

AUSTRALIAN FAIR PAY COMMISSION
Workplace Relations Act 1996

MINIMUM WAGES REVIEW 2009

Submission by the Australian Catholic Council for Employment Relations

20 March 2009

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Summary of ACCER's Submission

- These submissions are made in the context of extraordinary economic circumstances arising from the global economic crisis. The crisis requires appropriate policy responses to deal with the underlying causes of the emerging global economic recession: toxic financial assets, falling confidence by consumers and businesses and falling domestic and international demand for goods and services. The current circumstances have not been caused by high or rising wage levels, either in Australia or overseas. Australia is not threatened by a wage-inflation recession of the kind experienced at times in recent decades.
- The AFPC's function in the *Minimum Wages Review 2009* is to set the safety net wages that are paid to about one fifth of the workforce while market forces are operating on the bargained rates of pay that apply to other workers. The solution to the crisis does not require, nor would be assisted by, the reduction of the real value of safety net wages. The maintenance of safety net wages would support demand and economic recovery.
- Low paid workers who depend on the AFPC's wages safety net have no or very limited capacity to absorb real wage cuts. The low paid receive safety net wages designed to meet basic and essential needs. Their wages do not permit discretionary spending and they do not have the capacity to defer spending like other workers. The guiding principle should be the protection of the most vulnerable. A reduction in their real wages would be contrary to that principle.
- ACCER supports the maintenance of the real wages of those workers, mostly low paid, who are only paid the safety net rates of pay prescribed by the AFPC. The wage rates should be adjusted in accordance with the increase in the Consumer Price Index over the four quarters to the March Quarter 2009. This should apply to all the wage rates set by the AFPC. ACCER opposes the discounting of those increases by reason of the proposed tax cuts from July 2009, or by reason of their receipt of benefits from the February economic stimulus package.
- ACCER submits that the Federal Minimum Wage ("FMW") and the wage rates of other low paid classifications, together with transfer payments, are manifestly inadequate to support a family at a decent standard of living. ACCER accepts that the adjustments that are needed to provide an acceptable standard of living cannot be provided by any one wage review case and that the economic impact of each wage decision must be considered. Mindful of the very limited number of workers employed under the FMW and of the current economic circumstances, ACCER proposes a further increase of 19 cents per hour or \$7.22 per week in the FMW.

Introduction

1. This submission is made by the Australian Catholic Council for Employment Relations (“ACCER”) to the Australian Fair Pay Commission (“AFPC”) for its 2009 review of minimum wages. ACCER is an agency of the Australian Catholic Bishops Conference. The Catholic Church is one of Australia’s largest employers. Over 100,000 are employed in health, education, welfare and church administration. ACCER provides advice to the Bishops on employment policies and is a public advocate for policies which are consistent with the principles of Catholic social teaching about work and the employment relationship.
2. ACCER has participated in wage review cases in the Australian Industrial Relations Commission (“AIRC”) and the AFPC for a number of years and has argued that the Federal Minimum Wage (“FMW”) and the wage rates of other low paid classifications, after taking into account income tax and government transfer payments, are manifestly inadequate to support a family at a decent standard of living.
3. ACCER’s public advocacy on behalf of low paid workers and their families has been developed in consultation with Catholic Social Services Australia (“CSSA”). CSSA is the Catholic Church’s peak national body for social services and is an agency of the Australian Catholic Bishops Conference. CSSA represents 64 member organizations which employ over 6,500 people and provide 500 different services to over a million people each year from sites in metropolitan, regional and rural Australia. Clients are drawn from a wide spectrum of Australian society, including low income and unemployed workers and their families. One of CSSA’s objectives is to promote the social inclusion of these marginalised and vulnerable groups. A precondition for social inclusion is a wage which will support workers and their families at an acceptable standard of living.
4. As a major Australian employer, the Catholic Church has considerable expertise in workplace relations. Its commitment to harmonious and productive workplace relations and the welfare of its workers arises from an established body of Catholic social teaching on the nature of work, the fair and just treatment of workers and the

nature and purpose of economic activity. A review of that teaching and its application to the Australian context is contained in ACCER's book, *Workplace Relations: A Catholic Perspective* which was published in 2007. Catholic social teaching is an integral part of the Catholic faith. The nature and extent of that teaching is set out in *Compendium of the Social Doctrine of the Church*, Pontifical Council for Justice and Peace, Libreria Editrice Vaticana, 2004

5. In the unusual economic circumstances in which these submissions are drafted, it is appropriate to make brief reference to aspects of that teaching. On the centenary of Pope Leo XIII's encyclical *Rerum Novarum*, the Australian Catholic Bishops wrote of the need for adequate wages and other entitlements:

“It was his [Pope Leo XIII's] view that human society is built upon and around productive human work. When a person is employed to work full-time for wages, the employer, in strict justice, will pay for an honest day's work a wage sufficient to enable the worker, even if unskilled, to have the benefits of survival, good health, security and modest comfort. The wage must also allow the worker to provide for the future and acquire the personal property needed for the support of a family.” (*A Century of Catholic Social Teaching*)

6. The United States Conference of Catholic Bishops has identified ten principles of Catholic social teaching regarding economic issues and which provide a framework for economic life. These principles of Catholic social teaching are consistent with fair and just workplace relations and prudent economic management. They are:

1. The economy exists for the person, not the person for the economy.
2. All economic life should be shaped by moral principles. Economic choices and institutions must be judged by how they protect or undermine the life and dignity of the human person, support the family, and serve the common good.
3. A fundamental moral measure of any economy is how the poor and vulnerable are faring.
4. All people have a right to life and to secure the basic necessities of life (e.g., food, clothing, shelter, education, health care, a safe environment, and economic security).

