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The Secretary  
Senate Legal and Constitutional Affairs References Committee  
Parliament House  
CANBERRA ACT 2600

Dear Sir / Madam

**Submission to the inquiry into 'the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages'.**

Thank you for the opportunity to contribute to the inquiry.

Committee for Melbourne (Committee) is an apolitical, not-for-profit member-based entity that brings together over 140 organisations from Greater Melbourne's business, academic and civic sectors whose common purpose is to shape a better future for Melbourne.

As an independent organisation we represent no single interest group or political position, but seek to challenge conventional thinking and to develop innovative ideas to continue to enhance our position as an economically prosperous and highly liveable global city.

In September 2016, the Committee launched *Melbourne 4.0*, a major project designed to explore how Greater Melbourne can prepare for the accelerating speed of innovation and disruption that has catapulted us to the early stages of the *Fourth Industrial Revolution*.

The Melbourne 4.0 Taskforce wanted to develop an understanding of the future operating environment and develop reliable and informed policy programs to help Melbourne prepare for these challenges and opportunities.

One of the strategic needs identified by the taskforce was *Future skills*. Our capacity to benefit from the range of economic opportunities in the coming years will largely depend on our capacity to develop local people with the necessary skills, as well as to attract and retain the best talent from around the world.

Given the nature of our work to date, the Committee was eager to address some issues regarding our skilled migration program. Overall, we believe that the decision to abolish the subclass 457 visa program, and the ongoing policy uncertainty, is impeding our current and future capacity to attract and retain skilled foreign talent that is critical to helping drive our economy.

The Committee understands the Federal Government's obligation to ensure Australia's skilled migration program meets the country's labour force requirements, and acknowledges its positive engagement with industry following the decision to replace the subclass 457 program with the Temporary Skills Shortage (TSS) visa.

Recognising your terms of reference, we wish to bring to your attention some key issues under the item *related matters (g)*:

### **1. Brand Australia is on the line**

Australia's international reputation as an open, welcoming, and ambitious society, has come into question following the Federal Government's decision to abolish the 457 visa, and replace it with the TSS visa.

At a time when the Federal Government is actively seeking to create a stronger national brand, making it more difficult for Australian business to attract highly skilled foreign talent does not help this cause.

The Australian Trade and Investment Commission (Austrade), which is currently working with partners and stakeholders on creating this stronger national brand, states that in doing so, it will reinforce our reputation as "an internationally competitive investment destination, a great place to visit, a quality provider of education and a trusted exporter of premium quality goods and services".<sup>1</sup>

If Australian businesses, and foreign ones investing in Australia, are unable to compete for the best global talent, the strong national brand the Federal Government has articulated will not come to fruition.

Furthermore, the potential for changes every six months to the Short-term Skilled Occupation List and the Medium and Long-term Strategic Skills List is creating greater uncertainty for business, as well as for skilled foreign individuals who have expressed a desire to live and work in Australia, exacerbating the reputational damage.

### **2. Impact on trade negotiations**

International Free Trade Agreements (FTAs) are becoming increasingly important for Australia, with the Federal Government aspiring to have over 80 per cent of our total trade with FTA partner countries by 2020.<sup>2</sup>

One element of these negotiations is emigration, with developing countries' placing a high priority on emigration opportunities for their citizens. While the Committee

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<sup>1</sup> Austrade, revised 2018, <https://www.austrade.gov.au/nation-brand>, viewed 10 October 2018.

<sup>2</sup> 2017 Foreign Policy White Paper, Department of Foreign Affairs and Trade, Canberra, 2017.

recognises that Australians should have priority access to jobs in Australia, provided they possess the capabilities to carry out the job requirements, changes to Australia's skilled migration program which inhibit foreign nationals' access to Australia's labour market are likely to negatively impact some of the FTAs being negotiated.

India indicated that trade negotiations could be affected following the removal of the 457 visa.<sup>3</sup> Furthermore, the Indonesian Government has requested its citizens have greater access to the Australian labour market in negotiations on the Indonesia-Australia Comprehensive Economic Partnership Agreement, which is yet to be concluded.<sup>4</sup>

The Committee encourages the Federal Government to consider the ramifications of more stringent immigration policies in relation to current trade negotiations. Furthermore, given that the Federal Government has indicated that organisations applying for foreign talent from countries where an FTA currently exists would be exempt from the Labour Market Testing (LMT) requirement under the TSS visa regime, the Committee encourages the Government to consider broadening exemptions to FTA member countries, particularly concerning English language testing, and character requirements.

