



CFIB

**Fostering Canada's Entrepreneurial Economy through
Smart Labour Standards**

**Presentation to the
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Ottawa, ON**

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CANADIAN FEDERATION OF INDEPENDENT BUSINESS

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Executive Summary

The Canadian Federation of Independent Business (CFIB) is a non-partisan, not-for-profit advocacy group representing 105,000 small- and medium-sized enterprise (SME) owners from all sectors and regions of the country. CFIB takes its policy direction from members through regular surveys on the basis of one member, one vote.

The SME Sector: Canada's Engine of Economic Growth

The majority of businesses in Canada are very small--over three-quarters of businesses have fewer than five employees. The SME sector now account for 43 percent of the GDP and creates most new jobs. To ensure the Canadian SME sector continues to thrive in the years to come, it needs a flexible labour standards framework.

SME Main Challenges

Government regulations and paper burden are one of CFIB members' top issues of concern. Canada Labour Code provisions impose a compliance burden on all businesses, but it is especially the case for small-and medium-sized businesses. CFIB recommends that changes to Part III of the CLC support the overall federal government direction of making government regulations "smarter" or more efficient, adaptive, and responsive to the fast changing economic environment.

A growing shortage of skilled labour is another major concern for SME owners. The shortage will likely worsen as the baby boomer generation retires. The shortage has accelerated the development of alternative forms of employment, such as self-employment, and provided additional incentives for employers to provide flexible working conditions in order to attract and retain skilled employees. Consequently, CFIB recommends that changes to Part III of the CLC do not set additional constraints on employers, but rather balance employee rights with employee responsibilities.

In looking at the emerging work-life conflicts in today's workplaces, CFIB's research in this area shows that there is no *one-size-fits-all* solution. Balancing personal and professional commitments is an individual preference that can be accommodated in many ways. CFIB believes that attempts to address work-family balance issues through Part III of the CLC would likely do more harm than good. Moreover, codifying practices may also prove to be detrimental to ongoing efforts being made by small business owners to create a good working environment for their employees.

Finally, the Code's standards were designed in the mid-sixties to ensure that employees were provided with a level playing field with their employer when it came to employment conditions. Developments since the mid-sixties have put employees in a better position vis-à-vis their employers in discussing working conditions, namely the growing shortage of skilled labour and the fact that over three-quarter of businesses today have fewer than five employees and the employer works along side with his/her employees.

CFIB makes the following recommendations:

1. Ensure that changes to Part III of the Canada Labour Code facilitate rather than hinder economic growth, productivity and competitiveness in a fast changing world economy.

The Canadian economy has undergone tremendous change over the past forty years and the pace of change will likely continue unabated for the foreseeable future. Part III of the Canada Labour Code already provides minimum work standards that adequately protect the rights of employees. Expanding the scope of Part III of the Code to cover other forms of employment or to further constrain the employers' flexibility runs the risk of threatening the dynamism of Canada's economy and undermining job creation. More specifically, we recommend against extending the scope of Part III of the Code to including new forms of employment or self-employment.

2. Adapt Part III of the Canada Labour Code to the reality of today's workplace by making it more flexible.

The Code's standards were designed in the mid-sixties to ensure that employees were provided with a level playing field with their employer when it came to employment conditions. Developments since the mid-sixties have put employees in a better position vis-à-vis their employers in discussing working conditions, namely the growing shortage of skilled labour and the fact that over three-quarter of businesses today have fewer than five employees and the employer works along side his/her employees. Examples of Code regulations that could be made more flexible include rules on overtime pay and hours of work.

3. Balance employee rights with employee responsibilities.

Changes to Part III of the Canada Labour Code should help promote greater employee-employer relations as opposed to perpetuate the adversarial climate that prevailed in the mid-sixties. Part III of the Code puts the emphasis on employee rights and employer responsibilities. The lack of emphasis on employee responsibilities is unfair to small employers and can affect the viability of the business. Accordingly, we recommend that:

- a. Employees be required to provide 2 weeks notice to their employer when they intend to terminate their employment. There are currently no obligations under the Code on the part of the employee to notify the employer.
- b. Employees be required to provide at least 4 weeks notice on their intention to come back to work prior to the completion of their maternity leave.

4. Put more emphasis on raising employee and employer awareness of their rights and responsibilities.

We believe that much of the resources being spent on workplace inspections might lead to better enforcement of the Code if these resources were used to more effectively communicate to employers and employees their rights and responsibilities. Much of these resources should be spent on awareness programs rather than attempting to legislate or regulate solutions that often do not work.

