autumn 1973, p. 18.
10. Moore, *op. cit.*, p. 23.
11. The text of the Royal Order of 1973, supplemented by recently adopted regulations, lists in minute detail the types of information to be furnished to enterprise councils; fuller information than is provided in most cases to active general shareholders' meetings in Europe. The 1973 Order was supplemented by a Royal Order (12 August 1981) providing for additional information upon State aid received and its deployment, as well as the Royal Orders Nos. 18 and 19 of 18 March 1982, and No. 92 of 9 September 1982 to facilitate supervision of the implementation of Government wage restraint policy at undertaking level. See also C. Breviere, 'Communicating information to workers in Belgian undertakings', *International Labour Review*, 122, 2, 1983, pp. 197-210.
12. See John Corina and William Rees, *The Disclosure of Company Information to Trade Unions and Employees. Australian Problems and Perspectives.* University of Sydney Occasional Papers in Industrial Relations, No. 2, June 1981.
13. See European Trade Union Institute, *Negotiating Technological Change*, Brussels, 1982.
14. See Association of Professional, Executive, Clerical and Computer Staff, *Office Technology: The Trade Union Response*, London, 1979.

15. Cited in Mark L. Kahn, *Labor Arbitration and Industrial Change, Proceedings of Sixteenth Annual Meeting*, National Academy of Arbitrators, BNA Inc., Washington, D.C., 1953, p. 300.
16. See C. Goodrich, *The Frontier of Control*, Pluto, London, 1975.
17. Australian Council of Trade Unions, *Decisions of the Australian Congress of Trade Unions*, 1979.
18. It could be argued that in a well-established and stable company group (parent and subsidiaries), loss of employment or degeneration of working conditions in one plant are not necessarily disastrous if the skills of the workforce allow transfer to other organisations within the Group. Where the future of the industry, or the level of employment in an industry is seriously threatened, and the workforce has no transferable skills, the effect on both unionists and their unions can be traumatic. Under these circumstances, trade unions may be forced to look increasingly to the future of a company and their members' position within it. Labour law in Europe affirms the relevance of the Group entity in collective labour relations. West Germany, Belgium and Sweden, for example, require companies to inform employee representatives about the economic situation of the whole Group. In Germany, when a plant closes, negotiations between management and union representatives are obligatory, and must take into account the state of the entire Group when planning to mitigate the adverse effects. This situation of group employee information may be starkly contrasted with the case of the 1982-83 retrenchment within BHP; where recourse to the law (New South Wales Industrial Commission), for example, first implied union pressure for a State Government investigation into the steel and coal industries, and then management denial that plans for a major takeover of a US mining corporation were at all relevant to cutbacks in the steel operations of BHP.
19. In Europe, a (1982) pilot study by R. Moore and H. Levie, *Workers and New Technology: Disclosure and Use of Company Information* (Trade Union Research Unit, Ruskin College, Oxford), was submitted to the European Economic Commission. It was supplemented by a seminar in Brussels in April 1982 attended by trade union representatives throughout Europe. On the other hand, the original Vredeling draft was derailed in early 1983 by large employer pressure-group activity, upon the European Parliament, to give companies the right to refuse information if it constitutes a "company or business secret".