'We're here to make money. We're here to do business': The privatised state and questions for trade unions

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ABSTRACT

Under both Labor and Liberal governments Australia has been one of the world's leading proponents of privatisation. One of the key arguments about privatisation is that it would end the inefficient state monopoly of public services and reduce the power of public sector trade unions. Within a relatively short period of time there has been a reconsolidation of ownership in the energy and transport sectors which raises new challenges for the trade unions. After a period of consolidation following privatisation, the main trade unions in the Victorian rail and electricity sectors have adapted to the new circumstances to renew and rebuild their structures and strengthen their capacity to challenge the new private oligopolies.

Introduction

The privatisation of the state and associated agencies has been underway for over twenty years. In Australia, privatisation has extended beyond loss making bodies to include core aspects of the state. During the 1990s over US$69,627 million worth of state assets were sold. This comprised 7.43% of global receipts from privatisation and was third behind only Italy and France (Parker and Saal, 2003: 5). The process of privatisation in Australia was initially tentative and uneven. While the Labor government undertook a slow and steady stream of privatisations, under the Howard Coalition government privatisations reached unprecedented levels. At the State level the shift became both extensive and dramatic, especially under the Kennett government (1992 - 1999) in Victoria which made 53 sales between 1993 and 2001. These privatisations were clustered in certain sectors; airports, banking, and particularly energy with 40 sales and transport with 24 separate sales. While one of the objectives of this process was to redraw the boundaries of the state, and to create the conditions for a more 'efficient and effective' provision of goods and services, there has been little examination of the precise impact on work and employment relations and the implications this may have for trade unions (cf. Hodge, 2003).

The argument is that privatisation has led to a tension between ownership and workforce organisation and composition. On the one hand, there has been an increasing pressure towards the consolidation of ownership and the emergence of private monopolies, especially in the utilities and transport sectors, and, on the other, a marked fragmentation of the workforce, involving both the composition of the workforce and the organisation of labour processes in these sectors. These paradoxical developments raise difficult questions for trade unions as they seek to rebuild and represent their memberships in these changed circumstances.

The paper is organised in four sections. In the first section, the theoretical context of the analysis is presented. This is followed by section two where evidence is deployed to show the way in which a profound restructuring of these privatised enterprises is underway, especially in the energy and transport sectors. In section three, the analysis is drawn together with a consideration of the implications of these developments for trade unions. In the final section, an assessment is presented.

Theoretical considerations

The argument in favour of privatisation has often been cast in terms of efficiency, public choice and competition. It is argued by many that privatisation creates the conditions for the construction of efficient and adaptable enterprises, which will bring benefits to both the providers of services as well as those who use the goods and services (Veljanovski, 1987). More recently, there have been a number of critiques of the privatisation programme, pointing out that privatisation has failed to realise the gains that were claimed by advocates.

Beder (2003), in an examination of the electricity industry worldwide, argues that privatisation is the outcome of the deployment of the power and resources of transnational corporations to promote privatisation programmes for self-interested gain. While sympathetic to and in broad agreement with the Beder analysis, Spoehr (2004: 40) argues that there has always been considerable scepticism amongst the citizenry about the positive implications of privatisation, and that the policies are very much the outcome of an on-going 'power play' between transnationals, governments, citizens and others. He also notes that in the case of electricity there is a distinct prospect that in a few years the global electricity industry is likely to be concentrated in less than a dozen multinational corporations.

Corporatisation and privatisation of the utilities and transport, as well as finance, is part of a process of depoliticisation. The concept of depoliticisation refers to the disengagement of the state politically from the economy, thereby creating the conditions for a disengagement of the state from key functions of state policy and formulation (Burnham, 1999). It is clearly part of a broad restructuring that is taking place in the relationships between governments, management and labour in the former state sectors (for specific examples in relation to gas and electricity in Australia, see Barton, 2002, and Fairbrother and Testi, 2002).

