

Boardrooms “on notice” to pay attention to their labour supply chains

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By Natalie James, Fair Work Ombudsman

“At least I’m surviving ... not starving, not dying with hunger. I was helpless and needed to do something.”

It is disturbing language in any context.

It is significantly more confronting to learn these are the words of a qualified accountant who had worked full time in a 7-Eleven store.

He was paid as little as \$11 an hour.

Like many who were underpaid by 7-Eleven franchisees, this employee silently put up with being paid below minimum wages for fear of losing his job.

His desperation was not an isolated case and became a driving factor in our quest to stamp out the exploitation of vulnerable workers, many of them from non-English speaking backgrounds.

The underpayment of workers at the bottom of complex supply chain arrangements has been making headlines of late.

Of course, it is the direct employers of these workers who are ultimately responsible for making sure they get paid correctly. There are minimum rates of pay and they apply to all people who work in Australia.

But the public response to cases of exploitation of these workers shows that the community is sitting up and taking notice when there is a big name or brand at the top of the supply chains, or at the centre of these arrangements.

Convenience store chain 7-Eleven has a very bright light shining down on its franchise model and the behaviour of its franchisees.

7-Eleven now knows that declaring that it is not responsible for underpayments in its network because it does not directly employ workers in its stores will not wash.

In a highly competitive retail environment, some unscrupulous operators have sought to profit by paying unlawful, black market rates to low-skilled, vulnerable employees.

Some franchisees and, at times the underpaid employees themselves, turned their back on minimum wages in an act of desperation.

Labour costs were the only way the employers could reduce their expenses.

And the employees took lower wages, because, in the words of the migrant accountant, “I was helpless and I needed to do something.”

He told us: “There are many people, especially students who have been exploited, who are being exploited by these people and they don’t dare to come and report because they’re afraid.”

Our own efforts to identify the drivers of alleged systemic underpayments across the 7-Eleven network were also hampered by a widespread lack of co-operation from employees, largely I suspect, stemming from concern about either their visa status or losing their only source of income.

The Inquiry uncovered what we describe as a culture of acceptance that if you work at a 7-Eleven store, you will be underpaid, and that’s just the way things are.

There were tell-tale signs for a long time of a systemic problem, and if 7-Eleven head office had a desire to address it, could have acted earlier and done more.

7-Eleven must now accept its moral and ethical responsibility for what has been happening and work with us to root out and deal with its franchisees who have built the underpayment of wages into their business model and who in some cases prey on vulnerable workers they can control.

Frankly, I’m sick and tired of seeing case after case of employees being paid \$10 or \$12 an hour.

This is well below the minimum adult wage of \$17.29 an hour to which all adult workers, including visa-holders, are entitled.

The community expects more from established and profitable brands to ensure that workers on their sites, whether directly employed or not, are treated and paid fairly.

Increasingly, if we find a business underpaying workers and that business is part of a franchise or supply chain, we are looking look up to the top, the franchisor, principal or purchaser; because they are the price-makers and they control the settings.

This should come as no surprise to the boardrooms of big business around Australia – I have been flagging this approach since an address I gave in August, 2014, entitled “Reputation, Risk and Responsibility”.

Franchising, outsourcing, labour hire – these are all legitimate business arrangements – but in my experience, in highly competitive markets for low-skilled work, they also increase the risk that workers will be underpaid, sometimes quite deliberately.

The law can extend legal liability to individuals involved in the procurement and to companies further up the supply chain.

So if boardrooms are not considering these procurement and compliance risks involved, then someone is asleep at the wheel.

The Fair Work Ombudsman can help businesses that want to know if their labour supply chain is compliant with federal workplace laws.

So my message to directors is simple. If you want to stand out from the crowd and protect your company from risk, we will partner with you.

Compliance with workplace laws isn't just the Fair Work Ombudsman's business, it's just good business.

Let there be no doubt that I am committed to building a culture of compliance across Australian workplaces by setting priorities and using the tools available to my Agency to hold people to account and influence, or change behaviour and reduce harm.

We will use a range of levers, reputational, structural, environmental and, where necessary, legal, to achieve behavioural change from the top down, and to get the franchisor, principal or purchaser to step up and take responsibility for what's happening in their business.

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