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Introduction
This article examines the causes of workplace disputes and strategies used to resolve them, including two case studies – Sydney Water and Streets Ice Cream – and the ‘interest-based approach’ to workplace relations being promoted by the Fair Work Commission. The fundamental question for employers is how to deal most effectively with workplace disputes and create a culture of mutual cooperation to ensure long term business success.

Causes of workplace disputes
Workplace disputes occur when employers and employees come into conflict or disagreement at work. Workplace or industrial disputes occur when negotiating over wages and working conditions, or when employees are unhappy with the actions of other employees or of the employer.

In Australia, the most common workplace disputes relate to wages/working conditions and managerial policy. Other common causes include employers or employees not acting in accordance with workplace rights and obligations; not having or following established policies or procedures; inconsistency in the way employees are treated; failure to follow the dispute resolution procedure; cultural differences between people at work; and changing workplace practices without consultation.

Disagreement over wages/working conditions is one of the most common causes of workplace disputes, and it’s not hard to see why. Employers aim to maximise profit and minimise costs, but employees want to maximise their wages and working conditions, and so conflict arises.

The other most common cause of workplace disputes relates to the implementation of managerial policy. For example, restructuring of a business might entail loss of jobs and changes to work practices - what work people do, how much they do and how they do it. So again, conflict arises.

Strategies to resolve workplace disputes
In Australia there are several avenues available to businesses in resolving workplace disputes. These include negotiation, mediation, grievance procedures and involvement of courts and tribunals.

Negotiation - a bargaining process during which two parties to a dispute engage in discussions and come to an agreement, often involving compromises on both sides.

Mediation - a process run by a third party, designed to achieve consensus/agreement, with the final responsibility for resolving the dispute resting with the two parties.

Grievance Procedures - formal procedures, written into an Award or Enterprise Agreement, outlining an agreed process used to resolve disputes in the workplace.

Involvement of Courts and Tribunals - in Australia the Fair Work Commission (FWC) is the major tribunal involved in the process of dispute resolution. Other institutions include the Fair Work Ombudsman, the Federal Court and Federal Magistrates Court.

Working conditions include matters such as leave, working hours, rosters, overtime, the physical environment (e.g. lighting, temperature), and the provision of amenities such as toilets and eating areas.

Taking strategic action
During workplace disputes, employers and employees will take strategic action, both industrial and other action,
to enhance their bargaining position and put pressure on the other side in negotiations.

**Industrial action** is action that disrupts the production process, by either employees or employers, over an industrial dispute. Examples of industrial action by employees include work bans, work to rule, go slows, and strikes. Employers might take industrial action such as lockouts.

Other action can be taken by employers/employer associations and employees/unions in a dispute. This includes paying for advertisements on television, newspapers and other media; lobbying politicians; appearing on radio or TV shows; using social media such as Twitter and Facebook; and organising protests, rallies or pickets.

**The Fair Work Act and dispute resolution**

Under the Fair Work Act 2009, all awards and enterprise agreements must outline dispute resolution procedures. The model outlined in the Fair Work Act for Enterprise Agreements (EAs) includes a number of steps (and is similar to the model for Awards). These steps include:

- All parties to the dispute must attempt to resolve the matter at the workplace level through discussions between the employee/s and their relevant supervisors and/or management
- If the matter is not resolved, either party can refer it to the Fair Work Commission
- The Fair Work Commission (FWC) can assist employers and employees resolve workplace disputes through mediation. The FWC might step in to order parties to negotiate or to undergo mediation if they believe that one or more parties are not bargaining in good faith. In exceptional circumstances, the FWC can step in to arbitrate on an industrial dispute over an agreement. *Arbitration* can only be used as a last resort, if the FWC believes that the dispute is harmful to the economy or the welfare of the population or in the case of extended industrial disputes.

The Act allows ‘protected industrial action’ to take place under the following circumstances (although the FWC can intervene to prevent protected action):

- An existing agreement or award has passed its expiry date
- The action is in support of a new EA or in response to action by the other side
- The industrial action does not involve pattern bargaining (demanding the same terms as another EA elsewhere)

- A protected action ballot of employees has endorsed the action
- Required notice has been given to the other party (usually 3 days)
- The bargaining representative organising the action is genuinely trying to reach agreement

**Workplace disputes case study 1**

**Sydney Water and the Australian Services Union**

**Background to the dispute**

Sydney Water is a government owned enterprise, owned by the NSW State Government, run by a Board of Directors. Sydney Water’s services include provision of drinking water, sewage, recycled water and storm water services to residents and businesses in Sydney.

