



SDA SUBMISSION TO

# Senate Select Committee on Adopting Artificial Intelligence (AI)

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## About the SDA



The Shop, Distributive and Allied Employees' Association (the SDA) is one of Australia's largest trade unions with over 200,000 members. Our members work in retail, warehousing, fast food, hairdressing, beauty, pharmacy, online retailing, and modelling.

The majority of SDA members are women (60%), under 35 years (57%), and low-income. Retail and food services are two of the three lowest industries for median weekly earnings.

The SDA has a long history of advocating on behalf of members. We do this through enterprise bargaining; making submissions regarding Awards and the NES to provide a relevant safety net; and through numerous submissions made to parliamentary and government inquiries and other important reviews.

The SDA has 10 policy principles that guide our engagement in these reviews. For a list of these, see Appendix A.



# SDA Submission to Senate Select Committee on Adopting Artificial Intelligence (AI)

## **Artificial Intelligence as threat and opportunity for the Australian economy.**

The Terms of Reference of the Select Committee on Adopting Artificial Intelligence (AI) would permit a swathe of material from the SDA for its consideration. Instead, the SDA wishes to provide simple examples to show that Artificial Intelligence (as widely defined) is already in workplaces and provides an opportunity for the Australian economy but that mindset needs to be tempered with a view to sharing the benefits equitably, to transitioning safely and with respect for the dignity of the people impacted, and to taking particular note of the human impact.

An October 2023 paper by Adam Slonim published by the John Curtin Research Centre describes the benefits in the context of what the Terms of Reference draws attention to – “the potential threats to democracy and trust in institutions from generative AI” –

*The potential of artificial intelligence (AI) in modern warfare, demonstrated in conflicts such as Israel’s AI-assisted operation and Ukraine’s use of AI-enabled weapons, he asserts, must be the cornerstone of a new Australian advanced industrial capability. The Case for AUKUS shows how AI and software-centric capabilities are crucial in modern warfare, and Australia must focus on developing AI expertise.<sup>1</sup>*

The paper describes that Australia has expertise and can invest in that expertise so that the nation keeps up with the world for both security and industrial technological benefits.

## **Artificial Intelligence is already in retail, warehousing and fast food workplaces.**

Those industrial technological benefits are already manifest in digitalisation and automation of retail, warehousing and fast food industries; and the risks also manifest in the experience of the workers.

The retail industry uses AI and other technology in a range of ways.

The most visually apparent for shoppers is the change at point of sale where over decades we have seen a move from calculators, cash and paper to registers with integrated eftpos, and more recently to self-serve checkouts. The most recent change experienced by workers is the introduction of automated rostering systems, which have created real challenges for those who work on them and those who set rosters using them.

Behind the scenes there has also been digitisation and automation of warehousing and the supply chain – from the back dock to the farm. Large workforces have grown and been dispersed, and the myth of a store with no staff is quickly debunked when you attend these venues and see a team member in the store or when you visit a large outer suburban fresh food warehouse and meet the people doing a myriad of jobs in even the most automated of warehouses.

AI and generative technologies are seen as having benefits for:

- merchandising, for example to predict and drive product demand and fashion,
- fulfilment, for example to plan and implement warehousing procedures,

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<sup>1</sup> Slonim, A. (Oct 2023) The Case for Aukus: Submarines are half the intelligent solution (Available at <https://curtinrc.org/publications/>)

- operations, for example rostering to likely traffic flows.

These benefits are often countered by human and financial costs of underdeveloped risk assessments prior to implementation. For example,

- where there is a breakdown in the supply chain, the product demand can change quickly;
- where there is lights to follow and recorded voices in your ears, the dehumanising impacts can create safety risks; and
- where there is minimum staffing levels, people's lives are thrown out of order by the algorithm led rosters.