Conclusion

The Canadian economy has changed a great deal over the past 40 years since the Canada Labour Code was created. In light of the growing importance of the SME sector to Canada's economic future, changes to Part III of the CLC must aim at increasing flexibility and reducing the compliance burden for small- and medium-sized businesses.

Introduction

The Canadian Federation of Independent Business (CFIB) is a non-partisan, not-for-profit advocacy group representing 105,000 small- and medium-sized enterprise (SME) owners from all sectors and regions of the country. CFIB takes its policy direction from members through regular surveys on the basis of one member, one vote.

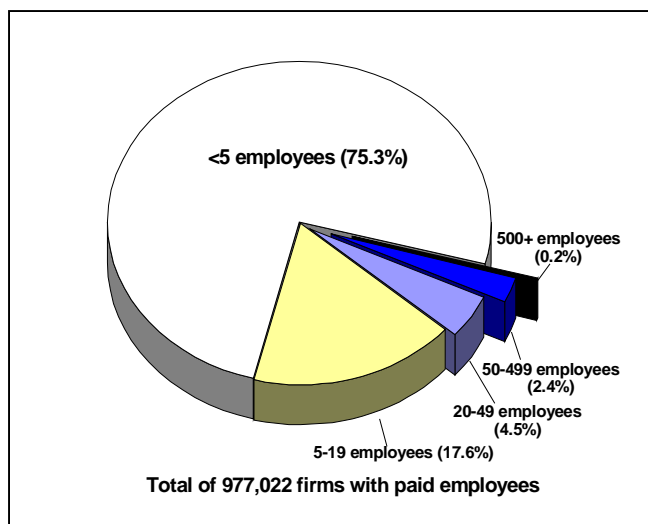
This brief consists of three parts: The first describes briefly the important and increasing role played by SMEs in today's economy in terms of economic growth and job creation; the second part outlines briefly some of our members' challenges and concerns in today's fast moving economy; and the third part outlines our members' comments and recommendations with respect to the review of the Canada Labour Code.

I. The SME Sector: Canada's Engine of Economic Growth

The Canadian economy has changed a great deal over the past 40 years since the Canada Labour Code was created. The importance of the SME sector to the Canadian economy has been growing steadily over that period. Whereas the SME sector might have accounted then for roughly one quarter of the Gross National Product (GDP), it now accounts for 43 per cent of the GDP.

Of the approximately 1 million businesses with employees in Canada, over three-quarters employ fewer than five people, and over 97 percent of businesses have less than 50 employees (see figure 1).

Figure 1
Majority of businesses in Canada are small



Source: Statistics Canada, 1983-1999 Employment Dynamics (2002)

The fact that most of today's workplaces are made up of few employees helps promote better communications between the employer and employees and leads to greater workplace satisfaction as surveys described further below show.

Another important characteristic of the SME sector is its very important role in job creation. A recent study that was commissioned by Industry Canada¹ tracked Canadian firms with different sizes and growth characteristics, over a 15-year period. The study showed that a small number of growth firms created about half a million net jobs over that period. Amongst the growth firms, firms with fewer than 100 employees created 661,000 net jobs while firms with 100-499 employees created 184,000 net jobs. Large firms with more than 500 employees shed 348,000 net jobs over the same period. The government, therefore, should not introduce policies that hinder the growth and expansion of these dynamic firms.

I. A. The Self-Employed: Entrepreneurs by Choice

Increasingly, people are *choosing* self-employment rather than turning to it because of harsh employment conditions, which is still an assumption made by some policy-makers. Today, self-employed individuals represent approximately 15 per cent of total employment in the Canadian economy². Over the last 15 years, despite a strong labour market, the self-employment sector increased at an annual average rate of 4 per cent³. This comprises one of the fastest growing sectors of our economy. Studies⁴ have showed that the growing prominence of women entrepreneurs and the increase in the number of firms run by individuals over the age of 55 are the two major factors responsible for the considerable growth in the self-employment sector.

A CIBC study⁵, released this year, revealed that the number of women choosing self-employment has increased by more than 50 per cent, over the last 15 years. This led the Bank to predict in June 2005 that one million Canadian women will own a small business by 2010. Furthermore, the same CIBC study showed that women entrepreneurs are well educated, and increasingly gravitate in well paying professional occupations. More than eight out of ten women entrepreneurs who were surveyed indicated they had no regrets in pursuing the self-employment route and they would start their own business all over again if given the chance. Even though, on average, self-employed individuals are reported to earn less than their firm-employed counterparts, 80 per cent of them indicate it is worth it because it allows them the flexibility to balance their work and family obligations.