The union representing most employees at Sydney Water is the Australian Services Union (ASU). The union acts on behalf of its members to negotiate wages and working conditions via union officials who are employed by the Union as well as union delegates who are elected representatives of employees at Sydney Water.

Historically, the strategies used to resolve workplace disputes at Sydney Water had been adversarial – involving an ‘us against them’ type of approach between managers and employees/union. Managers were trying to implement change by forcing it through to meet their targets, whilst employees were highly resistant to change.

**Figure 2. Source: www.sydneywater.com.au**

**Causes of the dispute**

In 2012 a new bargaining period began with the end of the old EA and the need to negotiate a new Enterprise Agreement, creating a dispute over wages and working conditions. However, the main cause of this dispute was the loss of 330 jobs over the previous year and the threat of future job cuts.

**Employer’s perspective**

The employer’s perspective was that Sydney Water
needed to make savings of $173 million to meet its obligations to IPART, the Independent Pricing and Regulatory Tribunal, a body set up by the NSW Government to control prices for customers in areas such as water, transport and energy. They also maintained that despite job reductions, there had been a 20% decrease in customer complaints.

**Employees’ perspective**

The employees and ASU were concerned over previous job losses, impacting on workload of remaining employees, as well as the threat of future job cuts. They also argued that the job cuts had diminished service provision to customers, for example with many people waiting hours for sewage overflows to be fixed.

![ASU Australian Services Union](www.asu.asn.au)

**Figure 3. Source:** [www.asu.asn.au](http://www.asu.asn.au)

**Strategies used to resolve the dispute**

The strategies used by both sides to this dispute began along the old adversarial lines. Employees at Sydney Water took protected industrial action in the form of a 4-hour strike and rally at Parramatta Stadium, in response to the managerial policy of cutting 330 jobs and the threat of future job losses.

**Resolution of the dispute - The Switch to Interest Based Bargaining**

The new Managing Director at Sydney Water, Kevin Young, and the ASU National Secretary, Paul Slape, agreed to approach the Fair Work Commission together to ask mediation. FWC Deputy President Anna Booth facilitated discussions between the two parties, encouraging them to use the interest based bargaining approach. Using this approach, the disputing parties focus on common goals and visions for the future instead of areas of disagreement. It is being promoted by the FWC as a way to move toward productive workplace cooperation.

This new approach sparked a significant shift in dispute resolution strategies used by both the employer and the union. They discovered a number of areas of common ground and agreed to replace the traditional adversarial relationship with a new model.

According to Kevin Young, “For the first time we put honest figures on the table; like the benchmarking from the private sector in Victoria that were doing similar work”. Paul Slape stated that “I believed him when, in our discussions, he also said that he wanted to change the way that we did things”.

The 2012 Enterprise Agreement was thus achieved through negotiation and mediation rather than arbitration and was endorsed at a mass meeting of ASU members followed by a formal ballot of all employees. It was approved by the FWC in January 2013.

**Outcomes of the dispute**

The new interest based bargaining approach led to long-term change in workplace culture at Sydney Water. Management and employees have since negotiated a Memorandum of Understanding (MOU) which begins with the words “The parties recognize that, to compete, Sydney Water needs a highly motivated workforce, enabled by systematic trust and fairness”. The latest 2017 Enterprise Agreement was endorsed by over 90% of employees and, according to the company’s Annual Report, was conducted “through a respectful, collaborative approach between the organisation, staff members and the union.”

Other outcomes have included:

- New culture of cooperation and mutual respect
- Managers and employees negotiate rosters together
- Wage rates and working conditions are considered generally good by employees
- Management targets are generally being met
- Enhanced safety records with injury rates falling from over 80 to less than 20 per month
- Improved customer satisfaction
- Significant improvement in productivity
- After tax profit in 2016-17 was$447m, above the company's target of $340m

**Workplace disputes case study 2**

**Streets Ice Cream and the Australian Manufacturing Workers Union**

**Background to the dispute**

Streets Ice Cream is an Australian brand of popular ice creams including Paddle Pops and Cornettos, manufactured in Sydney and sold in Australia and New Zealand. The company was established in 1920 and was taken over by UK/Dutch company Unilever in 1959.
Unilever own several brands of ice cream and other products globally.

