

Opinion: Smartphones mean we're always available to our bosses. 'Right to disconnect' laws are a necessary fix

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Australian workers are set to have the right to disconnect from their workplaces once they clock off for the day.

This will "empower workers to ignore work calls and emails after hours [from their employers], where those demands are unreasonable," [according to Greens Senator Barbara Pocock](#) who has been driving the change.

Last week, the [Senate committee](#) reviewing the "Closing Loopholes" amendments to the Fair Work Act recommended introducing a right to disconnect to support "the development of clear expectations about contact and availability in workplaces." On Wednesday, the [Albanese government](#) indicated it supported the amendment.

Why a right to disconnect is needed

Last year, [the Senate Select Committee on Work and Care](#) drew attention to "availability creep" where employees are increasingly expected to complete work outside of [work hours](#).

Smartphones have made it easier for managers to contact workers any time. The shift to remote working during the COVID pandemic caused the boundaries between work and personal life to [disintegrate further](#).

According to a 2022 report by the [Centre for Future Work](#), 71% of workers surveyed had worked outside their scheduled work hours often due to overwork or pressure from managers.

This led to increased tiredness, stress or anxiety for about one-third of workers surveyed, disrupted relationships and personal lives for more than one-quarter, and lower job motivation and satisfaction for around one-fifth.

[Parliamentary inquiries](#) have highlighted the [negative consequences](#) of working outside scheduled hours for mental and physical health, productivity and turnover.

Availability creep has led to [significant unpaid overtime](#) which "takes workers away from a fair day's work for a fair day's pay."

The impacts are especially acute for certain groups of workers. Those on insecure contracts lack the power to resist availability creep. Those with unpaid care responsibilities are likely to experience intensified work/life balance.

'Roster justice'

The right to disconnect provides a solution to these challenges. The Senate select committee on work and care found such a right can provide workers with ["roster justice"](#) by giving more certainty over their working hours.

[Many countries](#) in Europe, Asia, North America and South America have already established laws or regulations limiting employers contacting workers outside work hours.

At least [56 enterprise agreements](#) currently operating in Australia provide a right to disconnect. This includes agreements covering teachers, [police officers](#) and various banks and financial institutions.

[Industrial Relations Minister Tony Burke has indicated](#) the right to disconnect legislation will provide employers with "reasonable grounds" to contact their employees outside work hours. This might include calling employees to see if they can fill a shift.

If enterprise agreements with existing right to disconnect clauses are an indication, the Fair Work Commission will probably be asked to determine what contact outside of work hours is deemed "reasonable." This approach seems sensible given the long tradition of the commission being asked to rule on what's "reasonable" in [other areas of employment](#)

[law](#).

If an employer "unreasonably" expects employees to perform unpaid work outside of normal hours the commission may be empowered to impose a "stop order"—and potentially fines—to prevent the employer from contacting employees outside hours [according to Tony Burke](#).

Unions including those representing teachers and police officers support a right to disconnect. [According to the Police Federation of Australia:](#)

"Not only do the police see that trauma, deal with the families' trauma, deal with their colleagues' trauma, have to investigate, have to go to court, and get media attention but they also have to go home and deal with their families [...] The right to disconnect gives those officers that little bit of breathing space."

[Employment law experts and human resource specialists](#) also believe there is a strong case for such a right given the negative impacts of availability creep on worker well being.

Employer associations are less supportive. The Australian Chamber of Commerce and Industry (ACCI) told a [recent a Senate inquiry](#) a right to disconnect would be "a blunt instrument which will do more harm than good, including for employees." They claim employers will be less accommodating of employee requests for flexible work arrangements during normal work hours if contact outside these hours is no longer allowed.

A banana republic?

According to ACCI chief executive Andrew McKellar, a right to disconnect would be ["the final step in Australia becoming a banana republic"](#).

But it must be remembered that workers effectively had the right to disconnect before the smartphone. Such a protection needs to be explicit now technology has eroded the once-firm boundaries between work and home.

As the nature of work and [employer](#) practices change, it's essential for employment regulations to respond accordingly. Having a right to disconnect to protect workers from employers encroaching upon their free-time is a necessary response.

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