5. All people have the right to economic initiative, to productive work, to just wages and benefits, to decent working conditions and to organize and join unions or other associations.
6. All people, to the extent they are able, have a corresponding duty to work, a responsibility to provide for the needs of their families, and an obligation to contribute to the broader society.
7. In economic life, free markets have both clear advantages and limits; government has essential responsibilities and limitations; voluntary groups have irreplaceable roles but cannot substitute for the proper working of the market and the just policies of the state.
8. Society has a moral obligation, including governmental action where necessary, to ensure opportunity, to meet basic human needs, and to pursue justice in economic life.
9. Workers, owners, managers, stockholders and consumers are moral agents in economic life. By our choices, initiative, creativity and investment, we enhance or diminish economic opportunity, community life, and social justice.
10. The global economy has moral dimensions and human consequences. Decisions on investment, trade, aid and development should protect human life and promote human rights, especially for those most in need, wherever they might live on this globe.”

(A Place at the Table: A Catholic Recommitment to Overcome Poverty and to Respect the Dignity of All God’s Children, pages 25 - 26.)

7. Economic crises, such as the one that the world is now experiencing, are typically, and appropriately, viewed in terms of their impact on employment: on the capacity to provide enough jobs to employ the population, their impact on long term employment opportunities and on the kinds of jobs that are needed to support a decent standard of living. In Catholic social teaching, governments are obliged to promote employment opportunities and to ensure wages that provide a decent standard of living. This dual responsibility may prompt debate about the relationship between the two objectives and about the economic impact of changes in minimum wages. However, the relevant principle is clear. It is not morally acceptable to reduce the wages below that required for a decent standard of living

for the purpose of reducing unemployment. As the Catholic Bishops of England and Wales have put it:

“It is not morally acceptable to seek to reduce unemployment by letting wages fall below the level at which employees can sustain a decent standard of living.” (*The Common Good and the Catholic Church’s Social Teaching*, paragraph 97)

8. This passage was particularly addressed to the situation in England and Wales, but it applies to Australia and other advanced economies. (There are many societies in which the level of economic activity cannot support a decent standard of living.) In advanced economies there are various means by which wages can be supported and supplemented by society as a whole.

The economic context

9. The *Minimum Wages Review 2009* will be conducted in extraordinary circumstances. The implications of the global financial crisis and the consequential global economic recession need close consideration. The economic circumstances are not stable and there is uncertainty as to how they and government policies (both in Australia and internationally) may develop over the coming months. There is debate about the way forward, in particular about the combination of monetary, fiscal and regulatory responses.
10. The ability to consider the range of relevant issues is compounded by the AFPC’s timetable: submissions are required by 20 March 2009 in respect of wage rates that are to apply on 1 October 2009, more than six months later, with a decision to be announced in early July 2009. The timetable, which was determined prior to the emergence of the current economic situation, was designed to enable consideration of the Commonwealth’s Budget in May 2009; but significant events may occur between then and October 2009.
11. In these circumstances, ACCER submits that the AFPC should adopt a more flexible timetable so that its decision can be made at a later date, one that permits it

to receive more timely submissions, to have regard to more contemporaneous national monetary and fiscal decisions and policies and to form a more contemporaneous assessment of the prospective economic circumstances.

12. ACCER also believes that a more flexible timetable would enable a fuller opportunity for developing a consensus between the Commonwealth, business and the trade union movement on a targeted package of tax cuts and/or family assistance measures that may impact on the operative date of the AFPC's decision and/or on the quantum of wage increases awarded. ACCER would welcome such a development and urges the AFPC to facilitate discussion on this subject. We believe that this could be achieved consistent with the AFPC's statutory charter. Because the AFPC's jurisdiction will expire on 31 December 2009, when it will be replaced by Fair Work Australia, this process will also need to involve Fair Work Australia and/or the AIRC in the exercise of its transitional role.
13. As with previous submissions to wage cases in the AFPC and the AIRC, ACCER does not present its own economic research, but will respond as appropriate to the material advanced by other parties. In particular, it will give close consideration to the proposals put forward by the major employer organizations, the Australian Council of Trade Unions ("ACTU") and the Commonwealth Government.
14. The economic impact of the global financial crisis has been severe and may be prolonged. The crisis has arisen from toxic financial assets which have affected the supply of credit. Credit shortages have impacted on the capacity of businesses to borrow capital and to trade. The consequential lack of confidence about the future has reduced the demand for goods and services, internationally and domestically. The falling confidence of businesses and consumers confidence has generated widespread fear that the demand for the world's goods and services will continue to fall. The removal or containment of toxic assets is necessary, but not sufficient, for economic recovery. An increase in the availability of credit will not be effective unless there is sufficient present and future demand. The principal economic

instruments for supporting demand and economic recovery are monetary and government fiscal policies, within Australia and throughout the world. Measures to improve the supply of credit and the stimulation of demand through government spending programs are seen as essential to arresting the economic decline.

15. The current economic difficulties are not of Australia's making. They have not resulted from Australian policies and, in particular, have not arisen from problems within the labour market. The current circumstances have not been caused by high or rising wage levels, either in Australia or overseas. Australia is not threatened by a wage-inflation recession of the kind experienced at times in recent decades. The solution to the crisis does not require, nor would be assisted by, the depression of wages throughout the world's trading sectors. The stimulation of consumer demand is central to the solution. The reduction in nominal or real wages, in Australia and in other economies, will not address the core issues and would be likely to cause the further contraction in demand. A general reduction in real wages would detract from governmental policies that promote demand and support economic activity. Confidence in the future is critical and the general maintenance of real wages will facilitate that confidence.
16. The burdens of the response to the economic crisis may be distributed among the population in various ways. The low paid have no or very limited capacity to absorb real wage cuts. The low paid receive safety net wages designed to meet basic and essential needs. They are workers who are living at or near a "hand to mouth" existence. Their wages do not permit discretionary spending and they do not have the capacity to defer spending like other workers. The guiding principle should be the protection of the most vulnerable. The minimum wages that are set for the low paid should not be treated as instruments for macroeconomic goals. There is an obligation on governments and regulators to address the factors, other than wages, that impact on the preparedness and capacity of businesses to employ.