The union representing employees at Streets is the Australian Manufacturing Workers Union (AMWU). This union uses a structure involving union officials and union delegates to represent the interests of their members.

**Figure 4. Source:** www.streets.com.au

**Causes of the dispute**

This dispute was caused by disagreements in the Enterprise Bargaining process, particularly regarding management’s desire to change work practices at the factory. The dispute was intensified when the employer applied to the Fair Work Commission (FWC) to terminate the Enterprise Agreement and move their employees on to the Award.

**Employer’s Perspective**

From Unilever’s point of view the Minto factory was not competitive and was their most costly factory worldwide. For example, they calculated that it is 30% cheaper to produce and import Magnum classic ice creams from Europe than to produce them in Australia. The company wanted to work with the AMWU and employees to improve competitiveness, otherwise they might be forced to close the factory.

The company stated that work practices were inflexible and led to overstaffing at times. Restrictions on staffing levels meant that if 1-2 employees were on leave or on a break, an entire production line could not operate; and restrictions regarding casual, fixed term and seasonal staff meant that there were times when the factory was overstaffed and staff could not be allocated to alternative jobs.

In August 2017, after 16 months of negotiations, both parties reached an agreement but when the union put it to a meeting of employees, it was voted down. The company decided to approach the FWC to terminate the EA as a strategy to pressure the employees/union to move forward in negotiations and create flexible practices.

**Employees’ Perspective**

The employees and union were concerned about the effect of changes to employment conditions on their working hours, access to permanent full-time employment and pay levels. They said that they wanted to cooperate with the employer to ensure the success of the factory, but not with the unfair threat of terminating the agreement hanging over them, and claimed that workers would face a pay cut of up to 46% if they were moved on to the safety net Award.

The AMWU took action via social media, encouraging a national boycott of Streets ice creams with the Streets Free Summer campaign. The strategy was designed to raise public awareness and use consumer purchasing power to force the employer to move back to negotiating a new Enterprise Agreement.

**Figure 5. Source:** amwu facebook post

The social media campaign included emails, Facebook announcements and Tweets aimed at union members and supporters, as well as mobilizing activists to post protest messages on Streets Facebook pages and to disrupt online product launches and marketing of Streets. The dispute also hit media headlines as a result of this campaign.

**Resolution and outcomes of the dispute**

Unilever withdrew their application to terminate the EA in responses to public pressure and the union called off the boycott. Negotiation and mediation ensued and by the end of November the dispute was resolved. The EA was approved by the Fair Work Commission in December 2017. The new EA maintains most working conditions and involves compromises on both sides, including the following outcomes:

- A 5% wage increase over 3 years
- Introduction of a new employment category, Flexible Permanent Part Time employees (FPPT), to balance the company’s flexibility needs against the need for employees, whereby FPPT employees could be used to cover for employees taking sick leave, or to cover increased demand during peak production periods
- Increased numbers of non-permanent employees: short term/seasonal (6 months to 1 year), fixed term (1 month to 1 year) and casual (day to day)
- Provisions that fixed term employees are not to be used in an ongoing manner such
that the employee could otherwise be given permanent employment and that use of casual employees should not occur if other forms of employment could be used instead
• Full time permanent employment to be at least 65% of the workforce

Conclusion
Most workplace disputes in Australia are caused by disagreements regarding wages/working conditions and managerial policy, as illustrated by these case studies. Whilst it is true that spending money on paying higher wages and providing improved working conditions will increase costs, it is also true that a well-paid and happy workforce can be more productive and ultimately deliver greater profits to owners and shareholders. Taking an interest-based approach to resolving workplace disputes and creating productive workplace cooperation could be the answer businesses are looking for.

Student activities
1. What is the fundamental question for employers to consider when trying to resolve workplace disputes, according to this article?

2. Create a Mind Map or Word Cloud of the causes of workplace disputes in Australia.

3. Identify and discuss the two most common causes of workplace disputes in Australia.

4. Explain what is meant by working conditions using examples, and explain how improving working conditions can be a cost to businesses.

