JobKeeper Review

Submission to the COVID19 Business Liaison Unit (CBLU), at Treasury
June 12, 2020

1. Key recommendations

- Extend JobKeeper to at least 31 December to businesses that continue to demonstrate a significant impact to revenue in the following two situations:
    - Where restrictions still directly impact
    - Where businesses were closed down by law during the crisis period
- Support for businesses should extend beyond December if restrictions still apply to them.
- Immediately extend Job Keeper to all working partners or beneficiaries of COVID impacted businesses run as partnerships or through trusts; businesses for their own workforce in the on-hire and staffing sector; and temporary skilled migrants (TSS visa)
- Reduce JobKeeper to $1,100 per fortnight for any employee who had been earning less than on average $1,100 per fortnight during the original eligibility period.
- JobKeeper not to be reduced for any other eligible business regardless of any improvement in their revenue between now and September.
- Consider support either through JobKeeper or other support mechanisms for universities, international students and industry organisations.
- Extend the 50% wage subsidy for apprentices and trainees and apply to all sized businesses until at least 31 December 2020.
- Continue flexibility in employment delivered via FWA to allow businesses to scale back up in response to the lifting of COVID-19 restrictions and beyond and help ensure employees remain connected with their employer.

2. Introduction

JobKeeper has been instrumental in keeping businesses going and retaining the connection of employees to the employers, notwithstanding the issues of interpretation and application borne out of the speed with which it was developed and implemented. It has been the central pillar that has kept not only many eligible businesses afloat, but also has ensured there is money in the economy to help all businesses.

Most businesses were simply not prepared for the extent of the shock that has led to a significant and sudden impact to revenue. In many instances, such as in tourism, hospitality and events industry the hit to revenue is 80-100% on a year-on-year comparative basis and for many this is likely to continue beyond September. The social distancing restrictions, travel bans and forced closures enforced at the onset of the pandemic have been akin to a significant natural disaster that prevented businesses from operating. This has been compounded by a reduction in overall consumer confidence with discretionary spending on non-essential items dropping and in many cases shifting to new areas of spending altogether.

The review of JobKeeper is an important step in identifying options to deliver support for business and their employees in these challenging times.

3. CBLU Questions

3.1 Should any measures be looked at to assist business in transitioning to the end of Job Keeper and beyond?

In summary, the transition needs to be addressed in a range of ways:

1. Maintaining flexibility in the industrial relations settings to ensure that employees can be brought back into the workforce in line with customer demand, including the ability to offer part time arrangements for full time employees.
2. Improving the understanding in workplaces (both employers and employees) about the flexibilities available and those that hopefully will continue to be available in the FWA to minimise industrial disruption once JobKeeper ceases
3. Implementing targeted economic stimulus measures (see Section 4)
4. Extending JobKeeper in targeted industries beyond September. (see below)
5. Announcing all decisions on JobKeeper as soon as possible to provide certainty for business

1. Maintain Flexibility in Industrial Arrangements

The amendments to the Fair Work Act and the operation of JobKeeper are inextricably linked. Continued flexibility in employment will be crucial in allowing businesses to reliably scale back up in response to the lifting of COVID-19 restrictions and beyond and help ensure employees remain connected with their employer. For an overwhelming number of businesses there is concern around how to manage the return of an entire workforce when revenue and turnover is unlikely to recover for quite some time after the end of JobKeeper with current estimates suggest a return to pre-COVID-19 trading is not expected in many industries until 2021 at the earliest, for others such as the airline industry, a return to “normal” may not be seen until 2022-2023. It is imperative that during extraordinarily challenging times the link between an employee and their employer remains, both for the individual, and for their employer, who values their staff.

For these reasons it is vitally important that the Government consider enabling businesses that have already stood down employees as a result of COVID-19 or availed themselves of the JobKeeper - enabling stand down directions to gradually bring back employees subject to a stand down (or JobKeeper - enabling stand down direction) for an additional 6 months period to March 2021 by temporarily amending section 524 of the Fair Work Act. This would enable employers to manage the cost of bringing back employees in line with the return of their trade and in turn limit the number of redundancies an employer may be forced to make either at the end of a stand down or when the JobKeeper scheme ends on 27 September 2020.