For individuals over the age of 55, who in many cases represent the most skilled and experienced individuals in the economy, the self-employment route has served as a bridging mechanism to retirement. Thanks to factors such as technological progress, older individuals choose the flexibility of working from home in providing their well developed expertise and skills rather than retirement. This trend is sure to continue with the ageing of the Canadian population. Moreover, the role of older self-employed individuals is an invaluable resource in the economy, considering the Canadian economy is currently facing a severe labour shortage. Should the government choose

¹ Industry Canada, *Key Small Business Statistics*, July 2005

² Statistics Canada, *Labour Force Survey*, March 2005

³ CIBC, *Women Entrepreneurs: Leading the Charge*, June 28, 2005

⁴ CIBC, *Women Entrepreneurs: Leading the Charge*, June 28, 2005 and CIBC, *Start Me Up: A Look at New Entrepreneurs in Canada*, 2004

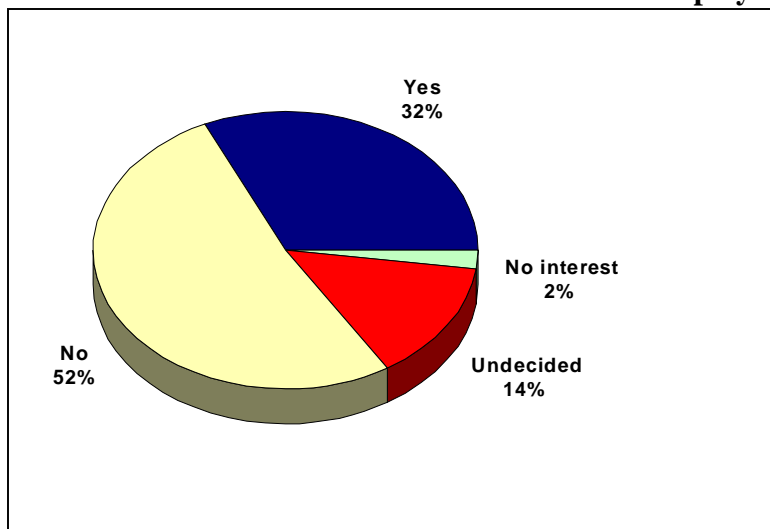
⁵ CIBC, *Women Entrepreneurs: Leading the Charge*, June 28, 2005

to include self-employed individuals in Part III of the Canada Labour Code, the current flexibility enjoyed by many older self-employed individuals would be curtailed. Consequently, they could choose not to work rather than work part-time as they do when they are self-employed. Subsequently, this would exacerbate the labour shortage and could threaten the overall competitiveness of the Canadian economy.

Self-employed individuals are among the most satisfied individuals when it comes to job satisfaction, as a 1999 joint CFIB-Scotiabank study⁶ on workplace satisfaction showed. The study found that the most satisfied individuals were those with the greatest degree of autonomy, as almost two-thirds of business owners and the self-employed were very satisfied with their workplace. The next highest number of very satisfied employees was found in small business while public sector employees enjoyed the lowest level of job satisfaction.

Self-employed individuals are among the most satisfied when it comes to their work environment, and they do not want to be included in Part III of the Canada Labour Code. In 2000, a survey of self-employed individuals, conducted in Québec by the firm Léger and Léger⁷, revealed that 88 per cent of self-employed individuals surveyed were clearly against their inclusion in the Québec Labour Code. Small and medium-sized entrepreneurs also have the same opinion. In June 2005, CFIB surveyed its members as to whether or not self-employed individuals should be covered by the Canada Labour Code. Fully 52 per cent of the 12,000 respondents opposed the idea while 32 per cent were in favour, 14 per cent were undecided and two per cent had no interest (see Figure 2).

Figure 2
Should the Canada Labour Code be extended to cover self-employed individuals?



Source: CFIB Mandate 218 Ballot Results, based on 12,101 responses, June 2005.

⁶Goldfarb Consultants, CFIB, and Scotiabank, *Study on Workplace Satisfaction in Private, Public Sectors*, based on 1,003 responses, October 1999.

⁷Léger & Léger, *Attitudes et perceptions des travailleurs autonomes du Québec face à la perspective de changement de leur statut*, Septembre 2000, 500 répondants.

Conclusions:

1. Canada's economy has undergone a great deal of change over the past forty years; our recent economic performance in terms of economic growth and job creation has been unequalled amongst G-7 countries. The Canada Labour code needs to be modernized to reflect that and ensure the economy continues to grow and thrive.
2. The SME sector is Canada's engine of growth that needs a flexible labour standards framework to thrive in years to come.
3. The self-employment sector has become a significant contributor to the dynamism of our economy and there are no compelling reasons to make it subject to Part III of the Canada Labour Code.