The wage safety net

17. The wages that are set by the AFPC are “safety net” wages that underpin the bargaining processes that are encouraged by the *Workplace Relations Act 1996* (“the Act”). Section 24 of the Act specifically requires the AFPC to have regard to “providing a safety net for the low paid”. It has a continuing statutory obligation to consider the requirements of a safety net wage. (We will return to this aspect when addressing particular issues concerning the setting of the FMW.) The AFPC sets the underpinning rates of pay for about 85% of the Australian workforce.
18. The term *safety net* is not defined in the Act, but, it is submitted, it is one that is commonly understood. A wages safety net provides incomes that are sufficient to meet the basic needs of workers, having regard to general living standards in the community. The basic needs of workers must include the needs of their dependants. A wages safety net has to take into account the tax paid by workers and government transfers paid to them and to their families. Of their nature, safety net wages have little or no capacity for reduction and require the maintenance of their real value in line with price increases.
19. A safety net wage, especially one based on fairness, is a wage that supports a standard of living above poverty. The AFPC addressed this in its inaugural decision in 2006; *Wage-setting Decision and Reasons for Decision – October 2006* (“2006 Decision”). The AFPC accepted that the safety net for the low paid should be fixed by reference to fairness which, it said, embodies the attributes of: “adequacy (ability to enjoy a reasonable or ‘decent’ standard of living); equity (relativity with higher-paid workers); and incentive (gap between in-work and out-of-work disposable income)”; pages 95-96. It said, with apparent approval, that there was general agreement in the submissions put to it that “...minimum wages should, in combination with cash transfers, provide an income ‘well above poverty’”; page 96.
20. In 2006 the AFPC adopted the Henderson Poverty Lines (“HPLs”) as the measure of poverty in relevant households. The HPLs have continued to play a critical role in the AFPC’s decisions. The HPLs have been the AFPC’s only guide to the costs of living for low paid workers and their families. In each of its previous submissions to the AFPC’s wages reviews, ACCER has urged the AFPC to commission research

on the living costs of low paid workers and their families. The Australian Council of Social Services has made similar requests. The requests have been to no avail. In ACCER's view, the HPLs underestimate basic living costs. This is seen, for example, in the estimation of housing costs, to which we will refer. The HPLs are based on research conducted in the 1960s. The proper exercise of the AFPC's statutory obligation to have regard to the setting of a safety net wage for low paid workers requires more than this estimation of the current living costs of those workers and their families.

21. About one in five workers is paid no more than the wages set by the AFPC; about four workers in five are paid wages in excess of the prescribed rates. The wages set by the AFPC may have an indirect effect on some of the bargained wage rates, but largely these higher rates have been market driven.
22. The proportion of workers actually paid the prescribed rates can be expected to rise and fall according to economic conditions. Economic circumstances will affect the number of workers employed on rates above the safety net rates and the margins between the safety net rates and the bargained rates. Subject to their employment agreements and any agreed changes, employers are able to reduce labour costs even when the real value of safety net wages is being maintained. This is important in considering wage costs in times of falling economic activity. It is a matter that has to be taken into account and given substantial weight by the AFPC when assessing the impact of its decisions on overall labour costs, and the overall movement of wages for Australian businesses in periods of rising unemployment.
23. The FMW is the lowest of the minimum wage rates set by the AFPC. It is now \$543.78 per week for a full time worker. The great majority of workers covered by the AFPC are employed in particular work classifications that attract a higher rate of pay. Those classifications are set out in the Australian Pay and Classification Scale which is derived from the classifications and wage rates set out in a range of industrial awards and instruments.
24. In many areas of employment the minimum rate is in excess of the FMW, sometimes substantially so. In the 2005 *Safety Net Review Case* in the AIRC the Australian Chamber of Commerce and Industry submitted that "A proper analysis

of award rates of pay demonstrates the award dependent employees, while they may be lower paid relative to other groups of employees in the community (e.g. those covered by agreements), are unlikely to be receiving rates of pay such as the Federal Minimum Wage in almost all instances.” It said that the Effective Minimum Wage was a more relevant figure, which, on the basis of the range of awards selected by it, was \$34.95 per week more than the then FMW. (Relevant parts of the Australian Chamber of Commerce and Industry’s submissions are set out in Appendix A of ACCER’s 2007 submissions to the AFPC.) Given the money amounts awarded since that time the same differential would apply: ACCI’s Effective Minimum Wage would now be \$578.75 (rounded).

25. The coverage of the FMW was most recently raised in the course of the *Wages and Allowances Review 2008* in which the AIRC applied the AFPC’s 2008 increases to a range of industrial awards coming within its jurisdiction. It was estimated by the ACTU that only about four per cent of workers are employed on the FMW and that workers who are employed on that wage or, in some cases, a similar classification wage, typically or often move to a higher wage rate after a short period of induction or training (Transcript PN375-6 and exhibit ACTU 2 Appendix A, paragraphs 2.15-2.18.).
26. The substantial margin between the FMW and the actual minimum rate in some industries is apparent in the drafting of modern awards currently being undertaken by the AIRC. That function is being performed as part of the transition to a new regulatory system in which wages will be set by Fair Work Australia. To date 17 modern awards have been made and a number of exposure draft awards have been prepared. The wage rates set out in the modern awards that have already been drafted reflect the pay rates that have been set by the AFPC to date. The current FMW rate appears in some modern awards, generally as a transitional or introductory rate, but there are very substantial and significant departures from it. For example:

- In the *Textile, Clothing, Footwear and Associated Industries Award 2010* the weekly rates for the lowest storeworker

classification are \$583.00 (on commencement), \$590.40 (after 3 months) and \$598.00 (after 12 months).

