



Canadian Vehicle  
Manufacturers' Association  
Association canadienne  
des constructeurs de véhicules

170 Attwell Drive  
Suite 400  
Toronto, Ontario  
M9W 5Z5  
Tel: 416-364-9333  
1-800-758-7122  
Fax: 416-367-3221  
[info@cvma.ca](mailto:info@cvma.ca)  
[www.cvma.ca](http://www.cvma.ca)

September 18, 2015

Hon. John C. Murray, Co-Chair  
Changing Workplaces Review  
Employment, Labour and Corporate  
Policy Branch  
Ontario Ministry of Labour  
400 University Avenue, 12<sup>th</sup> Floor  
Toronto, ON M7A 1T7

C. Michael Mitchell, Co-Chair  
Changing Workplaces Review  
Employment, Labour and Corporate  
Policy Branch  
Ontario Ministry of Labour  
400 University Avenue, 12<sup>th</sup> Floor  
Toronto, ON M7A 1T7

**Re: Ministry of Labour Ontario Changing Workplaces Review Consultation**

Dear Sirs:

We are writing on behalf of the members of the Canadian Vehicle Manufacturers' Association (CVMA) which include FCA Canada Inc., Ford Motor Company of Canada, Limited, and General Motors of Canada Limited. We acknowledge the importance of the Ontario Changing Workplaces Review and appreciate the opportunity to provide the following information from the large scale advanced auto manufacturing perspective. Our discussion with you on August 11<sup>th</sup> was greatly appreciated and our comments expand on the points raised at that meeting.

Ontario's auto industry contributes 22 percent to the province's manufacturing GDP, millions of dollars in tax revenue streams and directly employs over 40,000 people in automotive assembly and over 83,000 in automotive parts manufacturing<sup>1</sup>. As such, having a competitive auto industry is critical to Ontario's economy. The auto industry operates globally and every manufacturer must continuously strive to attract new product allocation in their existing plants to secure continued operations. Ontario manufacturers are addressing numerous matters which have the potential to impact their global competitiveness including high electricity costs, the development of a cap and trade program for greenhouse gas emission reductions, and WSIB rates that include nearly \$10 billion in the system's unfunded liabilities. It is important that Ontario has a workplace policy framework that supports auto manufacturing competitiveness. Any updates or changes to workplace legislation must be assessed with regard to imposing additional costs to doing business in Ontario including costs associated with non-value added administration or time required for various government approvals.

Though auto manufacturing has undergone great technological change to become more productive and competitive (and more is expected), it will likely continue to operate with regular work hours and days of work as negotiated in our member's Collective Labour Agreements. Our members strongly believe the existing legislative landscape and the negotiated Collective Labour Agreements provide a detailed and comprehensive framework to protect our members' workforce. While we support the Province's objective of better serving vulnerable workers, we suggest that any issues that are identified need to be closely examined and verified to determine how systemic the problem is across all industry sectors to determine if broad changes are required to the legislation or whether a more targeted approach may better assist

<sup>1</sup> "APRC Canadian Automotive Manufacturing Industry Profile 2014", page 3.

vulnerable workers in specific sectors. Broad changes have the potential to inadvertently and negatively impact those businesses that generally exceed minimum standards and therefore, whose employees are not considered vulnerable, including the workforces of our members. Employers who generally provide greater than minimum standards of employment should not be penalized or constrained in their ability to meet or adjust to quickly changing market demands. Care must be taken to ascertain which employees are truly vulnerable, what makes them vulnerable and how the specific reason for the vulnerability can be addressed.

Upon our review of the consultation document and recently published reports, consideration of our workforce environment and critical competitiveness factors, our members propose that there are three overarching principles which must be considered in the Ontario Workplace review:

1. Recommendations to change the Employment Standards Act, 2000 (ESA) or the Labour Relations Act (LRA) should not increase the cost of auto manufacturing operations in Ontario as we generally exceed minimum standards of employment;
2. Current flexibility in the ESA should be maintained/improved; and,
3. Any unintended consequences that would compromise competitiveness must be avoided.

With these principles in mind, the following comments provide additional context in terms of the CVMA members manufacturing workplace and key aspects that are essential to support CVMA members operations in Ontario.

## **EMPLOYMENTS STANDARDS ACT**

### **Greater Right or Benefit**

Existing provisions in the ESA which recognize employers may provide greater benefits to an employee than an employment standard and that in such cases the employment benefit applies, should be retained and expanded in scope to encourage exceeding minimum standards and support needed flexibility for employers who choose to exceed minimum standards.

### **Union as Agent**

Existing provisions which recognize the Union as the agent of employees bound by collective agreements and encourage complaints that are enforceable under the Collective Agreement be directed to the grievance arbitration process rather than the Ministry of Labour, should be maintained. These provisions are important to support the collective bargaining process and the role of the union in such workplaces. If represented by a union, complaints should be first addressed within the grievance arbitration process prior to being investigated or addressed by the employment standards commission (similar to how complaints are addressed under the Human Rights Tribunal framework).