II. SME Main Challenges

II. A. Government Regulations and Paper Burden

Government regulations and paper burden are cited as top issues of concern by six out of ten CFIB members. While business owners understand the importance and benefits of regulations, excessive or overly rigid regulations stifle innovation, productivity, and economic growth⁸. Conservative estimates suggest that for every \$1 that government spends to administer regulation, the private sector spends \$20 to comply⁹.

This is particularly harmful for smaller firms that do not have dedicated in-house resources that deal specifically with government regulations and paper burden. For example, a CFIB study¹⁰ conducted in Québec in 2003, found that for small businesses (1-19 employees) the cost of government regulations per employee was \$8,284, while it was only \$1,119 for larger businesses with 50 or more employees.

The government has recognized in recent years that the economic environment has changed and that regulations need to change as well to ensure the Canadian economy stays competitive. The Smart Regulations initiative was launched earlier this year to make government regulations more efficient, adaptable, and responsive to the fast changing economic environment. The President of the Treasury Board made the following observation in a speech¹¹ on the introduction of the government's plan for implementing its Smart Regulations initiative:

"Sometimes our regulations are simply outdated; leftover structures from earlier days. They may have been passed decades ago to deal with the challenges of their time, but they aren't as effective as they might be in addressing the needs of our time."

*-Reg Alcock-
President of the Treasury Board*

⁸ CFIB, *Making Red Tape Transparent: A Regulatory Reform model for Western Canada*, June 2004.

⁹ CFIB, *Making Red Tape Transparent: A Regulatory Reform model for Western Canada*, June 2004.

¹⁰ FCEI, *La réglementation dans les PME du Québec*, octobre 2003.

¹¹ Government of Canada's Implementation Plan for Smart Regulation Speech, March 24, 2005.

The comments of the President of the Treasury Board seem to be quite relevant to Part III of the Canada Labour Code. In ongoing member surveys, small- and medium-sized business owners identify labour laws (federal and provincial) as one of their top ten concerns. In a survey carried over the first six months of 2005, three out of ten small-and medium-sized business owners cited labour laws as a concern to their business performance¹².

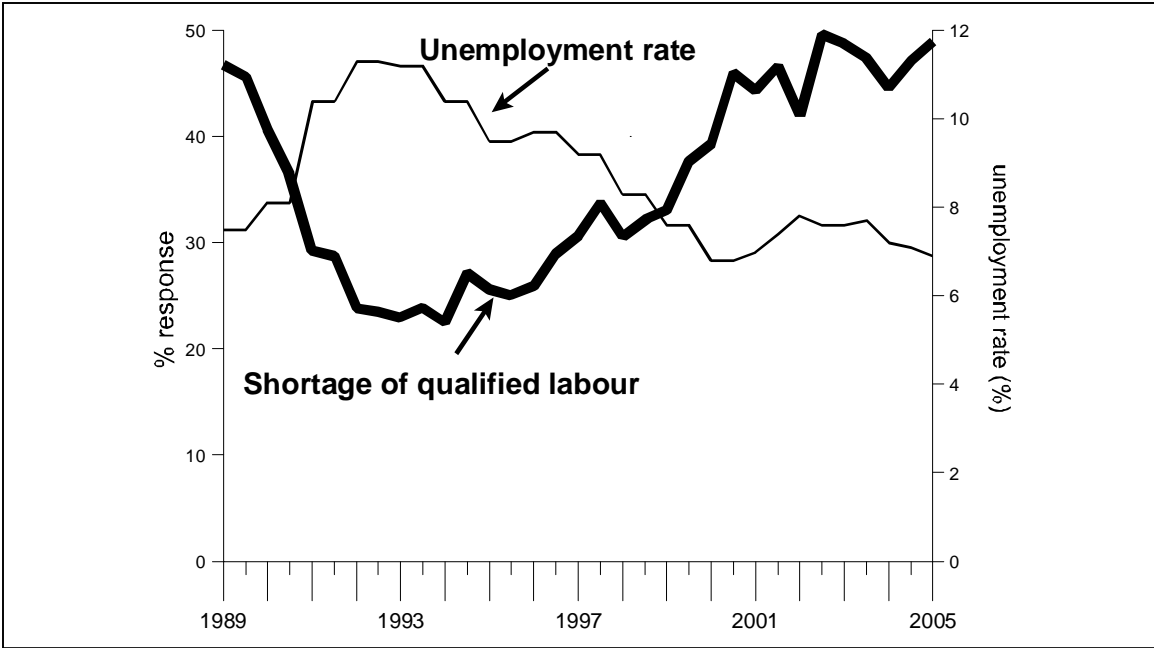
Conclusions:

1. Changes to Part III of the Canada Labour Code need to support the overall federal government objective of making government regulations more efficient, adaptable, and responsive to the fast changing economic environment.
2. The current Canada Labour Code provisions impose a compliance burden on all businesses but especially on small-and medium-sized businesses.
3. Given the growing importance of the SME sector to Canada’s economic future, changes to Part III of the Code should aim at increasing flexibility and reducing the compliance burden for small-and medium-sized businesses.