As JobKeeper enters its second three months of operation, which for many businesses coincides with the reopening and rebuild, it is essential that the productive value of the wage subsidy is unlocked. The FWA arrangements are critically important to this. The arrangements need to ensure that any employee on JobKeeper works at least to the value of the subsidy if there is work available.

2. Education and Assistance

Transitioning off JobKeeper will create further stress in workplaces, with both employers and employees needing to clearly understand their workplace arrangement options. The implementation of JobKeeper, and in the economic shutdown that occurred prior, demonstrated the huge task required to educate workplaces as to their rights, options and responsibilities. Given the shortened timeframe of the initial implementation, much of this task fell to industry bodies to quickly understand the issues and assist businesses. By way of example, in March 2020, our State and Territory Chambers reported an increase in queries of 113% over a normal month, and this would have been replicated in our industry association members, particularly those that provide an industrial service.

It is anticipated that a similar spike of queries will be generated by announced changes to JobKeeper, and during the transition period in September. Support to associations, as well as direct education activities by Government will be critically important in facilitating a smoother transition.

3. Targeted Stimulus Measures

This is covered in more detail in Section 3.2. For most businesses and industries, September will not see a return to normal trading. Restrictions will still be having an impact on many businesses, and the cost of implementing COVIDSafe environments will be adding costs to all. In addition, the economic environment will be challenging as consumer confidence is likely to still be subdued.

The Government has already recognised this through its announced construction stimulus package. Additional targeted measures will be required.

4. Extending JobKeeper for targeted businesses

On reconfirmation of revenue impact of 15%/30%/50%+ as at 1 August 2020, it is recommended that JobKeeper be extended at least to 31 December 2020 at the same rate (ie. $1500 per fortnight and $1100 for those employees who earnt less than this during the eligibility period) for those businesses who either:

- Continue to be directly impacted by the continued imposition of government movement and gathering restrictions. The types of businesses that would be likely to be eligible would include travel agents, inbound tour operators, cruise, business events including accommodation and hospitality venues with meeting facilities for more than 100 people, live performance, cinemas, restaurants in locations reliant on international travel. Some support should extend beyond December if restrictions still apply (which for businesses reliant on international travel this could be into the first quarter of 2021). Many of these businesses have been 80-100% down on revenue; or,
- Were completely shut down by government order during the crisis, including pubs, casinos, and beauty salons. These businesses are still facing a debt cliff built up through the continuation of fixed costs while their businesses were completely closed. By September, they will ramping up their businesses to normal trading, and will only then be receiving some positive impact from the wage subsidies as they are unlocking the productive value of the subsidy.

The intention of this policy is clear but it is recognised that there may be definitional challenges about which businesses are included and which are not. An alternative approach could be to look at the revenue impact over the whole period – March to September – and set the revenue drop at a level that will in practice capture this intended target group. Treasury and the ATO have access through BAS reporting to inform what this revenue benchmark would be to ensure appropriate targeting. In a similar way to when the JobKeeper was first implemented, a business could seek the extension in August based on the actual revenue in the June quarter and on the likely revenue impact in the September quarter. This can then be confirmed by the BAS for the September quarter when submitted in October. For larger businesses, this is simpler due to monthly BAS reporting.

5 Certainty needed

We would encourage announcements on JobKeeper to be delivered in a way that provides sufficient notice of any change or extension JobKeeper for some businesses.

3.2 What measures should be considered to reduce unemployment as quickly as possible, while supporting genuine job creation after Job Keeper ends?

It is expected that many businesses across the economy, due to the poor economic conditions and low consumer confidence rather than restrictions still in operation, will still be experiencing revenue impacts in September that would have otherwise made them eligible for JobKeeper if it was available. However, we have not recommended an extension of JobKeeper for these businesses. Instead, it is essential that the Government looks at a range of targeted stimulatory measures that will increase spend in those sectors of the economy that will be the hardest hit by the economic environment, but will no longer have JobKeeper support. It is noted that the Government has already announced a construction support package, although there are concerns that this will not have sufficient impact to alleviate job losses when current project come to an end.

