



Sent via courier and e-mail

September 14, 2015

Changing Workplaces Review

Employment Labour and Corporate Policy Branch
Ministry of Labour
400 University Ave., 12th Floor
Toronto, Ontario
M7A 1T7
Cwr.SpecialAdvisors@ontario.ca

Re: Employer Submission – Changing Workplace Review

Dear Sir or Madam:

On behalf of our company, Russel Metals Inc., ("**Russel Metals**"), I am writing to express our position and comments with regard to the Changing Workplace Review ("**CWR**") and potential amendments to the *Labour Relations Act, 1995* ("**LRA**") and the *Employment Standards Act, 2000* ("**ESA**"). Before discussing the substantive changes, it would be important to explain who we are, what we do and the type employer we are.

Russel Metals is one of the largest metals distribution and processing companies in North America. The Company primarily distributes steel products and conducts its distribution business in three principal business segments: metals service centres; energy products and steel distributors. We are a publically traded Canadian company, with our common shares listed on The Toronto Stock Exchange under the trading symbol "RUS". Russel Metals continues to be a leader in the metals distribution business in North America and in September 2014 was ranked #5 of the top 50 service centre giants by Metals Center News.

6600 Financial Drive, Mississauga, Ontario L5N 7J6

Russel Metals currently employs 3,400 full time employees in North America, with 2,600 across Canada. Of its Canadian employees, 530 are located in Ontario, of which approximately 220 are unionized. We are proud of our contribution to the overall success of Canada and Ontario. As an employer, we are progressive and even more proud of the relationship we have with our employees, both unionized and non-union.

In addition to competitive wages in our industry, Russel Metals provide its employees with a package of benefits that includes Health, Dental, Vision, Employee & Family Assistance Programs for employees and eligible dependants and; Short and Long Term Disability and Life/AD&D Insurance. With the exception of the Long Term Disability benefit, the premium cost of the benefits is 100% Company paid. We consistently meet or exceed the minimum standards provided for in the *ESA* and *LRA* and do so at a significant additional cost. However, we also understand that many employers (particularly smaller employers) may not have the ability to offer the package of benefits that we provide while still remaining profitable.

We also have well established Human Resource policies describing working conditions for our employees at Russel Metals that consistently exceed minimum legislative requirements throughout our company.

Submissions regarding the *ESA*

The CWR process has revealed that many groups and individuals are calling for substantive changes to the *ESA*. They would like to add more benefits, including the addition of paid sick days and personal leaves and while it has been an issue discussed; we understand that the mandate of the CWR does not extend to the minimum wage.

At Russel Metals, we provide many of those benefits to our employees but, we do so in a fiscally responsible manner and have a Human Resource department to help

administer these benefits. However, not all employers are in the same enviable position as we are. Adding additional costly benefits to the *ESA* will hurt all businesses, small and large including Russel Metals.

According to the “Changing Workplaces Review: Guide to Consultation” issued by the Ministry of Labour (“**MOL**”), the role (and goal) of the *ESA* is to set the minimum rights to which all employees should be entitled – minimum rights that all employers in Ontario can and should respect.

We believe that the role of the *ESA* is not to replace or interfere with the ability of employees to negotiate their working conditions with their employers or provide additional costly benefits. In our view, the *ESA* currently serves that role and no additional benefits should be contemplated. Russel Metals respectfully submits that the focus of the CWR should be on the use or misuse of temporary help agencies, exempt groups and ensuring that employers respect the existing rights set forth in the *ESA*.

Indeed, we understand from much of the public discussion surrounding the CWR that many employees in Ontario struggle with having their basic rights under the *ESA* respected.

The complaints that have been aired during the public consultations our Human Resource representatives have attended are not necessarily with regard to the practices of major (and more sophisticated) employers like Russel Metals but tend to be regarding smaller employers and those using temporary help agencies. Indeed, the issue seems to be with general compliance with *ESA* as it currently exists.

In light of these issues, Russel Metals’ submissions with regard to the *ESA* are as follows:

Focus on Compliance

- 1 We respectfully submit that changes be made to the *ESA* to require more compliance and that the process for making and resolving complaints be streamlined and expedited. Indeed, resolving many of the issues brought up in the CWR consultation process can be remedied not through amendments to the law, but through the provision of additional resources to the MOL and expediting the complaint resolution process.

Streamlined Complaints Process

- 2 In order to focus on smaller employers, we suggest that the MOL consider streamlining its complaints process and introduce an audit process where complaints originate. For example, the MOL could create a team that works exclusively with the smaller employers. This team would be able to investigate and adjudicate claims quickly and would have a positive impact for all employers and employees.
- 3 We would also recommend that the CWR consider modernizing some aspects of the *ESA* to address the needs of today's increasingly mobile and flexible workforce. At Russel Metals, we want to be able to provide flexible work arrangements and to be able to accommodate parental and family obligations; however, the existing overtime compliance methods make this difficult. Pursuant to the *ESA*, employers are required to track the hours that all salaried and overtime-eligible employees work. This is impossible to do for remote workers and can expose employers to risk for unjustified overtime claims. We would suggest that the *ESA* be amended to account for this reality and require employees to track their own hours and gain pre-approval from employers to work overtime.

Submissions regarding the *LRA*

As mentioned above, Russel Metals is a proud employer of both unionized and non-unionized employees. In our view, the *LRA* provides a good overall framework for collective bargaining. Furthermore, the democratic method in which bargaining rights are acquired has worked well in Ontario and we would not suggest any changes to that process.

However, in consultation with our legal counsel, Russel Metals does have the following submissions to make with regard to the *LRA*.

Conciliation

- 1 Conciliation (s. 18): In our experience, parties are able to invoke conciliation too early. The law currently allows a party to request that the Minister appoint a conciliator as soon as "notice of desire to bargain" is given. However, this does not give the parties a meaningful opportunity to bargain prior to the conciliator being appointed. We would suggest that the parties only be able to request a conciliator following a reasonable period of time after bargaining has begun. This would force the parties to make more of an attempt to work together before bringing in a third party.

Expedited Arbitration

- 2 Expedited Arbitration (s. 49): While we have had limited experience with expedited arbitration under this provision, we have concerns that it has been used to circumvent the process by which the parties had agreed to handle grievances. In working with our legal counsel on those files, we have found the current period of time to be too short and does not allow the parties sufficient time to come to a resolution on their own. We would recommend extending that time period.

That said, as mentioned above, we are pleased with the current framework and do not see any major issues which need to be addressed. We would prefer that the MOL focus on enforcing the *ESA* to ensure that all employees in Ontario have their minimum rights respected.

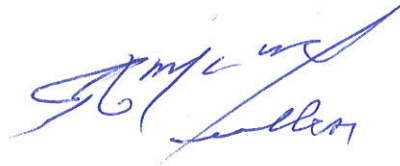
Conclusion

At Russel Metals, we are proud to be a major North American employer and proud of the relationship we have with our employees. We fully support and respect the *ESA* and hope that the CWR can have the effect of ensuring that all employers in Ontario do the same. We also hope that the *ESA* can be modernized to reflect the needs of today's mobile and flexible workforce.

On behalf of Russel Metals, we appreciate the opportunity to make these submissions and thank you for your time.



Brian Hedges
President and Chief Operating Officer



Francine McMullen
Vice President, Human Resources