II. B. Shortage of Qualified Labour

Since the early nineties, Canada has experienced a steady drop in the unemployment rate coupled with a corresponding increase in shortages of qualified labour, as shown in Figure 3.

Figure 3
SME Concern over the Shortage of Qualified Labour



Source: CFIB Shortage of Qualified Labour, Results *Our Members’ Opinions* Surveys # 24-56, 1989-2005; and Statistics Canada Unemployment Rate, August 2005.

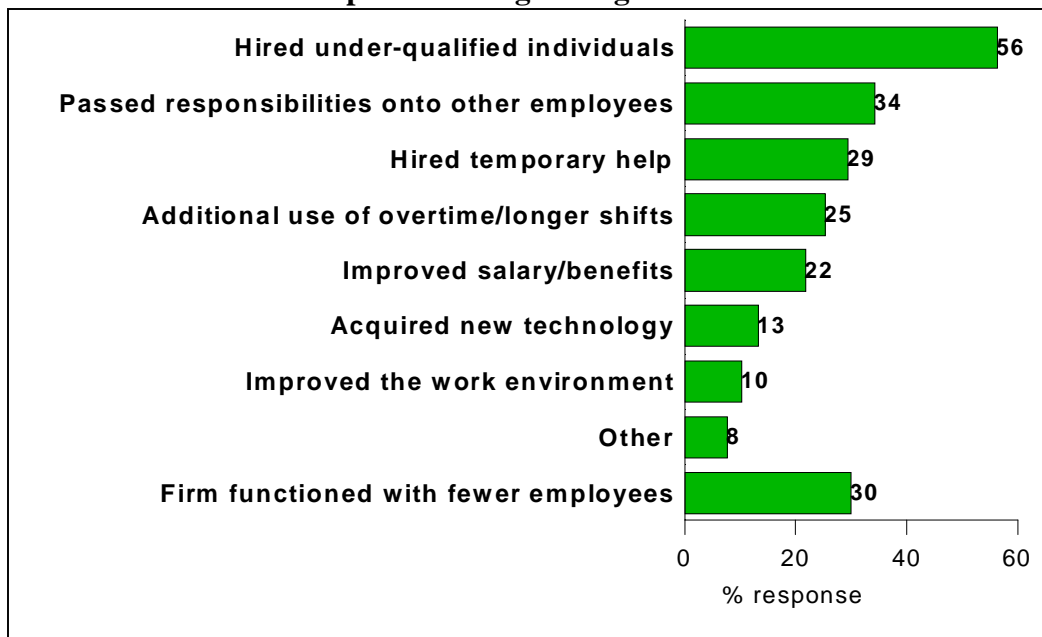
¹² CFIB, *Our Members’ Opinion Survey #56*, January-June 2005, based on 22,034 responses.

Obvious consequences of labour shortages are hiring difficulties¹³. In 2000, 68 per cent of businesses indicated they had difficulties hiring, while only two years later in 2003, 82 per cent of firm owners indicated they encountered such problems. In 2003, a CFIB survey revealed that there were about 250,000 to 300,000 vacant jobs among Canada's million or so small and medium-sized employers.¹⁴ Throughout the first half of 2005, one in two SME owners (48.9 per cent) cited the shortage of qualified labour as a top concern (see Figure 4). This is one of the highest levels of concern recorded since 1989.

Hiring expectations of SMEs combined with the aging of the Canadian population lead to the conclusion that the situation will likely get worse in the years to come. In a CFIB survey on labour availability conducted in 2003, 42 per cent of firms expected to increase the number of employees at their firms within the next three years, while 52 per cent expected to maintain the same level of employment. Of those that planned to hire, more than half (58 per cent) indicated they expected the level of hiring difficulty to worsen, and 34 per cent expected it to stay the same.

The chronic shortage of qualified labour has had significant implications regarding the abilities of businesses to grow and compete. To deal with increasing hiring difficulties, most firm owners look for alternatives within their reach. For instance, to solve hiring difficulties, the most common solution chosen by more than half (56 per cent) of SMEs is to hire under-qualified individuals. Other methods used include passing additional responsibilities onto existing employees, employing temporary workers, increasing the use of over-time and longer shifts or hiring from groups traditionally less used on the labour market¹⁵ (see Figure 4). In spite of efforts to solve hiring difficulties, about one third of business owners believe they have lost business opportunities to expand as a result of this problem.