Privatisation involves the redrawing of employment boundaries in the state sector, with job losses in this sector. In terms of direct employment, there has been a massive decline in public sector employment, in part attributable to privatisation policies (Wilson, 2003; Gosbell and Robinson, 2004). The approach by management can be quite ruthless. To illustrate, the water industry was subject to privatisation, with consequent reductions in staff numbers. The employment levels at South Australia Water, for example, fell following privatisation in 1996 from 2,707 to 1,790, a fall of 48 percent. When questioned about this development and the financial details of the contract, the chair of the new company United Water stated:

> We're not here because we love the state and we've got bleeding hearts, for Christ's sake. We're here to make money. We're here to do business (Birnbauer, 2003: 5).

The implication of these aspects of restructuring the privatised sector is that the relations between these enterprises, as employers, and the workforce have been transformed. How and under what circumstances workers' interests will be recognised is no longer certain. It remains unclear what the impact of privatisation has been on those who are employed in these enterprises and the trade unions that represent them. Although the success of privatisation is couched in terms such as the benefits accruing to citizens and consumers and other less visible consequences of reform, labour is largely rendered invisible. At most, once an enterprise has been privatised, labour is referred to obliquely only in terms of improved labour productivity and they are denied a direct role as participants in this process (Hodge, 2003).

In one recent study of the post-privatisation impact on industrial relations, Arrowsmith (2003) argues that trade unions in the post-privatised firms remain well organised with significant capacity to disrupt. However, with reference to the British rail and electricity industries, Arrowsmith argues that there is no 'theory of privatisation' in terms of industrial relations. His study of two former state monopolies characterised by well-organised trade unions, operating within these state enterprises, points to a more voluntaristic set of outcomes than indicated by other researchers who drew a closer relationship between the process of privatisation and industrial relations outcomes. In contrast, Arrowsmith refers to arguments to the effect that privatisation was likely to lead to widespread changes in employment because of the pressures towards profit maximisation (Pendleton, 1999). A process of continuity and change was in process, individualised employment relations and a tendency towards union concessions. Rather, he proposes an explanation of trade union organisation and activity in terms of a 'firm in sector' approach (Arrowsmith and Sisson, 1999). He argues that there is variation between sectors and managers and unions are able to reach their own settlements within their own specific contexts.

These studies, notwithstanding, the broad focus has been on industrial relations impacts, rather than on the recomposition of labour and the organisation and capacities of trade unionism in the privatisation context. Moreover, it is also the case that little attention has been given to the political economy of privatisation and the way in which these relations set the scene for work and employment relations. As Arrowsmith (2003), notes the critical point is the discretion available to management and trade unions to establish the terms and conditions of the settlement in each area. However, unlike Arrowsmith, the emphasis in this paper is on the generic features of the restructuring and reorganisation that is taking place and the questions this raises for trade unions.

Reconstituing ownership

The initial pattern of ownership involved numerous consortia, mostly drawn from overseas. However, these patterns were not fixed and in the period after privatisation a process of consolidation and concentration of ownership began. The consequence is that vertical and horizontal integration has become much more common, shifting the terrain of work organisation and the associated industrial relations in profound ways. This paper will focus on power generation and suburban passenger rail transport in Victoria where the incidence of privatisation and the concentration of ownership have been most prominent.

ENERGY: After an initial period of multi-ownership in the energy sector, the pressures of international competitiveness, coupled with the underlying weakness of multi-ownership within the Australian economy, consolidation became the norm. By 2004, a process of re-aggregation of the energy companies was occurring with the creation of vertically and horizontally integrated energy companies. One example of such a development is the purchase of TXU Australia by Singapore Power (a state owned power multinational). This gave Victoria's monopoly transmission business, GPU PowerNet, around a third of Victoria's gas and electricity distribution networks, 1.1 million retail energy customers, Victoria's underground gas storage, a share in the SEAgas pipeline to South Australia and the 1280 megawatt Torrens Island generator in Adelaide. The ACCC has ruled that Singapore Power must divest the generation interests within two years (Myer, 2004: B3). Another example of the re-aggregation that is taking place is provided by the purchase of Loy Yang A by Australian Gas Light (AGL). This purchase followed changes in the original cross-ownership rules aimed at stimulating cross ownership, with the consequence that vertical and horizontal integration became much more likely in the industry. In the case of AGL the company owns peaking plants in Victoria and South Australia. This process of vertical integration in the Victorian generating industry is in line with developments elsewhere in the world, and is seen by governments and commentators as necessary to secure inward investment into the base load power industry (Myer, 2003: B2).