- In the *General Retail Industry Award 2010*, the *Hair and Beauty Industry Award 2010* and the *Fast Food Industry Award 2010* the lowest classification rate is \$600.00 per week.
- In the *Clerks – Private Sector Award 2010* incremental rates apply to the lowest classification: \$580.00 per week in the first year, \$610.00 per week in the second year and \$630 per year in the third and subsequent years.
- In the *Higher Education Industry-General Staff Award 2010* the lowest classification covers cleaners, labourers and trainees. The wage rate is \$30,494.70 per year in the first year of employment, with progressive increases in the second and third years of employment. The third year rate is \$31,494.70 per year. The first and third year rates equate to \$584.87 and \$604.04 per week, respectively (based on 52.14 weeks per year).
- In the exposure draft for the proposed *Cleaning Services Industry Award 2010*, the lowest classification rate is \$582.00 per week.

27. ACCER submits that the proportion of workers who are paid the FMW does not detract from the merit of the argument in support of increases in the FMW. In any event, small percentages represent large numbers of workers: each 1% of the workforce represents over 100,000 workers and their families. Obviously, the more limited the numbers, the more limited will be the economic impact of a wage adjustment. The fact that rates that are considerably in excess of the FMW are so frequently prescribed for unskilled positions is strong evidence of the inadequacy of the FMW. As we have pointed out in the past, when the FMW was introduced by the AIRC in *Safety Net Review Case 1997* it was not set as the result of any review of the actual living needs of low paid workers and their families.

28. The FMW is the lowest of the Australian minimum wage rates. As a result of the wage case decisions handed down in 2008, the FMW has moved to \$543.78 per week, with the comparable minimum rates in the States being \$552.70 (NSW), \$552.00 (Qld), \$557.40 (WA), \$546.65 (SA) and \$546.10 (Tasmania). The unweighted average of the State rates is \$7.19 per week more than the FMW. For the reasons we give later, this margin provides the basis for a modest adjustment to the FMW.

The economic stimulus package and the proposed tax cuts

29. Minimum wage rates should be set by reference to the income taxation paid on those wages and to the government transfers that are paid to workers. We anticipate that some parties may rely on the following to support an argument that real wages need not be maintained:
- (a) the Commonwealth's economic stimulus package of February 2009; and
 - (b) the Commonwealth's proposed tax cuts from 1 July 2009.
30. When considering these matters we should keep in mind the purpose of safety net wages. The safety net wages for low paid workers are based on a minimum acceptable standard of living and are set by reference to basic needs. Their real value needs to be maintained if they are to continue to perform their function.
31. Since the AFPC's decision in July 2008 the Australian Bureau of Statistics has published quarterly reports on price movements over the June, September and December quarters of 2008. A fourth, for the March quarter 2009 will be published prior to the announced date of the AFPC's for the 2009 decision. To date, the Consumer Price Index (weighted average of the eight capital cities) has increased by 2.3%. This included a decrease of 0.3% in the December Quarter. The annual increase is likely to be in the 2% to 3%. Assuming an increase of 2.5%, the maintenance of the real value of the FMW would require an increase of \$13.59 per week; and for a classification rate paying \$700 per week, for example, the increase needed to maintain real value would be \$17.50 per week.

32. We anticipate that some parties will urge the AFPC to reduce wage increases, and justify real wage reductions, on the basis of the benefits received by low paid workers and their families under the Commonwealth's February 2009 economic stimulus package, the *Nation Building and Jobs Plan*. In the Fact Sheet describing part of that package, the *Household Stimulus Package*, published by the Treasurer on 13 February 2009, it was stated:

“Household financial assistance is being provided through immediate tax relief and transfer payments to ensure timely assistance to households to stimulate consumption and support private demand. It is necessary to provide households immediate assistance to kick start stimulatory activity until direct Government investment measures take effect.”

33. There are a number of compelling reasons to reject any claim that the fiscal stimulus package should reduce or delay wage increases. First, the payments to workers and their families will be made in March and April 2009, whereas the AFPC's decision will be operative from October 2009. Second, the clear purpose of the package is that the benefits will be spent as soon as possible and are not intended to be allocated over a protracted period of time, and are unlikely to be. Third, the payments are intended to stimulate and support the economy through increased consumer spending. Any withdrawal of the benefit, by way of reduced wage increases or a delay in the operative date of wage increases, would prejudice that objective. Fourth, workers and their families have had no reason to believe that they should withhold their spending in order to cover real wage reductions after October 2009. Fifth, the discounting of wage increases, or any delay in the operative date of wage increases, on account of the fiscal stimulus package would amount to the conversion of some of the benefits intended for workers and their families into a benefit for employers and would be inconsistent with Parliament's intention in passing the stimulus package. Sixth, the burden of any reduction in wages or a delay in the operative date of wage increases on account of the stimulus package would be discriminatory because it would fall on the minority of workers who are only paid the minimum wage rates and would not fall on the workers covered by collective or individual agreements. (It might be noted that this would be to the advantage of employers who do not pay higher rates to their workers and

would not benefit the employers of the majority of workers who pay higher wages under such agreements.)

34. The proposed tax cuts are the second instalment of a three-year policy put forward by the major parties prior to the 2007 federal election (though there were minor differences between the parties in respect of high income earners). It is unclear at this stage if they will be varied by the Commonwealth in response to the current economic situation and the Commonwealth's fiscal response to it.
35. In the May 2008 Budget the income tax cut for FMW workers and others under \$30,000 per year was \$8.65 per week. It was a relatively smaller tax cut than that received by many higher-paid workers; for example, taxpayers in the range \$35,000 to \$45,000 per year received tax cuts of \$20.19 per week. The proposed tax cuts over the following two years for workers earning less than \$30,000 per year are only \$2.88 (2009/10) and \$2.89 per week (2010/11). Over the three years of the tax cuts, workers on less than \$30,000 per year will receive \$14.42 per week, while, for example, those on \$45,000 will receive a total of \$34.62 per week.
36. The taxation package was not directed at those most in need. It was directed at higher income earners. It could not be regarded as a basis for some kind of wages-taxation trade-off for low paid workers. It was a wealth dividend reflecting the then strength of the Australian economy, a dividend not distributed according to need, or even on a per capita basis. Nothing was said to the electorate which suggested that the tax cuts may be used to reduce wage increases to any worker, let alone low paid workers solely dependent on arbitrated minimum wages. The tax cuts were made available to workers (and other taxpayers) regardless of whether they were solely dependent on the minimum wages set by the AFPC. If the tax cuts were to be taken into account by the AFPC in order to justify a real wage reduction, these workers would be relatively disadvantaged. They would be treated less favourably than the workers in the bargaining sector who will have wage rises and tax cuts.
37. For these reasons, ACCER opposed submissions in the 2008 Minimum Wages Review in support of the discounting of wage increases because of the Commonwealth's tax cuts. The argument applied equally to low paid and higher