Figure 4
Attempts to Solving Hiring Difficulties



Source: CFIB, *Results of CFIB Surveys on Labour Availability*, based on 6,740 responses, April 2003

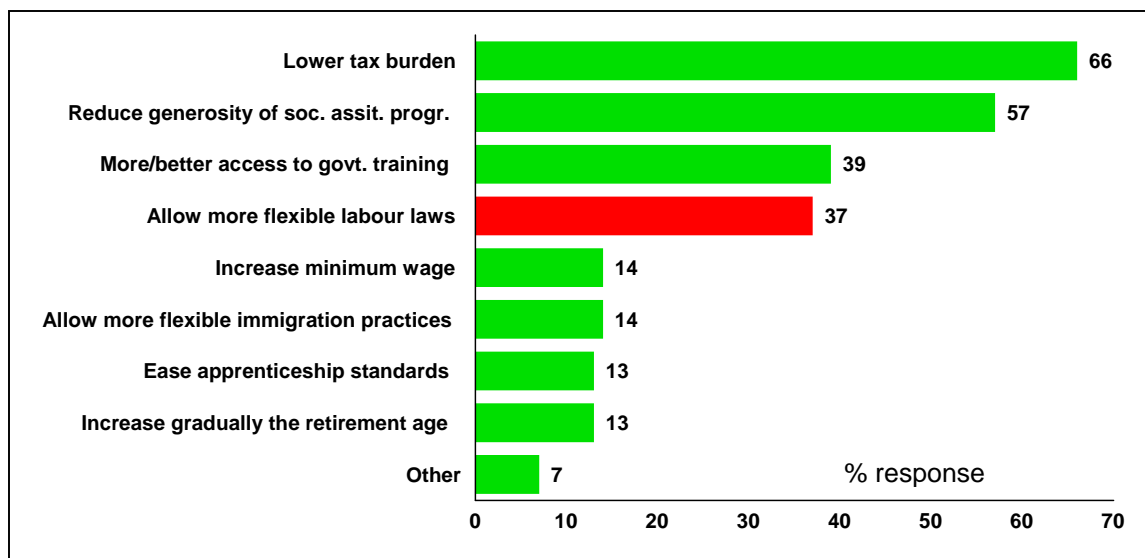
¹³ CFIB *Labour Pains: Results of CFIB Surveys on Labour Availability*, April 2003.

¹⁴ CFIB, *Canada Big Employer*, 2003.

¹⁵ CFIB, *Labour Pains Results of CFIB Surveys on Labour Availability*, April 2003.

In terms of solutions, most independent business owners indicate this is a deep-rooted problem that does not involve one solution, but rather, a mix of solutions. They believe government, educational institutions, and businesses all have a role to play in reducing the shortage of qualified labour. In looking at ways government can help, SMEs have identified a number of measures. More flexible labour laws ranked fourth in importance, as shown on Figure 5.

Figure 5
Ways Governments Can Help Reduce the Shortage of Labour



Source: CFIB, *Results of CFIB Surveys on Labour Availability*, based on 6,740 responses, April 2003.

Conclusions:

1. Canada is facing a growing shortage of skilled labour that will likely get worse in coming years as a result of an aging population. The resulting hiring difficulties encountered by SMEs have the potential to seriously undermine Canada's future economic growth and job creation.
2. Changes to Part III of the Canada Labour Code should not put additional constraints on employers dealing with shortages of skilled labour.
3. The shortage of skilled labour provides an additional incentive for employers to provide good working conditions in order to attract and retain skilled employees.