The re-aggregation is occurring because the original privatised companies were too small, too expensive, and operated in excessively volatile markets. As part of this reshaping of corporate ownership, there has been a move from northern energy owners – NRG (US), Edison Mission (US), Duke Energy (US), Powergen (UK), National Power (UK), and other US owners – to either local owners (Australian Gas Light) or regional Asian companies (Singapore Power, China Light and Power). As part of this shift in ownership patterns, most State cross-ownership legislation has been weakened, either directly or as a result of legislation.

RAIL: In Victoria the reform of rail began with the Rail Corporations Act 1996 which allowed for the corporatisation of V/Line Freight and the creation of two statutory suburban train corporations – Bayside and Hillside. The corporatisation process was accompanied by the introduction of a new ticketing system which allowed the government to staff only 67 out of 209 stations. These changes saw public transport jobs fall from 33,000 in 1988 to less than 9,000 in 1998 (Rees, 2003). In 1999 the government awarded 15 year franchises to a French consortium Connex to run Hillside Trains, to a French and Australian consortium Metrolink to manage Yarra Trams and to the British company National Express to run Bayside Trains, Swanston Trams and V/Line passenger. By 2001 the system was under strain. When it took over the contract National Express projected that patronage of its train and tram services would increase by 70 percent in the period to 2009 but instead found patronage increased at between 2 and 4 percent a year. The replacement of tram conductors and train station staff resulted in fare evasion that was estimated to cost $50 per million per annum (Simpson, 2003: 11; Rees, 2003). The government and the private operators met to negotiate new subsidy levels but National Express did not accept the proposed level of subsidy and withdrew from the three franchises leaving the three companies in government administration for 16 months (Connex, 2004; Rees, 2003).

There has since been a reaggreggation of ownership. In early 2004 the government announced Yarra Trams would take over M>Tram, the former Swanston Trams, and Connex the running of M>Train, the former Bayside Trains. The subsidies to run the network would be increased by $201 million a year for 5 years (Broadbent, 2004: 13). This would mean the government would pay the operators $2.3 billion over the next five years, an increase of $1 billion over the original contracts (Skully, 2004).

Trade unions

The trade unions that organise and represent in these areas of employment have a long history (on electricity, see Fairbother and Testi, 2002; on gas see Barton, 2002). With privatisation and the subsequent changes, these unions have had to reconsider their positions within these industries. This process has not always been easy and in some cases involved a reconstruction of unions, as was the case in the power generation industry in Victoria (Fairbrother and Testi, 2000: 124 – 28).

ENERGY: The initial response by unions in the face of privatisation and the uncertainty of ownership was to rebuild the union base. In the case of the gas industry, the unions suffered from an inability to forge a unified approach in relation to the privatisation of the Gas and Fuel Corporation of Victoria. Another example of this process occurred in the La Trobe Valley where the unions were also disconcerted by the process of privatisation and unclear how to address it. Following privatisation the Construction, Forestry, Mining and Energy Union (CFMEU) was in a state of apparent stasis for nearly three years. However, beneath the surface appearance long-standing union members, supported by full time officers, began to rebuild the union base power plant by power plant.

One feature that unions have had to face is representing the same occupations to different employers, who on occasion have pursued widely varied policies and approaches. In the initial corporatisation period where the government owned generators shed large numbers of jobs and restructured employment (Fairbrother and Testi, 2002), the CFMEU obtained Enterprise Agreements with all the generators that guaranteed shift continuity, notice periods for shift changes, staffing numbers (CFMEU Official, 2004). More recently the unions have been in a series of disputes that centred on Yallourn Energy which is primarily owned by the UK company Powergen. Although Yallourn took the lead role, the other generators were keen to follow suite on any concessions that could be extracted. In the 1999 EBA negotiations Yallourn Energy demanded greater workforce flexibility and put to the unions 'seven fundamental principles. These were that 'everything we hold dear, everything we were promised, they wanted to take away from us.' The unions mounted a joint campaign but found it difficult to coordinate their industrial strategy (CFMEU Official, 2004). After escalating industrial action by the Electrical Trades Union (ETU), Australian Manufacturing Workers' Union (AMWU) and CFMEU and company threats of lock outs, the Bracks government intervened and used emergency powers to force the workers to return to work. Although the parties reached agreement over security of employment for maintenance workers, other issues remained unresolved (Fairbrother and Testi, 2002) and continued to fester. The AIRC intervened and terminated the bargaining period and in September 2001 arbitrated an agreement that delivered an agreement that, in the union's eyes, undermined job security, rosters and conditions. But the dispute did have some positives.