**The benefits of productivity gains should be shared with workers as well as the community and investors, and the risks should be mitigated.**

### *Productivity Gains*

Labour's share of National income has fallen steadily since 1975 (then c 63%) to approximately 50% today. Real unit labour costs are now less than they were at the commencement of the COVID pandemic (Mar 2020). That is, corporate Australia is strengthening its position. It's time for change, and that will come through "decent work" – decent wages and conditions, responding to the safety and other risks associated with automated rostering, and sharing the benefits of automation by rethinking redundancy.

Retail is a commercial activity with a sharp focus on the bottom line. Profits are necessary for companies to continue operating and employing people but the SDA and its members believe employees are entitled to a fair and reasonable share in any improved profits and improved productivity.

### *Bargaining*

And sharing the prosperity is achievable. Recently, Mr Bernard (Bernie) Smith – the New South Wales Branch Secretary, Shop, Distributive and Allied Employees Association – appeared at a hearing. In his evidence, he cited an example of sharing the benefits:

*"There's an overseas retailer who automates fulfilment centres. Fulfilment centres are for online retail picking, and they're one of the most high-tech automators in the world. We entered into negotiations with them in 2022 and concluded those negotiations. ...*

*As a result of that productive negotiation, we secured good outcomes for our members. A warehouse worker will be receiving \$105,000 a year for their standard roster, and that goes up to \$143,000 a year for some of the more technical roles that are covered by our agreement as well. That is for a standard roster. If they do overtime above and beyond the standard roster, in addition to that, they have additional leave entitlements above the normal leave entitlements as well, in relation to that.*

*That's how we can engage cooperatively to share the productivity gains, and it's a challenge for us in the time ahead."*<sup>2</sup>

### *Minimum Wage*

Bargaining is not the only method of sharing the benefits of productivity gains with workers. Increasing the

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<sup>2</sup> Mr Bernard Smith, Hansard, 15 April 2024.

national minimum wage is another.

In the 1990s, a group of American economists compared the number of fast-food jobs in New Jersey with its neighbouring state, Pennsylvania. The economists found a 13 per cent increase in fast-food restaurant employment in New Jersey relative to stores in Pennsylvania. What was the difference between these two states that resulted in such a remarkable difference? New Jersey had just increased its minimum wage – and employment – whereas Pennsylvania had kept their minimum wage at the same low rate and stifled job growth by doing so.

The study earned those researchers the 2021 Nobel Prize in Economic Sciences. By this time, the study had already birthed a wave of similar studies in other parts of the world. Research conducted in minimum wage increases in Brazil, Indonesia and Germany also found that employment numbers either went up or remained the same when minimum wages were increased.

The growth in employment in Australia between July 2022 and July 2023 was again a real-life outcome debunking the tired old arguments against a reasonable wage increase for lower paid workers. The 4.6% AWR increase for July 2022 was good for working Australians and as it turned out, good for employment growth.

The SDA will continue to argue for increases in wages, including through the Annual Wage Review. In 2022 and 2023, the debates around the quantum of those increases were fierce. Employer groups sought cuts and delayed pay, they argued that productivity had slowed, despite record profits and productivity growth – productivity grew by 2.8 per cent for the year to March 2022, while wages went backwards in real terms by 2.7 per cent over the same period. The decision in 2022 was an increase, and despite the views put, employment strengthened over the following 12 months.

SDA members do not advocate against the success of their employer, but they do seek productivity being shared across the three pillars of a successful business – investors, workers and consumers.

For the workers, analysis from the McKell Institute shows that the productivity increases by workers are not coming back to them in wages. In retail the ‘wages to productivity’ deficit for employees over the past 20 years is -7% (McKell Institute). Economist Jim Stanford (Centre for Future Work) submits there is a minus 15% deficit in wages versus productivity gains over the past 20 years across the whole Australian economy<sup>3</sup>. Rod Sims (Former Chair of the ACCC) has identified that the share of productivity gains going to workers has declined by 25 per cent in the last 15 years.<sup>4</sup> Whilst the figures differ slightly the irrefutable conclusion is that wages have not kept up with productivity gains over the past two decades.

Gains made in productivity should be reflected in minimum wages to ensure the economy works for all – for investors, workers and citizens.