### **3. A transforming economy**

Rapidly developing technologies in artificial intelligence, genome editing, nanotechnology, quantum computing, 3D printing, as well as virtual and augmented reality, are transforming the ways in which value is created, exchanged, and distributed. Business models and industries are being disrupted, while others are being completely upended.

In this environment, creativity, innovation, and an entrepreneurship are key skills that Australia must have in abundance should we wish to remain internationally competitive. We require individuals – Australian and foreign - who understand how to exploit these new and emerging technologies for commercial gain, and who can advance Australia's interests.

The Committee commends the Federal Government for implementing the Global Talent Scheme, an initiative which has the potential to address this issue. By allowing firms to bring in foreign talent under this pilot scheme, it is providing an avenue to fill high-skill, niche positions that cannot be filled through existing visa programs.

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<sup>3</sup> J. Bennett, "Government's 457 visa scrapping could affect India trade negotiations", ABC, 19 April 2017, [www.abc.net.au/news/2017-04-19/india-says-457-visa-scrapping-could-affect-trade-negotiations/8452098](http://www.abc.net.au/news/2017-04-19/india-says-457-visa-scrapping-could-affect-trade-negotiations/8452098), viewed 2 October, 2018.

<sup>4</sup> H. Sherrell, "An Odd Couple? International trade and immigration policy", 26 October 2017, [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2017/October/Immigration\\_and\\_Trade\\_Policy](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2017/October/Immigration_and_Trade_Policy), viewed 12 October 2018.

The Committee encourages the Government to expand the benefits of this scheme, and lower the threshold for which companies can access highly-skilled foreign talent. By limiting access to the *Established Business stream* (accredited sponsors) and the *Startup stream*, there is a large swathe of Australian organisations which are missing the opportunity to access this talent.

#### **4. Accredited sponsors**

The accredited sponsorship program provides many benefits for organisations fortunate enough to receive the status; priority processing, auto-approval of certain applications, and facilitated assessment of criteria such as LMT.

Overall, the Committee views this arrangement positively. It recognises that risk and integrity measures are needed, and that priority processing is required.

In saying that, the Committee understands that many worthy businesses struggle to obtain approval to become accredited sponsors. The requirements stipulated by the Federal Government to become an accredited sponsor are substantial.

Many organisations which lack *accredited sponsor* status are finding that the tightening of English requirements, assessment of skills, as well as an assessment of the sponsor's previous conduct, have made the process even more onerous.

In addition, the fact that many foreign companies struggle to obtain accredited sponsorship status may impact on our ability to attract foreign direct investment.

While recognising that accredited sponsorship may be available to businesses, including startups, which do not meet all the requirements, the Committee encourages the Federal Government to consider ways to allow more businesses accredited sponsorship status, as well as provide instructions, and absolute clarity on the thresholds businesses must meet to gain such status.

#### **5. Intra-company transfers**

One of the major concerns for Australian industry, and foreign organisations with subsidiaries in Australia, is the impact the abolition of the 457 visa has had on the intra-company transfer of employees.

Intra-company transfers are critical to the success of organisations competing in the international arena. In an intensely competitive environment, time is critical, and companies must access foreign labour at short-notice to complete various assignments.

If Australian-based firms are unable to deploy their foreign talent here at short notice, they will be severely hampered and have no option but to consider their long-term viability of operating in Australia.

While there are some LMT exemptions regarding this cohort of relatively *low-risk* visa applicants, more could be done, including exemptions around English language testing. Furthermore, we encourage greater flexibility when companies do not meet associated entity requirements to access the LMT exemption for intra-company transferees. This could include partnerships, for example.

The Federal Government could consider creating another stream within the TSS visa to allow for this cohort, or create a separate intra-company transfer visa, like the United States' 'L1 Intracompany Transferee Visa' and the United Kingdom's 'Tier 2 Intracompany Transfer Visa'.

### **Conclusion**

Committee for Melbourne welcomes the Senate's inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages. It reflects their ongoing engagement with Australian industry, and the public, following the abolition of the 457 visa.

When updating existing policy, or formulating new policy, The Committee encourages the Federal Government to consider Australia's national brand, the impact on trade negotiations, how expansion of the Global Talent Scheme can assist our transforming economy, lowering the threshold to achieve accredited sponsor status, and easing the rules for the intra-company transfer of employees.

Policy certainty and consistency will help ensure Australia can maximise the opportunities the attraction and retention of talent offers our economy and international competitiveness.

Please contact Committee for Melbourne Policy and Research Officer, Brett Van Duppen, at [bvanduppen@melbourne.org.au](mailto:bvanduppen@melbourne.org.au) or (03) 9667 8140, should you require further information.

Yours sincerely,



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CEO