> I think because we put on such a significant fight against that happening because the other two companies, Hazelwood was lining up for an Enterprise Agreement as well at the time and so was Loy Yang. At the beginnings of that process they were all pretty gung ho about bloody following suite but I think by the time we'd finished with Yallourn, even though we'd lost the conditions there, … I think Yallourn themselves would admit cost them something like $60 to $100 million to take them off us in lost production' (CFMEU Official, 2004).

The ferocity of the union response discouraged the other generators from pressing for similar concessions. After the dispute

> Loy Yang and Hazelwood basically approached us and said look we don't want any of that, we want to do an agreement … we actually improved our conditions during the Yallourn dispute at Loy Yang and Hazelwood (CFMEU Official, 2004).

The CFMEU's readiness to take industrial action, Loy Yang and Hazelwood's recognition they did not have the same financial resources as Yallourn and their high levels of debt worked to guarantee those conditions. The union's strong stance in 1999 paved the way for the current positive EBA negotiations with Loy Yang and Hazelwood. The union's relationship with Yallourn was described as 'very bad' with the company wanting to continue with the terms and conditions of the AIRC imposed agreement. The workforce was reluctant to engage in industrial action after the AIRC enforced settlement of the last dispute (CFMEU Official, September 2004).

Although the unions were still able to mount significant industrial campaigns, The union amalgamations and rationalisations of the late 1980s created disunity and competitiveness between the unions. These divisions meant that unions lost their focus on organising the membership at a time of significant industry change. The relationship between the unions was still fraught largely over these issues and past industrial strategy. The CFMEU had made a conscious decision to position itself as the principal union in power generation. It has made some organisational changes and in 2001 created the La Trobe Valley Victorian Mining and Energy District. Since the industry restructuring commenced, the CFMEU's membership density has been increasing although the industry's absolute workforce has been declining. The CFMEU argued that its past principled stance on job retention, and the actions of some senior Australian Services Union (ASU) officials taking managerial positions at one of the generators, had delivered the union members from areas traditionally covered by other unions. The union has outgrown its La Trobe Valley office and has bought the former SECV headquarters, known locally as Bullshit Castle, as its new offices. In 2002 the CFMEU played a pivotal role in reforming the Gippsland Trades and Labour Council (GTLC) which had collapsed in the 1990s. The GTLC was seen as vital to maintain cohesiveness amongst the unions in the industry (CFMEU Official, September 2004).

RAIL: As in many other privatised industries, the government played a pivotal role in terms of job reductions and a changed approach towards trade unions. In some ways privatisation brought some respite but offered a new set of challenges. In the case of transport, the trade unions have followed a strategy of playing the private companies off against each other. In both, Tasmania and South Australia the 1997 privatisations of state rail resulted in union defeat and subsequent demoralisation. However, in the case of Victoria, the unions took notice of these defeats and developed a more astute strategy. Prior to the privatisations, the Rail Tram and Bus Union (RTBU) negotiated EBAs that included transmission of business arrangements which protected wages and conditions. The two main companies, National Express and Connex, took different approaches to the union. National Express imported many key senior managers from the UK and employed a number of other new managers with little experience in rail. The company attempted to introduce changes in working conditions based on the company's UK experience. In contrast Connex employed a small number of French managers and continued to employ people from the industry and took a conciliatory approach to the unions. These factors were to have a telling effect on the three RTBU divisions.