Our society has dealt with significant advances in technology and productivity before and the lesson is that those gains must be reflected in wages, or the social contract will break.

Daron Acemoglu (economist at MIT and a nominee for the 2023 Nobel prize in economics) used to believe in the conventional wisdom, that technology is always a force for economic good. But in *Power and Progress: Our Thousand-Year Struggle Over Technology and Prosperity*<sup>5</sup>, which he co-authored with Simon Johnson, he warns how innovation often winds up being harmful to society until collective forces like unions impose community standards on it.

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<sup>3</sup> <https://www.abc.net.au/news/2023-05-23/why-your-pay-is-not-keeping-up-with-inflation/102379114>

<sup>4</sup> <https://www.theguardian.com/commentisfree/2023/sep/05/lack-of-competition-damages-australia-economy-rod-sims>

<sup>5</sup> <https://www.hachettebookgroup.com/titles/daron-acemoglu/power-and-progress/9781541702530/?lens=publicaffairs>

Fair distribution of the additional wealth created is one community standard.

Low paid workers have demands put on the scarce resource that is wages. If the wages go up, they spend that money in ways that increase productivity. The economic cycle that retail workers support is critical to economic recovery. That means, minimum wages must increase, especially for those in low paid, feminised and youthful workforces.

Now is the time to ensure the Australian industrial system also responds to the evidence and we increase our minimum wages in line with improved productivity arising from technological advances.

#### *Mitigating the risks – Rostering.*

When adopting, implementing and working with AI, risks should be mitigated. Sadly, algorithm-led rosters is an example of implementation without effective planning of the business systems and culture to manage the risks.

*“Increasingly, the retail and warehousing industries allocate work by apps or algorithms, whether it is the provision of rosters, training modules or additional shifts in retail through apps like WorkJam or, in online retailing and warehousing, through wearable technology that directs, in accordance with an algorithm, how, when and where to carry out a task.”<sup>6</sup>*

The systems typically use a range of data including customer traffic, stock flows and task time analysis to determine the number of hours of labour needed at any time in the week. This then determines how many hours are needed to be rostered across the store or departments of a store. Rosters are often then electronically generated using the information and communicated to workers via an app. The app is used for multiple purposes including to communicate rosters, get employee acceptance, for signing in and out of shifts and for communication and training purposes.

These rostering platforms are sometimes described as ‘designed to avoid issues of preferential treatment by managers’, but they were in practice contributing to financial difficulties in low-income families. They made it difficult for families to access childcare and made it difficult for families to spend time together. Some technological improvements have been made to some platforms, but they remain well short of ideal.

Rostering practices can also prevent workers from working more hours. Employers’ rostering practices add to parents’ unpaid workload. In the SDAs Work and Care research<sup>7</sup> the data showed a grave issue of how digitised systems impact.

Among those with a child aged 12 or under:

- 68% agreed or strongly agreed with the statement “When I get my roster, I have to check it fits with the family’s childcare arrangements”.
- 69% agreed their work times affect when other family members can work.
- 62% said they find it stressful to organise childcare around work times.

Rostering also impacts on family stress and the mental health of the worker and members of their family:

- Of those with a child 12 or under, 37% of mothers and 42% of fathers agreed or strongly agreed with the statement “The way I am rostered to work impacts on my mental health”.
- 63% of parents with a child aged 12 or under agreed or strongly agreed that they worry about what’s

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<sup>6</sup> Mr Bernard Smith, Hansard, 15 April 2024.

<sup>7</sup> Cortis, N., Blaxland, M., and Charlesworth, S. (2021) *Challenges of work, family and care for Australia’s retail, online retail, warehousing and fast food workers*. Sydney: Social Policy Research Centre, UNSW Sydney. (Available at <https://national.sda.com.au/care/>)

happening with their children whilst working (69% of mothers and 57% of fathers).

- Among mothers with a child below school age, those using formal childcare services were less likely to worry about their children compared with others, underlining the importance of formal childcare for alleviating maternal stress.