paid classifications. ACCER maintains this position in 2009 in relation to the second round of tax cuts.

38. In 2008 the AFPC awarded an across the board increase of \$21.66 per week which cut the real wages of all pay scale reliant workers and thereby reduced the value of the small tax cuts that they received. The increase amounted to 4.15% at the FMW level, slightly less than the 4.2% increase in the Consumer Price Index over the previous four quarters. The loss in the real value of wages and the loss in the benefit of the tax cuts rose inexorably from this point. The loss for a worker on a classification rate paying \$600.00 per week was \$3.54 per week and the loss for a worker on a classification rate paying \$700.00 per week was \$7.44 per week. For these workers and their families they are significant amounts. It should be noted that these losses exceed the tax cuts that have been proposed for this year.
39. In regard to this issue and, especially, the treatment of high income earners, we refer to the decision of the Remuneration Tribunal given on 5 June 2008, the month before the AFPC's 2008 Decision. The Tribunal's determinations cover a wide range of Commonwealth officers and office-holders, including members of the AIRC and the AFPC. Its Statement recorded that the annual increase in the consumer Price Index had been 4.2% and noted that it had been mindful of the Commonwealth's call for pay restraint throughout the community, particularly for high income earners. No mention was made of tax cuts that came into operation on that day. For taxpayers at \$100,000 per year they were \$21.15 per week and rose to \$50.00 per week at incomes of \$150,000 or more per year. The tribunal awarded an increase of 4.3%. This came on top of an increase of 4.2% in July 2007 and an increase of 4.4% in July 2006.
40. The Remuneration Tribunal awarded a total increase of 13.46% over the three year period to July 2008. It is rather more than the increases granted by the AFPC to higher paid classifications. In the same period the AFPC awarded increases of \$49.00 per week to workers on wage rates of \$700 per week. For workers on \$700 per week this has amounted to 7% and for workers on \$800 per week this has amounted to 6.2%. These are very modest rates of pay. These are valid comparisons because both sets of rates are calculated from annual reviews in mid

2005. By comparison, the increase in the published Consumer Price Index over the three year period was 9.97%.

41. Those covered by the Remuneration Tribunal had their tax cuts without prejudice to their pay increases. The inconsistency between the outcome in the Remuneration Tribunal and the AFPC is glaring. We do not disagree with the Tribunal's apparent reasoning in respect of the tax cuts because of the circumstances that we have noted. It is the kind of approach that should have been applied to the workers affected by the AFPC's decisions. It is the approach that should be adopted by the AFPC in this year's Minimum Wages Review in respect to the very modest tax cuts that will be available to low income workers.

The inadequacy of the current safety net

42. ACCER's argument against the discounting of wage increases is reinforced by evidence that demonstrates that the FMW and other low paid classifications are inadequate.
43. In 2008 the AFPC rejected ACCER's claim that the safety net be increased by an amount over and above the increase generally awarded. It found that the FMW enabled a standard of living that provided "...a reasonable margin above poverty for a person earning the lowest adult full time wage in the regulated labour market." (2008 Decision, page 68). ACCER submits that the AFPC should re-consider the reasoning that led to this conclusion. As we submitted earlier, the AFPC has a continuing statutory obligation to satisfy itself that the wages safety net, and the FMW in particular, is sufficient to meet the needs of workers.
44. In order for us to deal with this issue it is necessary to refer to the historical context. In its 2006 Decision the AFPC concluded:

"The income support and family assistance safety net, and its continued improvement over recent years, *allows people with family responsibilities to rely solely on a single wage to support their families.*" (2006 Decision, page 96, emphasis added.)

45. The AFPC returned to this matter in the following year's decision and said:

"It is also worth noting that the original Henderson poverty benchmark for a couple family with one earner and two dependent children was equal to

the combined value of the then basic wage and child endowment. In other words, at that time, a family with one earner on the basic wage had an income equal to the HPL. Continued improvements over many years in the extent and coverage of income transfers *for working families have resulted in families now having disposable incomes well in excess of relevant HPLs.*" (*Wage-Setting Decision No. 3/2007, Reasons for Decision*, page 70, footnote omitted, emphasis added.)

46. These are conclusions that sit well with our argument that minimum wage rates, and the FMW in particular, should be sufficient to provide an acceptable standard of living for workers and their families. But they were erroneous conclusions.
47. The AFPC's assessment of the disposable income of the single breadwinner family of two adults and two children (which is the HPL benchmark family) was based on the inclusion of the unemployment benefit, the Newstart allowance, that would be payable to the second parent if that parent sought paid employment. Of course, a parent who chooses to stay at home to care for the children would not be entitled to that benefit. A safety net wage should take into account income taxation and *relevant* transfer payments.
48. Following ACCER's submissions in 2007 and 2008, a separate calculation in respect of this family was made in Table 4.4 of the 2008 decision. The difference between the two calculations was substantial. In a FMW-dependent household the difference was \$98.96 per week. Rather than this family being 22% above the poverty line (which was calculated on the basis of the unemployment benefit) the family with the stay at home parent was only 8% above the poverty line. By comparison, in the 2006 Decision the margin was found to be 31%. The margin over poverty for all households fell from 2006 to 2008 reflecting the fact that the HPLs are adjusted by reference to changes in the per capita seasonally adjusted household disposable income. For example, in 2008 the single person's margin over poverty as measured by the HPLs was 25%, down from 31% in 2006. These changes demonstrated the loss of the value of minimum wages relative to community wage movements.
49. A margin of 8% above poverty does not justify the earlier-quoted claims made in 2006 and 2007 about the adequacy of the FMW for single income families. It could not be regarded as reasonable, or meeting the kind of criteria identified by the

AFPC in 2006 when it considered the need for the disposable incomes of working families to be substantial above poverty levels as measured by the HPLs.