Shortly after privatisation the National Express owned M>Tram approached Enterprise Agreement negotiations with an agenda of reducing conditions to save costs. They were stymied by two factors, the existing EBAs which preserved terms and conditions, and the Kennett government's service level agreements which imposed fines for service unavailability and made the company unwilling to bear the cost of industrial action. Since privatisation the Tram Division's relationship with management has changed. The Kennett government took an aggressive approach to the union and withdrew the payroll deduction of union dues and the facility that allowed the depot delegate a day a week to attend to union affairs. Under private ownership the Tram Division had been able to have these provisions returned and the union is also allowed to address every new intake of drivers. The Tram Division attributed M>Tram's business failure to its poor relationship with the workforce. The employees responded with poor tram maintenance and an indifference to tram punctuality which incurred the company service level fines. The RTBU found Yarra Trams more amenable and attributed this to the fact that its French management, unlike National Express, came from a unionised company. The union has 100 percent membership and since privatisation has achieved a 28 percent pay increase. Ironically privatisation and the service level agreements have increased the union's industrial leverage (Tram Division Official, RTBU, August 2004).

Privatisation has thrown up new challenges for the RTBU's Victorian Locomotive Division which covers train drivers. The privatisation process actually increased the number of drivers by 24 as the spilt system lost some economies of scale. Having seen off National Express' challenge, the Division was able to exploit the differences between the two operators. 'We exploited the situation and when we settled with Connex we would say well that is now the bench mark, you're going to have to meet it. … They would try and play us and we would play them'. At the moment the Division's relationship with management was amicable 'that's not because they're good blokes. That's because … many scars have been left'. The Division argued that in the current environment those unions that are strong will prosper. In 1993 the Kennett government had taken away payroll deductions and, while the privatised companies have since offered to reinstate this facility the Division prefers direct debit arrangements 'We put no pressure on anyone to join the union. If they don't see the benefit don't join. We don't want the companies to collect our dues. We want our members to say I'll consciously contribute because it delivers an outcome'. The Locomotive Division has 100 percent membership (Locomotive Division Official, RTBU, September 2004).

Within the Rail Operations Division, which covers station staff and signallers, the experiences of corporatisation and privatisation have seen the union refocus and rebuild. The corporatisation process, with its extensive voluntary redundancy programme, saw membership decline and half the workplace delegates leave the industry. National Express took an aggressive approach to the union and made delegates perform their union duties in their own time, and removed union material from notice boards The Rail Operations Division adopted the Organising Approach and union elections have seen the return of a leadership dedicated to this approach. The union has taken an aggressive industrial approach and has taken selective and targeted industrial action aimed at challenging managerial authority rather than disrupting passenger services. Members want to be delegates and the union has enshrined trade union training leave in its latest EBA (Rail Operations Official, RTBU, September 2004). Since the privatisation of the public transport system, the Victorian Branch of the RTBU has grown by 1,384 members or 32% (RTBU, 2004a). The union has recently formed, along with the Transport Workers Union (TWU) and the Maritime Union of Australia (MUA), the Victorian Group of the International Transport Federation. This group aimed to build upon relationships developed during the 1998 Patricks' MUA dispute and enable union members to work together to maximise their power against companies, such as Toll, who were moving to cover the entire freight logistics chain (RTBU, 2004b).

THE PROSPECT OF RENEWAL: This process of union renewal and repositioning is significant in one important respect. In most cases, the unions have learnt from the immediate experiences of privatisation and in the face of ownership change and increasing concentration have sought to develop anticipatory policies. On the one hand, the CFMEU has attempted to lay an organisational base through the Mining and Energy District and its sponsorship of the revived GTLC means they can address all employers in the industry. The RTBU's membership of the International Transport Federation is part of a cross union attempt to deal with the concentration of ownership in the transport industry. On the other hand, the unions are developing more discerning strategies about the weaknesses and strengths of the enterprise owners. The CFMEU's lengthy industrial action at Yallourn and its awareness of the business position of the other generators has enabled it to improve members conditions at the other generators and lay the ground for more productive enterprise bargaining. The RTBU exploited strategic division between the two former owners to achieve gains.