Literacy Activity –Vocabulary/Concepts
Define each of the following terms in their correct business context:
Industrial action, work ban, work to rule, go slow, strike, lockout, arbitration, bargaining in good faith.

7. Discuss the causes of the industrial dispute between Sydney Water and their employees/ASU with reference to the perspectives of both parties.

8. Discuss the difference between the traditional approach to resolving disputes and the new interest-based approach used by both parties to resolve disputes.

9. Evaluate the effectiveness of the interest-based approach to resolving workplace disputes with reference to the Sydney Water case study.

10. Discuss the causes of the industrial dispute between Streets Ice Cream (Unilever) and their employees/AMWU with reference to the perspectives of both parties.

11. Outline the strategies used by the employer and employees in the Streets Ice Cream dispute.

12. How effective do you think the employer’s strategy of applying to the FWC to terminate the Enterprise Agreement was? Justify your answer with reference to the resolution of the dispute and the outcomes of the dispute.

13. How effective do you think the union/employee Social Media strategy was? Justify your answer with reference to the resolution of the dispute and the outcomes of the dispute.

14. How do you think the use of interest-based bargaining could be used by businesses to improve the outcomes of workplace disputes and ensure long term business success?
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TAKING ACTION ON CLIMATE CHANGE:
How business has responded in an environment of uncertain government policy

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Across Australia, big changes are coming for business. From farmers to large corporations and the finance industry, businesses are starting to act to limit the impact of climate change, stating they can no longer wait for government action.

There are a number of reasons why businesses are choosing to act now. For some industries, such as the agricultural industry, they must act now as they are already experiencing the impact of climate change. Other industries are adapting business plans to account for the impact that climate change might have on their activities in the future. In manufacturing, businesses are adapting by creating ‘green’ products, with products being developed that have more efficient batteries and use sustainably sourced inputs. Even businesses that may consider themselves more removed from the impacts of climate change, such as those in retail, are acting. One key example of this is IKEA, who committed in 2016 to using 100% renewable energy by 2020.

However not all businesses are active in addressing the issue. This is in part due to the challenge of managing the sometimes conflicting goals of maintaining competitiveness and developing a brand reputation of environmental sustainability whilst achieving other business goals of maximising profit and satisfying shareholders. Interestingly many shareholders today are seeking ethical and environmentally responsible shareholdings.

The impact of climate change on business activities
Climate change poses a clear risk to business in a variety of ways including:

1. Operations Risks: Rising temperatures and severe weather events can damage physical infrastructure as well as impact the supply chain by making resources increasingly scarce, and therefore more expensive. A 2017 report by NGO Carbon Disclosure Project found that 62% of supplier companies expected climate-related impacts on their businesses in the next six years.

2. Market Risks: An industry can be transformed through new technologies or government regulation, leaving those who have not adapted at risk of losing their market share. This has been seen in the car industry, with the rise of electric cars.

3. Finance Risks: Businesses seeking loans or insurance may find it more difficult to access these if they have not taken steps to reduce their exposure to climate change risks. Banks and insurance companies are becoming increasingly cautious and are also being scrutinised about the riskiness of investments.

4. Planning Risks: It is challenging to plan in an environment of regulatory uncertainty. Businesses may become reluctant to make investments, if they are unsure about how future government action may affect their business operations or future plans.

5. Brand Risks: A company’s policies towards climate change can have a strong impact on their reputation and how consumers view their brand. This was recently seen with the Commonwealth Bank, who supported the Paris Climate Agreement, but then received backlash after releasing a climate policy statement in 2017 that was seen as limited.

Current environment of government policy
The government’s response to climate change has been inconsistent over the past decade, creating general uncertainty and challenges for businesses when they are planning for the future. This uncertainty has been fuelled by changing policies, such as introducing a...
carbon emission trading scheme in July 2012, only for it then to be removed in July 2013. More recently, the Australian federal government has signalled its interest in addressing climate change, for example through participating in the Paris Climate Agreement. However, in 2017 the International Energy Agency criticised the Australian response arguing that frequent changes in policy and lack of effective measures created uncertainty.

More recently, there has been movement by the government towards implementing a National Energy Guarantee (NEG), which would require businesses to show that the energy they generate meets certain emissions targets, with these targets being reduced each year. This would provide a clear mechanism that businesses could plan for and so help Australia meet its international emission reductions obligations. Whilst it is a positive move that should create more certainty, it has been criticised for setting targets that are too weak.