The single person benchmark

50. In 2008 the AFPC introduced a further measure of poverty based on 60 per cent of median equivalised disposable income. On that measure the single person was 21% above the poverty line and the single income FMW-dependent family was 7% *below* poverty. In referring to both kinds of measures, the AFPC said:

“Of the household types whose disposable incomes the Commission has modelled, a single person without children is the only one whose disposable income does not depend on income transfers. These wage-earners have disposable income that is 25 per cent above the relevant HPL and 21 per cent above a poverty line based on 60 per cent of median equivalised disposable income. In the Commission’s view, *this is a reasonable margin above poverty for a person earning the lowest adult full time wage in the regulated labour market.*” (Page 68, emphasis added.)

51. The AFPC found that the FMW produced a reasonable margin above poverty and one which was appropriate for a person earning the FMW. It was a marked departure from the findings in 2006 that a single wage was enough to support a family. The FMW, which in 2006 was seen as sufficient to provide a family wage, was regarded in 2008 as reasonable for single person without dependents. The test of reasonableness for the setting of the minimum wage was by reference to the single person without dependants. The AFPC adopted the single person test. This was in circumstances where the family’s 8% margin over the poverty line could not be regarded as reasonable. The spread of margins in July 2006 that provided the basis of the AFPC’s conclusion that wages were “well above poverty” has gone. The ACCER claim for an increase in the FMW in order to provide families with a better standard of living failed. By this reasoning it did not matter that the family was only marginally above the poverty line.

Issues of law and principle from the 2008 Decision

52. ACCER submits that the AFPC should not apply certain aspects of its 2008 decision when considering the setting of minimum wages in 2009. They can be divided into matters of law and/or industrial principle and matters of fact.

53. In ACCER's view, the AFPC made a number of errors of law and/or principle by:

- deciding that it should set the FMW on the basis of the needs of a single person without dependants;
- finding that a wage that provides a "reasonable margin" above the *Henderson Poverty Line* for a single person (which margin it found to be 25%) should be the appropriate wage rate "for a person earning the lowest adult full time wage in the regulated market sector";
- failing to set a wage that would permit adequate support for workers with dependants;
- setting wages at a level that would require that the costs of supporting the families of FMW-dependent workers to pass to the Commonwealth, without any commitment from the Commonwealth that it would do so;
- adopting a policy on the setting of the FMW that is not supported by, and is inconsistent with, established principles of wage-setting in Australia and inconsistent with the *Minimum Wage Fixing Convention, 1970*; and
- failing to have proper regard for the anti-discrimination provisions of section 222 of the Act by setting the FMW at a rate, and for reasons, that do not take account of, and are contrary to, the principles of the *Family Responsibilities Convention* and by failing to ensure that its decision does not contain provisions that discriminate because of, or for reasons including, family responsibilities.

54. The International Labour Organisation's *Minimum Wage Fixing Convention, 1970*, has been ratified by Australia. Article 3 of the Convention recognises the interests of workers *and their families* and the relevance of general economic circumstances:

“The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include--

- (a) the needs of workers *and their families*, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;
 - (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.” (Emphasis added)
55. ACCER submits that the adoption of a single person test for the adequacy of minimum wages is discriminatory and contrary to anti-discrimination laws because of its impact on workers with family responsibilities. This is so in regard to single-parent families and to families where one parent works and the other does not seek paid employment in order to care for their children. To have wages fixed by reference to the more limited needs of the single workers without dependants places those who have family responsibilities at a disadvantage and discriminates against them. Anti-discrimination obligations are found in a variety of regulatory schemes and have been instrumental in the development of a range of “family friendly” laws and policies.
56. Anti-discrimination laws and policies might be breached in a variety of ways; for example by rostering and leave provisions. A provision in an award or an industrial agreement that does not enable the flexibility needed for workers to exercise their family responsibilities would be impermissible. More so, if the award or agreement was explicitly predicated on the workers being single and without dependants and not having family responsibilities. A wages policy that is predicated on the needs of the single person without dependants cannot be consistent with the protection of workers with family responsibilities.

Evidentiary issues in 2008 decision re-visited

57. There are three evidentiary issues that arose in the 2008 Minimum Wages Review that need to be addressed in the present review:
- (a) the housing costs included in the HPLs;
 - (b) the absence of child care costs in the HPLs; and
 - (c) the appropriateness of the HPL equivalence scales.