II. C. Work-life Balance and Flexibility in the Labour Market

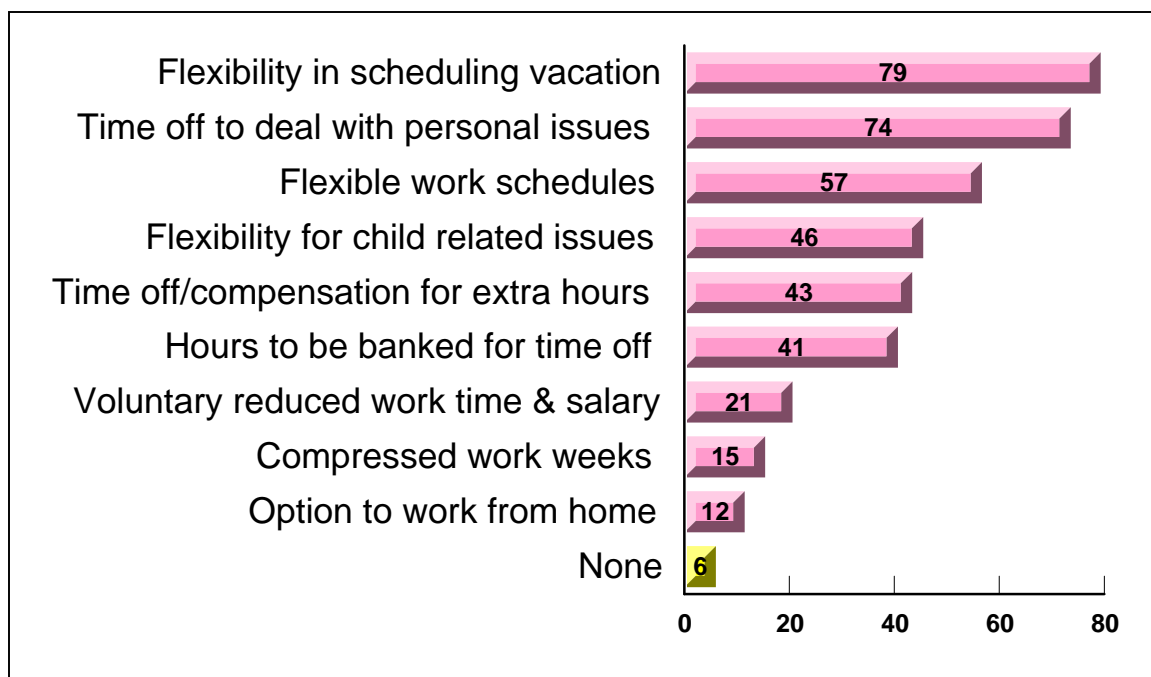
Many studies have been done on balancing work and family obligations and yet very few have focused on small firms. To fill the information gap, CFIB carried out an extensive survey involving 10,699 responses and produced a report *Fostering Flexibility: Work and Family* in September 2004 (See Annex, CFIB report *Fostering Flexibility: Work and Family*).

The perspective of the small business owner has often been overlooked in studies of work-family issues. The CFIB study has shown that small business owners understand the importance of work-life balance as they face this conflict everyday in managing their own family and work obligations. Most firm owners work long hours. The CFIB study showed that about two thirds (57.8 per cent) of SME owners work between 40 and 59 hours a week and one-quarter work 60 hours or more per

week. With respect to the self-employed, they are found at both ends of the scale as many who are self-employed may work on a contract or freelance basis where the workload changes often with the availability of work.

In dealing with their employees' needs, the CFIB survey revealed that virtually all SME owners offer some form of flexibility (see Figure 6). A majority of business owners offer flexibility in scheduling vacations (79 per cent) and time off to deal with personal issues (74 per cent), more than half (57 per cent) offer flexible work schedules, and just under half (46 per cent) offer flexibility in dealing with child related issues. Regarding long hours worked, a number of firm owners compensate their employees accordingly, either by giving them time off or additional compensation for extra hours (43 per cent) or by allowing them to bank hours for time off (41 per cent). In addition, one fifth (21 per cent) of employers allow voluntary reduced work time and salary, one seventh (15 per cent) allow compressed workweeks, and one-in-nine give their employees the option to work from home.

Figure 6
Types of Workplace Practices
Available in Small Businesses



Source: CFIB Research Results, *Survey on Workplace Practices*, based on 10,699 responses, February 2004.

As a result, employees in small businesses are the happiest as reported in a study on workplace satisfaction by Goldfarb Consultants¹⁶ previously referred to in this brief. The same survey indicated a significantly greater number of small business employees (64 per cent) are very satisfied with the flexibility and willingness of their employer to accommodate for personal or family needs compared to other employees in larger more structured workplaces (52 per cent).

¹⁶ Goldfarb Consultants, CFIB and Scotiabank, *Study on Workplace Satisfaction in Private, Public Sectors*, based on 1,003 responses, October 1999.

Employers implement flexible workplace practices because they recognize the benefits associated with it. SME owners report having better relationship with their employees (77 per cent), higher employee job satisfaction (64 per cent), higher employee retention (61 per cent), fewer work absences (48 per cent), increased productivity (34 per cent), and being more competitive in attracting employees (22 per cent) as a result of their flexible workplace practices (See Annex, CFIB report *Fostering Flexibility: Work and Family*, Figure 5).

Although they are implemented in many different ways, half (51 per cent) of SME owners indicate that the best approaches for enabling workplace practices are taking in an informal, case-by-case, approach. Another 39 per cent of employers have found that both a formal and an informal approach have worked best for them, while only 6 per cent of employers find that a written policy on workplace practices was the best approach to take (see Annex, CFIB report *Fostering Flexibility: Work and Family*, Figure 7).