Recommendations include both short term measures, as well as medium to long term reforms. One recommendation that should be implemented as soon as possible to address both skills development and unemployment (particularly youth unemployment) is the expansion of the apprenticeship subsidies announced in the first tranche response to COVID. Currently, this 50% wage subsidy for apprentices and trainees in small businesses applies from January to September operates to encourage retention of apprentices in all occupations. We recommend that the policy be expanded to:

- to all sized businesses and operate at least until 31 December 2020. For large businesses not previously eligible, this could operate from 1 July 2020 to 31 December 2020.
- Cover all apprentices and trainees engaged in any occupation from 1 July 2020 through to 31 December 2020. This will incentivise commencements, which have suffered a dramatic fall during the COVID crisis.

There are also a range of areas worthy of consideration for immediate support, either through JobKeeper or other support mechanisms:

- public universities and international students – the decision to make public universities ineligible combined with the fall in international students is a cause for concern. We note that the government has already guaranteed domestic student subsidies, but we encourage further action in this area to support the universities and their international students. Although we agree with the government that neither JobKeeper nor JobSeeker are suitable for international students, given the importance of this export industry, we encourage further support for those students who were relying on income from work in Australia. This could be by providing some rental assistance in the second half of 2020, or subsidising their study in Australia for the next Semester.

- Industry organisations – as Australia's peak business association group, it is understandable that the pain of our own members is keenly felt, given that most associations rely on income from conferences and other events that have been halted by the crisis. As these business groups have carried enormous burdens in recent months in providing advice and developing COVIDSafe protocols for their members, it would appreciated if the Government would consider either extending the charities eligibility level of 15% or in other ways supporting these organisations.

In the medium to long term, the Government is encouraged to focus its efforts on creating a favourable regulatory and tax environment with the aim of reducing business related costs, lifting productivity and enhancing competitiveness. Job Keeper has played a mutually beneficial role of maintaining employer-employee relationships and assisting business by being able to better manage their working capital during a significant and unexpected economic downturn.

The business community faces multiple challenges. Reduced revenue while having to continue to meet overhead costs including rent, insurance premiums and utilities. Government can act to reduce the cost and regulatory burden with the overall aim of improving the operating environment.

It is recommended that the Government expand the resources of the Regulation Resolution Unit at the Treasury and continue the work in the three priority work streams including 1) Reviewing regulations made to deal with the pandemic that should be revisited – either to retain as is, strengthen or reverse when the economy moves to a recovery phase; 2) Resolving live regulatory issues that businesses are facing and, 3) Identifying new regulatory policy settings that could “turbo charge” economic recovery. We emphasise the need to focus efforts on process. Review past efforts with the aim of improving coordination and consultation. Coordinate a National Regulatory Improvement Taskforce, with the view of incorporating all parties impacted by regulations including state and federal regulators, industry bodies and employee representatives. Working with all parties to identify best practice regulation and incentivise its adoption by other states and territories, as well as pursuing opportunities for integrating and harmonising Commonwealth and state/territory regulation.

Improving the efficiency of the legal framework in challenging regulations by providing additional funding to bodies that contribute to improving Australia’s regulatory environment, such as the Office of Best Practice Regulation and the Productivity Commission, to maximise their collective contribution to the delivery of best practice, cost effective, outcomes focused regulation is also an area of priority to reduce costs associated with business and lift overall productivity and job creation.

The Government is also encouraged to focus on eliminating inefficient taxation that stifle business growth, investment and job creation such as state-level payroll taxes and streamlining the corporate tax rate to remove the disincentive created for growing businesses. Government should not delay the process of tax reform by setting aside funding for a wholesale review of the tax and transfer system.

3.3 Should changes be made to Job Keeper before the scheme ends?

We note that the announcements on JobKeeper are scheduled for 23 July 2020. This timeframe, which was later than originally proposed, will reduce the impact of any change. There are a number of our recommendations that would benefit from being implemented either immediately or as close as possible to 30 June 2020 so as to enable advantage of the change.

There are three immediate areas that the Government should consider extending JobKeeper to:

- temporary skilled migrants (TSS visa)- there will only be a relatively small number that were employed by JobKeeper eligible businesses and that have not yet gone home. This will be a modest additional spend to keep valuable skilled workers connected, or to reconnect them to businesses that have invested in them to fill a skills gap.