For management, it is remarkable that this is not a greater focus. Among parents with a child aged 12 or under, 43% of mothers and 35% of fathers reported wanting to work more hours. They needed more stable hours in order to make it work. Notably, it is also a compliance matter:

- Firstly, they are a system of work and that brings them within the workplace health and safety jurisdiction. The process of setting and adjusting rosters requires greater certainty and control, and the algorithms and authorisations within the system need to be accessible to Health and Safety Representatives.
- Secondly, as rostering systems are a system of work. Digitising rostering systems is a change that was implemented without consultation with workers. Under state-based workplace health and safety legislation, such consultation is mandatory. Further, when changes to the systems are implemented, for example a change to the algorithms or procedures, they do need to go through formal consultation.
- Finally, automated rostering is uniquely dehumanising. If the employee and employer are communicating exclusively through automated messages on an app, the relationship loses its human connection, and the safety of the worker, especially related to mental health and ability to speak up in relation to other matters, is compromised.

The Work and Care Report found that there was a general preference for more personal communication around rostering and roster changes and while there is an acceptance of the use of apps as a tool it shouldn't substitute personal communication.

The use of apps or other electronic means for communicating rosters and roster changes doesn't provide for proper consultation with the employee, despite requirements to do so under legislation, Awards, and many of the Enterprise Agreements that our members work under. Lack of consultation has a significant impact on employee schedule control and a worker's ability to obtain a roster that enables them to meet caring responsibilities.

It has also led to workers being forced to constantly check the app, especially for casuals and those part timers on low base contracts who need additional shifts to survive. The use of computerisation and apps also impinges on an employee's time outside of work, putting more pressure on them while caring.

Better protections and rights for workers in relation to the use of technology must be developed including compensation for time expected to use workplace technology outside of the workplace and for the use of the workers own device and data. Technology should also ensure compliance with the relevant industrial instrument governing rostering, such as Awards and Enterprise Agreements, and not result in discriminatory outcomes.

*Mitigating the risks – surveillance to protect, not attack.*

Another example of implementation without effective planning to manage the risks is surveillance. There are legal risks for companies. One article from November 2020 indicated that Amazon's "global surveillance

of its workforce could be in breach of Australia’s right to assemble laws.”<sup>8</sup> The use of surveillance to curtail workers’ freedoms is balanced with the desire of workers for similar technologies to be used for other matters, such as safety.

One such safety issue is customer abuse and violence. In December 2017, the SDA officially launched the No One Deserves A Serve campaign to create awareness about retail and fast food workers facing constant abusive and violent behaviour from customers at work.

The initial survey which accompanied the launch of the campaign received responses from over 6000 workers about their experiences with customer abuse and violence.

The results were damning.

Customer violence and abuse was – and still remains – a serious health and safety issue for SDA members and workers in the retail and fast food industries.

No One Deserves A Serve began as a promotional tool used to remind shoppers and customers to treat retail and fast food workers with respect.

While our advertisements and promotional material on social media have continued, and enjoyed success, the campaign itself has evolved and developed into an important part of the SDA’s work. The SDA and the industry are increasingly working together to secure effective measures in curbing customer abuse and violence – these include training, incident reporting, customer signage, banning notices and increased security.

The 2023 survey of over 4,600 workers found that the prevalence of abuse and violence by customers has not improved since previous surveys.

In the last 12 months:

- 87% of workers said they had experienced verbal abuse from a customer. Both the 2016 and 2021 surveys recorded 88%.
- Workers experienced an increase in the frequency of verbal abuse over a sustained period of time, rather than just isolated events. Of those who experienced verbal abuse, 76% experienced it on a more regular basis (monthly, weekly, daily) compared with 54% in 2021.
- 12.5% of respondents said they had been the victim of physical violence from a customer, compared with 8% in the 2021 survey.
- 9% of respondents said they had been spat on.
- 10% of respondents experienced customer abuse online, double the results of the 2021 survey (4.75%).
- 17% of respondents reported that the incidents of customer abuse and violence they experienced were of a sexual nature, compared to 10.65% in the 2021 survey. The prevalence is higher among female workers (19%) compared to male workers (9%), with young female workers at particular risk.
- ‘Repeat offenders’ remains a significant issue for workers, with 52% of workers reporting that the same customer was abusive or violent towards them on more than one occasion (compared to the 2021 result of 38.5%).