### **Existing Exemptions**

Existing exemptions in the legislation (e.g. relating to eligibility for overtime and hours of work in the ESA) should be retained with opportunities considered to streamline processes to remove onerous administrative tasks. For example, CVMA members currently have in place and rely on the existing overtime exemptions and the permit process to support operational flexibility. The ability to work overtime is required to help us address market demand for our product and to demonstrate a flexible workforce when competing globally for product manufacturing mandates. Removing or restricting such flexibility will negatively impact Ontario's competitiveness within the NAFTA region. The current overtime exemptions, permit process, and other administrative matters should be further streamlined, including the process to enter into written agreements with salaried personnel relating to public holidays, overtime, time off in lieu of overtime, hours of work, timing of vacation, payment of vacation pay, etc.

## **Benefits and Leaves of Absences**

CVMA members provide extensive provisions and flexibility related to paid leaves, including under their respective Collective Agreements. As a result, we would not support the need for any further new or paid leaves under the ESA. The creation of new forms for leaves or extending existing leaves needs careful consideration to prevent placing additional burdens on our members. There are four separate leaves related to sickness of the employee, their dependents and family and a more consolidated approach would provide some administrative relief.

It is also critical that CVMA members maintain the ability to request medical notes as required ensuring controls over any potential abuse of the ESA leave provisions. Unplanned absences from the workplace represent a considerable cost to business in lost productivity including the need to pay overtime or obtain temporary workers.

Mandatory accrual of paid sick time or mandatory paid sick leave or provision of benefits for workers would limit flexibility and negatively impact competitiveness. There is currently significant difficulty to ascertain the medical condition of an absent employee because of privacy and other constraints. The request to pay for time not worked would increase costs and restrict the employer's ability to verify reason for absence creating costs, scheduling difficulties and administrative burden. A sectoral approach to protect vulnerable workers would better achieve any objectives in this area.

## **Temporary Agencies and Employees**

The temporary agency provisions in the ESA have been expanded after extensive consultation through the recent amendments in Bill 18. Temporary agencies play an important role to support Ontario businesses by matching workers with employers that have typically short term or finite needs that address peaks or valleys in our personnel requirements. Our members employ temporary agency workers including those in administration and engineering positions. Further amendments within the ESA to prohibit long term assignments or deem agency placements to be "employees" will restrict our members' ability to effectively manage their operations and add unnecessary costs to Ontario businesses, thereby making our members less competitive and less able to maintain or attract new investment to Ontario.

Temporary agency employees utilized by our members would not generally be considered vulnerable employees. As a result, if there are concerns with respect to vulnerable temporary agency employees in certain sectors, we recommend a sector based approach to addressing this concern. Employing a sector based approach will avoid any inadvertent consequences to our members and the employment opportunities for students and/or other agency personnel.

Our members also employ temporary workers, such as summer vacation replacement (SVRs) and temporary part-time employees (TPTs). Generally, SVR programs enable CVMA members to provide students attending post-secondary education an opportunity to obtain a part-time/summer job at a base wage equivalent to the base wage of an entry level new hire full time employee, which exceeds ESA minimum standards along with certain negotiated benefits. SVR and TPTs are scheduled to work on an 'as needed basis' and are assigned jobs to cover absences of regular hourly employees to ensure the business activities continue in our manufacturing facilities. Provisions relating to the employment of TPTs are contained within the negotiated Collective Labour Agreement.

## **Successor Rights**

Expansion of successor rights for contract services would significantly impact our members' competitiveness and flexibility and would serve as a barrier to properly managing operations in Ontario, and, in particular, with respect to specialized purchased services obtained by our members. Again, the specific reason why certain individuals are considered vulnerable should be identified, and a sectoral approach to protect vulnerable workers would be recommended to achieve the objectives where the identified vulnerability has been verified.

### **Building Service Providers and Successor Rights**

Part XIX of the ESA currently provides significant protection for employees of building service providers when one provider is replaced by a new provider. Expansion of these protections for building services would further impact a business' ability to remain competitive and would serve as a barrier to managing operations.

Furthermore, extending Part XIX rights beyond the building service sector would have significant ramifications for our members. For example, if successor rights were expanded to all service or product providers, then our members would have limited ability to manage a significant portion of their costs within Ontario and may be forced to source those activities outside of the province. Any expansion of successor rights to other sectors would likely result in significant costs and restrict our members' ability to be competitive with other jurisdictions. We wish to be engaged in discussions should any suggested changes be contemplated.

### **Existing Legislative Protections**

There are multiple existing pieces of legislation which provide numerous protections for workers with respect to issues of privacy, harassment and discrimination. Amendments to the ESA or LRA regarding discrimination, harassment and/or domestic violence are not warranted as these issues have been addressed in recent amendments to the Ontario Health & Safety legislation and in the Ontario Human Rights Code. Further duplication could create conflicting statutory requirements and an unnecessary administrative burden for employers.

This submission is intended to support your efforts and to assist with this important and worthwhile review process. The CVMA would be pleased to discuss any of this information in greater detail or to respond to any questions you may have. Please do not hesitate to contact me directly at 416-364-9333.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Nantais', followed by a period.

Mark A. Nantais  
President

cc: S. Dennis, Ministry of Labour

File: 53210JSII\_15  
ON Workplace Review