- businesses in the on-hire and staffing sector which offer a valuable pathway for new employment for those who have found themselves out of work. The inclusion of large volumes of wages and on-costs for on-hire employees in a staffing business's turnover means that many have not been able to qualify for JobKeeper to cover their own staff despite the dramatic fall in client demand, with in some cases, net revenue falls of up to 70%.
- all working partners or beneficiaries of COVID impacted businesses run as partnerships or through trusts who at the moment are only eligible for one worker on JobKeeper. These businesses may need to provide evidence to substantiate that each partner or beneficiary does work in the business, but we have had a significant amount of feedback about small businesses run through trusts with say mum and dad both working, or a few partners

Post review, but announced before 23 July 2020, it is recommended that the JobKeeper support amount be reduced to $1100 per fortnight for any employee who had been earning less than on average $1100 per fortnight during the eligibility period and who has not increased their hours beyond that amount since JobKeeper support commenced. This recommendation is not only prudent fiscally, but also will increase the incentive for the casual to take on more hours as work starts to pick up. The effective date should be no earlier than four weeks after any government announcement relating to this change. If this change applied from the first pay period on or after 23 July this would be a saving to the government of around a quarter of the cost for this category of employee for the three months, and for the employee over the course of the six months, they would have received at least $400 per fortnight more than they previously were earning for the first three months, so the reduction for the second half of the period should not cause distress.

It is not recommended that JobKeeper be reduced for any other eligible business regardless of any improvement in their revenue between now and September. Businesses successfully demonstrated their eligibility and should now not unreasonably expect that the support would continue until the end of September. They would have made business decisions, including regarding the employment of staff and the settling of revised tenancy and loan arrangements, based on that understanding.

3.4 What is working well with Job Keeper and what is not?

Working well

As a policy that delivered critically important cash flow and maintained the connection between the employees and employers JobKeeper has delivered handsomely. The subsidy has enabled businesses to maintain access to talent and skills and has ensured that workers remained employed rather than being an applicant for JobSeeker.

Even though the single payment rate of $1500 a fortnight has created some issues, the administrative simplicity of a single rate rather than multiple rates or based on employee's actual wage has been a strength.

Given the size of the scheme, on balance the administrative arrangements have been net positive, notwithstanding specific issues including misunderstandings by some employers about what answers were being sought.

Not Working well

Many of the issues that have not been working well are addressed above as part of our recommendations for change. For example, as raised previously, as businesses start to reopen and reach out to staff on JobKeeper to commence or increase shifts, it is unfortunate that the incentive to work for some will be lacking.

Also there is a lack of awareness of changes to FWA and this resulted in a spike in disputation. There have also been inequities with skilled migrants not being included, workers receiving more money than they were previously received, and also those workers who kept on working were being as if JobKeeper did not exist, yet there were workers who were being paid and not working at all.

There have been many other issues that have arisen in the interpretation and application of the rules around JobKeeper, and these have been canvassed through the consultation mechanisms of CBLU since the program was announced. We have chosen not to repeat those issues here to avoid duplication of input.

4. Extending JobKeeper is all about jobs

Although JobKeeper has kept many workers off the unemployment lines, there will be no doubt that without JobKeeper extending for those businesses we have identified, that the unemployment numbers will jump in September. Many of the businesses that have been closed down, but are now in a position to reopen, will still only be part way through getting back to normal trade by September. Restrictions, consumer confidence and general economic activity will all be limiting the number of employment opportunities. Many businesses have not been able to use JobKeeper as an operating wage subsidy as they have not been able to trade. Extending JobKeeper will enable them to trade through the transition.

For businesses that may still be seriously impacted by bans to international travel or large-scale events in September, the justification for JobKeeper is the same as when it was first brought in – those businesses are restricted for reasons not of their own making imposed by Government. If we do not preserve businesses like inbound tour operators, travel agents and event businesses, then our ability to take advantage of our competitive advantage in the future as a safe and attractive destination will be seriously inhibited and the jobs for the future will be imperilled.

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