For the first time, the 2023 survey also asked whether workers had experienced abuse, harassment or violence from a customer that referenced their ethnicity, race or cultural background. 24% of workers

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<sup>8</sup> <https://www.theguardian.com/australia-news/2020/nov/25/amazons-reported-surveillance-of-workers-could-break-australian-law-union-says>



responded that they had.

Video surveillance footage and body cams are contested in retail workplaces.

Some workers want them so that there is evidence after events and for their role in preventing incidents of violence. Others are concerned about the tracking of their faces and movements for the collection of data or monitoring of activities. Given the documented behaviour of some retailers, that is a reasonable concern.

**AI knows your algorithm; it doesn't know you. You know you, and so does your union. And you have right to assemble and participate in democratic processes without suppression.**

A 2020 news story regarding Amazon suggested that the company used Pinkerton operatives to spy on its staff.<sup>9</sup> Bernie Smith described at the time a "... toxic culture of machine-centric productivity and surveillance [that] is only set to worsen over coming years if this is not addressed now."<sup>10</sup>

More recently, Bernie Smith described this in an appearance at a Senate Committee:

*"I've been to the Amazon warehouse in Sydney on a couple of occasions. Every time you go there, you're closely monitored. When you're in the break rooms, members of the management team sit there and monitor you. Whenever our Organisers go, they are closely monitored by HR teams who are there. When I turned up, of course, the national HR person turned up at the same time that I turned up to greet me, I suppose, and wanted to closely monitor what we were doing in those rooms.*

*We were quite alarmed when, in about 2020 or 2021, we were made aware that Amazon was actually advertising for a job overseas to monitor union activity in all their operations around the world. It was a Seattle based job, from what I understand. We thought, 'That's quite alarming.' But I do believe that that's been filled, because we had the experience towards the end of COVID where, about 10 days after one of our Organisers had visited the site, we got a letter from Amazon complaining that our organiser had been within a certain distance of a particular worker in a lunch room. We thought, 'That's strange.' Given that the HR team are there the whole time that our Organisers are there, if they had seen this and wanted to make a comment about it, they would have made a comment at the time. Instead, we got a letter 10 days later, which leads us to believe that the footage—because the tea rooms are under surveillance—from that interaction was probably reviewed somewhere else, and as a result of that it was identified that they could perhaps try to get a bit of a score on the union and send a message to their workers that, to paraphrase the band The Police, every breath you take, every step you take, they'll be watching you. That's the Amazon approach. They're watching all the time, and that means that members find work, both on the floor and in their breaks, sometimes dehumanising."<sup>11</sup>*

**There are options for regulating technology.**

At least two jurisdictions have sought to address the issues associated with technological advances, and others that are working towards change.

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<sup>9</sup> <https://www.vice.com/en/article/5dp3yn/amazon-leaked-reports-expose-spying-warehouse-workers-labor-union-environmental-groups-social-movements>

<sup>10</sup> <https://www.channelnews.com.au/nsw-retail-union-wants-workplace-surveillance-laws-overhauled/>

<sup>11</sup> Mr Bernard Smith, Hansard, 15 April 2024.

California passed what's commonly referred to as the Warehouse Worker Protection Act, which deals with whether workers' work quotas and kick-back rates set by algorithms are fair and safe. If you're picking to light or sound—picking to light is where a light flashes as to what item you pick next, and picking to sound is where it's in your ear as to what you pick next— the Warehouse Worker Protection Act regulates the setting safe rates. It also prevents stretch rates and regulates how quotas are set.