Housing costs

58. Housing costs have been separately included in the HPLs since their inception. Each quarterly update contains estimates of housing costs for each household unit. Housing costs in the HPLs are adjusted in the same way as other costs. Their proportion of total costs remains constant over time. Housing costs for the single person are 32.7%, for a family of four, 22.6% and for a single parent with one child, 28%. These proportions were set more than a generation ago. In 2008 ACCER emphasized the substantial divergence between the HPL estimates of housing costs and the levels of housing costs that had given rise to housing stress and the housing crisis. Housing costs are a matter of great relevance, especially given the statutory requirement for the setting of safety net wages, and the FMW in particular, for low paid workers.
59. Various parties raised the issue of housing costs in their submissions to the Minimum Wages Review 2008 and referred to what are commonly known as “the housing crisis” and “housing stress”. The difficulties are confronted by home owners and renters. Low income families are more likely to be renters.
60. The HPLs in Table 4.4 of the 2008 Decision are those estimated for the December Quarter 2007. The housing costs for a single person were \$122.34, for the couple with two children, \$158.78 and for a single parent with one child, \$146.58; *Poverty Lines: Australia ISSN 1448-0530 December Quarter 2007*, page 1. We note that the use of the unrealistic figure of \$122.34 for the single person demonstrates that the single person would be unable to achieve the reasonable standard of living identified by the AFPC at page 68 of the 2008 Decision. The most recent HPLs are for the September Quarter 2008. In the September Quarter 2008 the housing costs

for a single person were \$130.25, for the couple with two children, \$167.70 and for a single parent with one child, \$142.09; *Poverty Lines: Australia ISSN 1448-0530 September Quarter 2008*, page 1.

61. The HPL housing costs are unrealistic figures and should not be acted on. This can be seen from, for example, a survey by Australia Property Monitors (*Quarterly APM Rental Series-June*) which showed that in June 2008 (at about the time of the 2008 Decision) the median weekly asking rents capital city houses were: Melbourne, \$350; Sydney, \$420; Brisbane \$350; Perth \$350, Hobart \$285 and Adelaide, \$290. At the same time median weekly asking rents for units were: Melbourne, \$310; Sydney, \$400; Brisbane \$300; Perth \$350, Hobart \$235 and Adelaide, \$240.
62. The importance of scrutinizing the HPL estimates of housing costs is obvious from the 2008 figures. In the case of the family of four, the margin above poverty is only \$55.58 per week above the HPL, based on the unrealistic housing estimate of \$158.78 per week. If the real cost of the family's housing was \$215 per week or more, they would have been living in poverty.
63. The AFPC responded to the submissions of various parties about the "housing crisis" and, in the context of discussing rising costs and "financial stress", advised:

"In order to improve its understanding of the living standards and financial pressures facing low-paid workers, the Commission has contracted external research into the household incomes, assets and consumption patterns of low-paid employees. This research, which is due to be completed in the latter half of 2008, will also analyse longitudinal data to determine the extent to which low-paid households face persistently low living standards over time." (2008 Decision, page 64)
64. We are not aware of any research having become available in regard to housing costs. If that work is not forthcoming we urge the AFPC to commission research on the costs of housing so that it will be available. We note that this research does not have to be prolonged or expensive in order to provide more reliable, even conservative, figures. ACCER submits that the HPL estimates of housing costs underestimate real housing costs for low paid workers and their families and their continued use would be unjustified and prejudicial and would be inconsistent with the AFPC's statutory obligation.

65. There is a further significant consequence of the adoption of the housing costs in the HPLs. The use of the housing costs in the HPLs is inconsistent with the inclusion of the maximum amount of rental assistance in the calculation of disposable incomes.
66. Rental assistance to low income earners is paid in various ways. At March 2009 the family of four, for example, would not be eligible for rental assistance if its weekly rent is less than \$95.41. It would receive the maximum amount of rental assistance if its weekly rent is more than \$181.65. The maximum amount of rental assistance for this family is \$64.68 per week. The amount is paid on a sliding scale over that rental range. The rate of rental assistance is \$3.00 for every \$4.00 over the range. *A family paying the HPL estimate of rent does not qualify for maximum rental assistance.* Using the latest HPL estimate of housing costs for the benchmark family of four, \$167.70 per week, the rental assistance payable is \$54.29, \$10.43 less than the maximum. This is a substantial amount. The use of it and the HPL estimate would be erroneous. If the maximum rental assistance is to be used housing costs should be regarded as no less than \$181.65 per week (a figure which still does not represent the true costs of housing). The use of that figure would have a significant impact on the family's estimated margin over poverty. The correction of this inconsistency would, of itself, justify the further increase that we seek in the FMW.

Child care costs

67. The AFPC's calculations in 2008 showed that single parent households, with one or two children, have higher disposable incomes than *all other* households. This reflects earlier figures in 2006 and 2007. It is inconsistent with our experience. ACCER has submitted to the AFPC that these estimates cannot be correct and has urged the AFPC (in 2007 and 2008) to have research undertaken on this issue, but nothing has been done. The figures given suggest that these single parents are living relatively comfortable lives. We are concerned that the treatment of single parents in Table 4.4 will mislead people and even risk good policy-making.

68. The fundamental point is that the HPLs do not include child care costs. ACCER made the point in its 2008 submissions. The AFPC acknowledged this submission, at page 65, but did not deal with it. Child care costs are not included in the costs of the benchmark HPL family, from which the single parent HPLs are calculated, because child care is provided by the one of the parents. No addition is made in the HPLs for the child care costs of single parents. Child care costs can be incurred for all day care and for before and after school care. The costs of before and after school care (“B/ASC”) were considered in *Before and/or after school care*, a publication of the Australian Bureau of Statistics in August 2007. It included:

“In 2005, the average weekly cost of B/ASC (after the Child Care Benefit was taken into account) was \$26. This ranged from \$9 for school children using B/ASC for one weekday, to \$41 for those using B/ASC five weekdays per week.” (Australian Bureau of Statistics *Australian Social Trends 2007, Before and/or after school care*, 4102.0 0

69. ACCER submits that the absence of any consideration of child care costs means that Table 4.4 in the 2008 Decision presents an erroneous assessment of the living costs of single parent families and their standard of living. As is apparent from the previous quotation, child care costs can be substantial, not only for single parents, but for other parents, such as those who take up part time employment.
70. The error in respect of child care is compounded when one considers that the HPL housing costs are inadequate assessments of the actual costs, as we have explained. Table 4.4 had the single parent with two children 40%, or \$176.93 per week above the poverty line. The estimated housing costs for a single parent and two children were only \$146.58 at the December Quarter 2007 *Poverty Lines: Australia ISSN 1448-0530 December Quarter 2007*, page 1. Assuming, conservatively, that the true housing costs were \$225 per week, the dollar margin falls to \$100.51. Another conservative estimate is \$40.00 per week for child care costs, averaged over the whole year, term times and holidays. With these two adjustments the figure falls to \$60.51, which is a margin of 10.4% above poverty, not the 40% calculated in Table 4.4.