How different industries have addressed climate change

Agriculture

Farmers in Australia are already experiencing the impact of changes in climate conditions. For many in the agricultural industry, even minor changes in climate can impact both quantity and quality of their output. In fact, a recent study by the CSIRO has shown that changes in climate may have reduced wheat yields by 27% since 1990.

Additionally, more extreme climate conditions such as longer and more frequent drought periods, cyclones and heavier rainfall can lead to poor crop quality and leave livestock and crops more susceptible to disease. In 2017 Cyclone Debbie hit Queensland, causing widespread damage to agriculture. The Queensland Farmers’ Federation estimated that the cyclone caused $100 million worth of damage. This is a significant loss, and these types of events have led farmers to push for change. In a 2016 survey by the NGO Farmers for Climate Action, it was found that 9 out of 10 farmers are concerned about the impact of climate change, and more than 8 in 10 reported that they have already made adjustments to their farming practices.

Farmers are tackling climate change in a range of ways, including changing crops and livestock breeds and reducing their carbon footprint. For example, the CSIRO has worked with cotton farmers in Australia to develop more resilient cotton varieties that use less water, and produce greater yields. Other farmers are looking to new technology such as smart houses, which are similar to large greenhouses that are temperature controlled, to protect their crops from severe weather conditions.

Wine growers have been particularly active in addressing climate change, as the industry faces significant risk. In fact, the Climate Council has found that up to 70% of Australia’s wine-growing regions will be less suitable for growing grapes by 2050. In response to this, wine growers have tried to adapt by moving their crops to cooler climates, growing more resilient grapes, as well as reducing their ecological footprint by reducing carbon emissions.

![Fig.2 Source: www.rosshillwines.com.au](www.rosshillwines.com.au)

Ross Hill Wines

One winery that has been particularly proactive in addressing climate change is Ross Hill Wines, which is located at Orange in NSW. This vineyard became the first winery in Australia to receive a carbon neutral certification by the government. This means that it has net greenhouse gas emissions of zero. It has achieved this by using low energy lights, reducing diesel usage, changing their refrigeration processes and implementing a waste recycling system among other strategies. It took years of planning to achieve the carbon neutral certification, but the company says it has seen significant benefits. In addition to increased efficiency, the business has also seen higher demand for its wines from other businesses that want to show their support for ‘green’ products.

Finance

Within the finance industry, Australia’s big four banks have shown interest in tackling climate change. In the lead up to the Paris Climate Agreement, twelve Australian businesses showed their support for action through signing up to the We Mean Business coalition, including the big four banks. The agreement was signed by companies around the world that committed to activities such as using only renewable energy and improving disclosure of climate change information. The
banks have also agreed to cut their lending to mining, and invest more in renewable energy projects.

Despite the calls for greater reporting, as of December 2017, only 7 of the ASX50 had made disclosures in line with recommendations, and 31 of the 50 did not even mention such disclosures in their reports. Even for the banks that disclosed, NGO Market Forces has argued that although the banks' disclosures were better than most corporations, the detail was still lacking. In fact, the Commonwealth Bank were sued by shareholders over their failure to fully disclose climate change risks in their annual report. The case was eventually dropped, after the CBA made changes to their 2017 annual report.

Tourism

Not all businesses, or industries, have been active in addressing climate change. Whilst some tourism businesses are acting to protect themselves from climate change, the industry as a whole was recently criticised as being the least prepared for climate change. This is surprising since the tourism industry is one of the most ‘at risk’ industries. This was seen recently through the impact of Cyclone Debbie, which hit Queensland in 2017, and caused an estimated $120-$180 million loss to Whitsundays tourism alone. However, some in the industry, such as the head of the Association of Marine Park Tourism Operators, believe that the discussion about the damage to famous icons is more harmful to tourism than climate change itself. This focus on avoiding the challenges, rather than acting to prepare for climate change, leaves many in the industry at risk.