Clearly, for SME owners there is no cut and dry way of developing flexible workplace practices. Most (89 per cent) indicate that they have learned over time which workplace practices work best for their employees and about one third (34.0 per cent) said the workplace practices developed were suggested from their employees (see Annex, CFIB report *Fostering Flexibility: Work and Family*, Figure 6).

In recent years, the federal government has put in place more generous maternity and compassionate leave provisions for employees. Unfortunately, these measures have been instituted without adequate consultations with the small business community that is most severely affected by these measures. By way of example, CFIB had a member in Alberta who ran a vet clinic with five employees, all women. Four of the five ended up on maternity leave at the same time and elected to be away for a full year. Given the severe shortage of veterinary assistants that prevailed then, the business owner's business operations had to be significantly curtailed, as he was unable to fill the shorter-term positions. The Canada Labour Code can be made fairer to SME employers by balancing the obligations of employers and employees. For instance, Alberta's labour standards now require employees to provide notification in writing to their employer at least four weeks prior to the end of their maternity leave and to also provide written notification of their intention to quit their job. These measures are currently absent from Part III of the Canada Labour Code and should be adopted by the federal government.

Conclusions:

1. There is no *one-size-fits-all* approach to balancing personal, professional and business needs. Balancing personal and professional commitments is an individual preference resulting from a wide variety of personal and business needs and can be accommodated in many ways.
2. Attempts to address work-family balance issues through Part III of the Canada Labour Code would likely be too limiting, benefiting some but alienating others who may have preferred different choices. Codifying practices may also prove to be detrimental to efforts that are already made by small business owners to create a good work environment for their employees.
3. Allowing small business employers and their employees to work together to find the most suitable solution is the best choice.

III. CFIB Recommendations

1. Ensure that changes to Part III of the Canada Labour Code facilitate rather than hinder economic growth, productivity and competitiveness in a fast changing world economy.

The Canadian economy has undergone tremendous change over the past forty years and the pace of change will likely continue unabated for the foreseeable future. Part III of the Canada Labour Code already provides minimum work standards that adequately protect the rights of employees. Expanding the scope of Part III of the Code to cover other forms of employment or to further constrain the employers' flexibility runs the risk of threatening the dynamism of Canada's economy and undermining job creation. More specifically, we recommend against extending the scope of Part III of the Code to include new forms of employment or self-employment.

2. Adapt Part III of the Canada Labour Code to the reality of today's workplace by making it more flexible.

The Code's standards were designed in the mid-sixties to ensure that employees were provided with a level playing field with their employer when it came to employment conditions. As earlier parts of this brief have shown, developments since the mid-sixties have put employees in a better position vis-à-vis their employers in discussing working conditions, namely the growing shortage of skilled labour and the fact that over three-quarter of businesses today have fewer than five employees and the employer works along side with his/her employees. Examples of Code regulations that could be made more flexible include rules on overtime pay and hours of work.

3. Balance employee rights with employee responsibilities.

Changes to Part III of the Canada Labour Code should help promote greater employee-employer relations as opposed to perpetuate the adversarial climate that prevailed in the mid-sixties. Part III of the Code puts the emphasis on employee rights and employer responsibilities. The lack of emphasis on employee responsibilities is unfair to small employers and can affect the viability of the business. For instance, employees should also be responsible to notify their employer when a change in their work situation arises, as the implications for a small workplace are very significant. Accordingly, we recommend that:

- a.** Employees be required to provide 2 weeks notice to their employer when they intend to leave their job. There are currently no obligations under the Code on the part of the employee to provide any notice to the employer.
- b.** Employees be required to provide at least four weeks notice on their intention to come back to work prior to the completion of their maternity leave.

4. Put more emphasis on raising employee and employer awareness of their rights and responsibilities.

We believe that much of the resources being spent on workplace inspections might lead to better enforcement of the code if these resources were used to more effectively communicate to employers and employees their rights and responsibilities. Much of these resources should be spent on awareness programs rather than attempting to legislate or regulate solutions that often do not work.

Conclusion

The Canadian economy has changed a great deal over the past 40 years since the Canada Labour Code was created. The importance of the SME sector to the Canadian economy has been growing steadily over that period and is likely to continue to do so over the foreseeable future. Given the growing importance of the SME sector to Canada's economic future, changes to Part III of the Code must aim at increasing flexibility and reducing the compliance burden for small-and medium-sized businesses.

Annex:

CFIB Fostering Flexibility: Work and Family

http://www.cfib.ca/research/reports/pdf/WFB_e.pdf

CFIB Labour Pains

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