71. There is another concern arising from the use of erroneous conclusions in regard to single parent families. On their face, the figures in Table 4.4 might suggest that FMW represented an averaging process. Observers unfamiliar with the issues may take the view that the safety net FMW has been determined by some averaging process, in recognition that its receipt will have different impacts on the range of relevant households. Of course, the AFPC did not approach the matter in this way, nor did it have, to our knowledge, any material that could have provided a basis for some weighted average across the various households. ACCER would oppose such an arithmetical approach. However, even if it were to be used it could only occur on the basis of a proper assessment of the financial circumstances of the relevant households.

HPL and OECD equivalence scales

72. In 2008 ACCER argued that the equivalence scales used in the HPLs are inappropriate and that the equivalence scales used by the OECD (and adopted by the Australian Bureau of Statistics) are preferable. Relative to the OECD scales, the HPLs underestimate the costs of families compared with the costs of single persons. The AFPC used the HPL equivalence scales in Table 4.4, but used the OECD scales in Table 4.5.
73. The use of the OECD figures rather than the HPL equivalents in Table 4.4 would show that the family is worse off relative to the single person than it presently appears. This can be illustrated by reference to the single person benchmark with a disposable income of \$467.70 per week and a 25% margin above the HPL. This is the standard, or reference point, that the AFPC has set in the setting of a wage “for a person earning the lowest adult full time wage in the regulated labour market”. That being so, we can use this money amount to calculate the impact of that wage on other households in the light of the more widely accepted OECD equivalence scales. As a result, the benchmark single breadwinner family of four would be *3.5% below poverty*, not 8% above poverty as shown in Table 4.4.
74. These are important matters, which show that the position of the families is much worse than Table 4.4 would suggest. They demonstrate that the FMW is not a wage

that “allows people with family responsibilities to rely solely on a single wage to support their families” as the AFPC concluded was the case in 2006.

Families and pensioners compared

75. In this context we draw attention to the recent debate about pension rates and, in particular, the pensions paid to single pensioners. In *Poverty Lines: Australia ISSN 1448-0530 March Quarter 2008* (at page 4) published by the Melbourne Institute, the disposable income of a pensioner couple was \$498.80 per week, with a HPL of \$434.25. The couple was 14.9% above their HPL, compared to 8% for the benchmark family as calculated by the AFPC. For a single pensioner, the disposable income was \$321.55 per week, with a HPL of \$306.57. This was an income 4.9% above the relevant HPL.
76. There is a consensus that you cannot live a decent life on the single pension. In 2008 an immediate increase of \$30.00 per week was proposed by many and supported by the Australian Senate. If this increase had been in effect at March 2008 the single pensioner's margin over the poverty line would have been 14.7%, substantially more than the margin for the benchmark family. While there are a number of issues to be considered in making comparisons between pensioners and low-income working families (eg between those who have made their contributions to society and those who are still doing so), it is submitted that, at the least, the wages system should not leave low-income working families worse off than these groups. The Senate's Bill to give effect to this proposal was treated as unconstitutional by the House of Representatives, but the Commonwealth Government has indicated that it will address the single pensioner rate in the 2009 Budget.

Summary of submissions

77. These submissions are made in the context of extraordinary economic circumstances arising from the global economic crisis. The crisis requires appropriate policy responses to deal with the underlying causes of the emerging global economic recession: toxic financial assets, falling confidence by consumers

and businesses and falling domestic and international demand for goods and services. The current circumstances have not been caused by high or rising wage levels, either in Australia or overseas. Australia is not threatened by a wage-inflation recession of the kind experienced at times in recent decades.

78. The AFPC's function in the *Minimum Wages Review 2009* is to set the safety net wages that are paid to about one fifth of the workforce while market forces are operating on the bargained rates of pay that apply to other workers. The solution to the crisis does not require, nor would be assisted by, the reduction of the real value of safety net wages. The maintenance of safety net wages would support demand and economic recovery.
79. Low paid workers who depend on the AFPC's wages safety net have no or very limited capacity to absorb real wage cuts. The low paid receive safety net wages designed to meet basic and essential needs. Their wages do not permit discretionary spending and they do not have the capacity to defer spending like other workers. The guiding principle should be the protection of the most vulnerable. A reduction in their real wages would be contrary to that principle.
80. ACCER supports the maintenance of the real wages of those workers, mostly low paid, who are only paid the safety net rates of pay prescribed by the AFPC. The wage rates should be adjusted in accordance with the increase in the Consumer Price Index over the four quarters to the March Quarter 2009. This should apply to all the wage rates set by the AFPC. For the reasons set out earlier, ACCER opposes the discounting of those increases by reason of the proposed tax cuts from July 2009, or by reason of their receipt of benefits from the February economic stimulus package.
81. ACCER submits that the FMW and the wage rates of other low paid classifications, together with transfer payments, are manifestly inadequate to support a family at a decent standard of living. As explained earlier, the lowest classification rates in major areas of employment are substantially higher than the FMW and the State minima, the unweighted average of which is \$7.19 per week. The material demonstrates that the lowest minimum wage rates in the States also fail to provide a minimum acceptable standard of living. ACCER accepts that the adjustments that

are needed to provide an acceptable standard of living cannot be provided by any one wage review case and that the economic impact of each wage decision must be considered. The attainment of a decent standard of living has to be achieved by incremental increases. Mindful of the very limited number of workers employed under the FMW and of the current economic circumstances, ACCER proposes a further increase of 19 cents per hour or \$7.22 per week in the FMW.