A Spanish law builds off earlier work from the European Union, which is working around the idea of the proposal for artificial intelligence regulation in the EU. The Spanish Act goes to algorithmic transparency and the right of unions to effectively inspect the algorithm or the code and how it comes to its decision. This is done because algorithms are not 'values' free. It's based off how the code is written and what the code is asking somebody to do.

Regulatory intervention that allows the inspection of systems of work would provide the freedom needed for the benefits of technology to be shared.

### **Research:**

In closing, the SDA brings to the attention of the Select Committee the following research:

- Lipton, B., Vromen, A., Rutledge-Prior, S., Good, L., Cooper, R., Foley, M. (2023) *Technology and skills in the future of retail work: A summary of findings* (Available at <https://ses.library.usyd.edu.au/handle/2123/29372>)
- Podkalicka, A. and Andrejevic, M. (Forthcoming) *Workers in Transition: Automating Retail* (Unpublished, details available at <https://autoworkproject.org/sale-and-service/>)
- Slonim, A. (Oct 2023) *The Case for Aukus: Submarines are half the intelligent solution* (Available at <https://curtinrc.org/publications/>)
- Zerbib, F., Connor Wherrett, C., and Cavanough, E. (Oct 2021) *Reshaping Redundancy: For the Automation Age* (Available at <https://mckellinstitute.org.au/research/reports/rethinking-redundancy/>)

## Appendix A: Principles underpinning SDA policy positions

SDA policy is driven by providing value to our members whose work is regulated by an industrial system that has been reformed, but had failed them for decades.

Australians need to be supported by an economic system that has working people at its centre. Our predecessors built an industrial system which provided the foundations for shared prosperity. It is now our responsibility to utilise the reformed industrial framework for the current and future generations. Decades of concerted attacks on our industrial relations system saw inequality grow, and economic and political power has further concentrated in the hands of a few.

The world of work has changed and will keep changing. There is an unprecedented intersection between work and care. Income and gender inequality have combined to increase disadvantage. Predictable, secure hours of work that provide a living wage are at the centre of decent work. But there has been growth in insecure work, digitalisation is now a matter of course, safety concerns have persisted, and automated, digital and generative technologies must be shaped to enhance, not undermine, decent work.

We believe that fundamental not incremental change is needed. In contributing to policy, we seek to drive a new system that acknowledges the change that has occurred and will be fit for purpose in the emerging world of work.

The SDA engages in topics that help drive this agenda and we are guided by ten principles that we believe will create value for our members.

Those principles are:

### **1. Address Inequality & Enshrine Fairness**

Minimum expectations must be set and adhered to.

### **2. Equity & Empowerment**

All workers must be supported to progress so that no-one is left behind.

### **3. Mobility & Security**

A socially successful economy must provide opportunity for all, regardless of their background. Systems must be built in a way that support success and adaptation in a rapidly changing world of work.

### **4. Delivering Prosperity & Growth For All**

A foundation for prosperity and economic growth must be achieved.

### **5. Protection in Work & Beyond**

Workplaces and the community must be healthy and safe for all workers and their families during and beyond their working lives.

### **6. Workers Capital & Superannuation**

Workers capital and superannuation must be an industrial right for all workers and treated as deferred earnings designed for dignity and justice in retirement.

### **7. A Strong Independent Umpire**

A strong, independent, cost effective and accessible industrial umpire and regulator must be central to the future system of work in Australia.

### **8. Protection & Support for Our Future**

Protecting and supporting our future requires a strong and vibrant retail industry and supply chain providing decent work and jobs with fair and just remuneration and contributing to the economy including through skilled workers.

### **9. Work & Community**

Work is a fundamental human activity that provides for personal, social and economic development. Work as it operates in community must build and protect a balance between life at work and life so that workers can contribute to society through the wider community.

### **10. Institutional Support for Collective Agents**

Institutional support must provide for collective agents (registered organisations) in all industries so that they are recognised, enshrined and explicitly supported as central to the effective functioning of the system.

Details of specific policy positions can be discussed by contacting the SDA National Office.