Tourism is a significant industry in Australia, and even minor changes could have significant impacts on business and employment. The Great Barrier Reef alone contributes around $6 billion to the Australian economy, and any loss in tourists to the area would have significant impacts on the Queensland and Australian economies. The extent of this risk was made clear in a 2018 report released by the Climate Council. The Council found that in regard to beach tourism, 17-23% of tourists surveyed stated they would change tourist destinations in beach damage scenarios. If this were to eventuate, the Sunshine Coast in Queensland would suffer around $56 million in losses each year. The size of the tourism industry in Australia is shown below.
Some tourism businesses are taking action. The main steps they are taking are to disclose climate change risks, shift to renewable energy and pressure government for action. One business that has been taking significant steps is Lady Elliot Island.

Lady Elliot Island

Lady Elliot Island has taken significant steps over the past decade to address climate change. It is a leader in the tourism industry for its actions to reduce its reliance on diesel, which was over 500L a day in 2008, and is now only 70L a day. It has achieved this by building a hybrid solar power station, which cost around $1 million to construct and relies on 475 solar panels. This significant investment reflects the company’s commitment to addressing climate change. The company plans to continue this process, with the goal of achieving 100% renewable energy use by 2020.

Conclusion

There have been many positive steps by business to address climate change, with significant strides being made in the agricultural industry – an industry likely to be significantly affected by even minor changes in climate conditions. Beyond agriculture, some companies are making commitments to change their business activities and also pressure the government for action, although more could be done to make a significant impact, particularly as the risks involved in non-action are substantial.

Student activities

1. Outline reasons why so many businesses are avoiding taking steps to address climate change? Use this article plus your own ideas to answer this question.

2. Make a mind map of the impacts that climate change has on business activities, including an example of each.

3. Research the response of IKEA to climate change.
   a. What reasons do they have to act?
   b. What are the strengths of IKEA’s strategies?
   c. Are there any broader benefits to a large company like IKEA acting?

4. Create a scenario to illustrate how a business’s operations can be affected by climate change. Explain why some businesses might be choosing to ignore this potential impact?

5. Richard Branson, the CEO of Virgin, has stated that “We think that one way to look at climate protection is to regard it as a business model, because our only option to stop climate change is for industry to make money from it.” Using the construction industry as a model, discuss the ways in which ways businesses could use climate change to generate profit. (for ideas use http://www.igcc.org.au/wp-content/uploads/2016/04/Property-and-Construction-1.pdf)
Literacy Activity –Vocabulary/Concepts
Define each of the following terms in their correct business context:
Business plan, sustainable sourcing

6. Outline the key changes in government policy regarding climate change.

7. Explain the impacts of uncertainty around government policy on climate change.

8. Discuss the impact the NEG may have on business. Complete the steps below to help develop your ideas.
   a. Research the key features of the plan
   b. Research the responses of groups such as the Business Council of Australia and the Smart Energy Council
   c. Create a table showing the strengths and weaknesses of the plan for business.

9. Outline how agriculture is already experiencing the impacts of climate change.

10. Explain the main strategies being used by farmers to address these impacts.

11. In the Farmers for Climate Action survey, 8 in 10 indicated that they wanted more action from the government on climate change. Suggest a strategy that the government could implement to help farmers address climate change.

12. Explain how the Ross Hill Wines strategy could be applied to other businesses outside of the wine sector.

Literacy Activity –Vocabulary/Concepts
Define each of the following terms in their correct business context:
Emissions trading scheme, regulatory uncertainty

13. Outline the positive steps that the finance industry has taken in addressing climate change.

14. In what ways has the response of the finance industry been limited?

15. Explain why it is important for shareholders that businesses disclose any climate change risks associated with their activities.

16. Explain the risks that the tourism industry faces through not acting to limit the effects of climate change. Refer to data from Fig.5 in your answer.

17. In small groups complete the following
   a. List all the different strategies in the article that businesses are taking to address climate change.
   b. Which do you think is the most useful strategy? Why?
   c. Which do you think will be the least effective strategy? Why?
   d. Consider the needs of the tourism industry, and create an action plan to address climate change, that includes 3 strategies that can be undertaken by businesses of all sizes to address the risks.

Extension:

18. Research other approaches that have been considered by governments in Australia such as a carbon emissions trading scheme and a carbon tax. Outline reasons why they have failed.

19. Research another industry such as insurance, energy or manufacturing. Investigate the potential impacts of climate change on that industry and the steps that are being taken to limit the effects.
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