These developments underwrite the seldom noted feature of collective organisation, namely that it is in the context of the wage relationship that collective organisation is built and rebuilt (cf. Kelly 1998). Apparent defeat is not a failure of leadership per se, although it may be a factor. Rather, it is a feature of the struggles, both materially and ideologically, that take place in the circumstances of corporate change, managerial restructuring, employer hostility, and the social exclusion often associated with redundancy. Instead of viewing unions as secondary organisations, or defensive bodies, it is important to attribute the strength of initiative and self-organisation (locally, regionally and nationally), that defines the modern trade union movement. In short, in the process of apparent union defeat, the wage relationship means that there is a wellspring for collective re-organisation and revival.

Assessment

The argument is that the process of ownership concentration in the privatised sectors of the economy recreates the basis for more uniform terms and conditions of employment as well as fewer employers in the industry. These processes are clearly evident in the electricity, gas and transport sectors. Over the last few years, since privatisation was introduced with relatively restrictive rules on cross-ownership, there has been a loosening of these rules. In part, this development is the outcome of business lobbying to ensure that the economic and financial conditions are in place for these multinational firms to gain entry into these former state utilities. The result is a process of vertical and horizontal integration.

The developing concentration in ownership, and the associated vertical and horizontal integration, in the two sectors, energy and transport, sets the terrain for a consideration of work organisation, work relations and forms of collective organisation, via trade unions. In contrast to other analyses (Pendleton 1999 and Arrowsmith, 2003), our argument is that the relationship between employment restructuring and the processes and outcomes of industrial relations is more complex than suggested. Rather than argue a relatively direct relationship between privatisation and industrial relations (Pendleton, 1999) or a 'firm-in-sector' approach (Arrowsmith, 2003) we suggest that the attention should focus on the political economy of the restructuring process following and involving privatisation. Such an examination draws attention to the initial process of disintegration and the subsequent concentration and consolidation in different sectors, and the way such processes in transport and energy are prototypical. It is likely that the developments that we have examined in these two sectors are part of a general pattern, in Australia and beyond. If this is so then the circumstances of worker organisation and relations, as well as the activities by trade unions, occur in relation to an unfolding set of capitalist relations that involve transnational corporations, government policy, forms of regulation, and the reorganisation of work relations and work processes.

The increasing ownership concentration, and hence the moves towards vertical and horizontal integration, indicates an increasing uniformity of work experience and associated terms and conditions of employment in these two sectors. In such circumstances trade unions are in a position to begin to develop strategies to address these developments. These trends contrast sharply with those observed by Arrowsmith (2003: 153) in relation to British railway industry where privatisation ended the single state company, British rail and fragmented the industry. Although the government has take steps to introduce more direct forms of state regulation and control than was originally the case, there is no apparent move towards a concentration of ownership. It may be that this snapshot by Arrowsmith captures a particular moment and thus the analysis should be judged accordingly. It is possible that a process of vertical integration will occur in the British rail industry in time, with the implications outlined above.

One of the implications of the above analyses of privatisation is that there is a strong impetus for privatised enterprises to recompose and relocate previously established workforces. Management priorities and employment relations are recast to promote the competitive base of the privatised enterprises (on the energy industry, see Capelli, 2000, Fairbrother *et al.*, 2003). It is assumed that these developments are policy driven or the outcomes of managerial strategies (Yergin and Stanislaw, 1998; Beynon *et al.*, 2000). Collective organisation in these circumstances is neither straightforward or easy. On the contrary, the scale and scope of the changes, accompanied by relatively hostile employer initiatives, threatened the vary basis of trade unionism, especially in the energy sector. However, building on the material and ideological features of work and employment, these trade unions built and rebuilt their organisations as well as developing approaches to confront the emergent terrain of trade unionism in these privatised industries. In these circumstances the unions displayed both reactive and proactive responses to these dramatic developments. Out of apparent defeat, these unions laid the foundation for renewal.

Overall, the process of privatisation in Australia is now well established. These economic, financial and institutional arrangements are relatively settled; there is little prospect of a return to public ownership, although the regulatory framework could be tightened in the future, depending on the economic and political circumstances of these industries. Short of this latter development, the organisational and institutional location of these enterprises is now relatively settled and part of the industrial relations terrain in this sector. While for unions there may be a process of adjustment to the increasing ownership concentration, the novelty of privatisation is part of the past. In this respect, trade unions are in a position to review their organisational arrangements and their capacities to challenge the private oligopolies that now own this sector.

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