



WRITTEN SUBMISSION
to the
AUSTRALIAN INDUSTRIAL
RELATIONS COMMISSION
SAFETY NET REVIEW -
WAGES - 2001/2002

(Case numbers: 4617, 5719, 5720, 5721, 5722, 5803,
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INTRODUCTION

As in previous years, the Australian Catholic Commission for Employment Relations [ACCER] makes this submission on behalf of Catholic Church organisations engaged in the health, education, welfare and community sectors and diocesan and parish administration.

The application by the Australian Council of Trade Unions [ACTU], on behalf of all member Unions, seeks a \$25 per week increase in all award rates of pay. The ACTU is also making an application for a commensurate increase in allowances. If the application is granted, the Federal Minimum Wage will be increased to \$428.40 per week.

As in previous submissions before the Australian Industrial Relations Commission [AIRC], the principles of Catholic Social Teaching form the basis of the ACCER submission. The achievement of a *just* wage for all employees is considered to be the moral responsibility of the employer. The *indirect* employer, or the *State*, is morally obliged to ensure that employers meet this responsibility. In 1993 the Bishops' Committee for Industrial Affairs stated that "*in circumstances of exploitation and coercion, the indirect employer must provide opportunities for the just settlement of disputes. They*

*may also think it wise to set down a code of minimum standards of wages and conditions based on respect for the dignity of each human person engaged in the workplace and the consignment of the needs of the worker and his or her dependents.”*¹

In this regard, the ACCER submission emphasises the continuing necessity of a system of *just* wages for low paid employees throughout the community. It is contended that the award system, as the safety net of minimum terms and conditions of employment, should provide not only a *just* wage, but should be maintained in such a manner that employees are not significantly disadvantaged relative to other employees on enterprise agreements simply because they are paid under an award.

Fundamentally, the submission of the ACCER is that the AIRC should consider the position of the low paid as the overriding factor in its determination of the application before it.

The ACCER supports the continued use of *flat dollar* increases to adjust the rates of pay within the award system. Flat dollar increases maintain just and fair minimum standards of conditions of employment and provide primary assistance to the low paid. That is, relativities between award classifications

¹ Bishops' Committee for Industrial Affairs, *Industrial Relations - The Guiding Principles*, 1983, page 5.

should not be maintained as absolutes at the expense of providing a fair wage increase to the low paid.

In this context, the decision of the Full Bench should seek to allocate a greater quantum of increase to those at the lower end of the award pay scale, even though this may have some consequential impact on the relativities between classifications within each award. To achieve this outcome, the ACCER suggests that a “tiered scale” of flat dollar increases might be awarded to adjust the safety net. However, the greater increase should be awarded to the lower end of award rates of pay, particularly to those employees who are paid below the tradesperson or C10 rate of pay.

Part A

ASSESSMENT OF THE ACTU APPLICATION

The application made by the ACTU, on behalf of all member Unions, is for a \$25 per week increase in all award rates with a commensurate increase in award allowances. The ACTU contends that this will “*deliver a significant wage increase to low paid award workers within the bounds of economic responsibility and sustainability.*”² Further, the written submission of the ACTU considers the economic conditions in which the application is being made, concluding that the contribution to aggregate wages growth as a result of its claim will have “*a limited effect on economic activity, inflation, employment levels and productivity.*”³

In response to the application made by the ACTU, the Australian Chamber of Commerce and Industry [ACCI] has indicated that it intends to rebut the application. In a media release dated 8th February 2002, ACCI stated:

“the ACTU claim is at odds with the enterprise focus that is necessary in our industrial relations system if we are to grow and

² ACTU Living Wage Case Written Submission, 8 February 2002, para. 1.3.

³ ACTU Living Wage Case Written Submission, 8 February 2002, page 111.

retain jobs. The ACTU claim is not for productivity negotiated wage increases. It is not for wage increases to be paid across all industries, thus it seeks to drive wage increases at a centralised level, not an enterprise level.”

The Federal Government, according to current media reports, will “*tell the safety net pay case that the ACTU’s push for a \$25-a-week increase to minimum wages for 1.7 million workers would cost 37,000 jobs over the next few years by making the low paid too expensive to employ.*”⁴

It is anticipated in these media reports that the Federal Government will argue for a \$10-a-week increase and that “*low-income workers will be offered smaller pay rises in future as a trade-off for larger tax and welfare handouts*”.⁵

The ACCER is not in a position to assess the relative merits of the economic arguments to be put to the AIRC by the various parties in this case. Accordingly, the ACCER does not purport to identify or suggest an amount for the Federal Minimum Wage or subsequent adjustments to the award system. Rather, it seeks to address the social and moral principles that need to be considered by the Full Bench in reaching its decision.

⁴ G. Megalogenis, “Abbott turns to tax credits” *The Australian*, 1 March 2002, page 1.

⁵ *Ibid.*, page 1.

In essence, the ACCER submits that adjustments made to the award system should be *fair* and *just*. Since 1891 the Catholic Church has consistently affirmed the dignity of labour and the right of the worker to earn a *just* wage. The payment for a just wage is not only important in maintaining the dignity of the individual person, but also in maintaining a *just* socio-economic system.

Pope John Paul II, in *Laborem Exercens* states:

“It should be noted that the justice of a socio-economic system and, in each case, its just functioning, deserve in the final analysis to be evaluated in the way in which man’s work is properly remunerated in the system.... In every system, ... wages, that is to say remuneration for work, are still a practical means whereby the vast majority of people can have access to those goods which are intended for common use.... Hence, in every case, a just wage is the concrete means of verifying the justice of the whole socio-economic systems and, in any case, of checking that it is functioning justly.”⁶

In this context, a *just* wage is considered to be a level of remuneration that allows an employee to support him or herself, and their family, in dignity. In

⁶ Pope John Paul II, *Laborem Exercens*, Homebush, St Paul Publications, 1981, para. 9.

other words a just wage allows an employee “*to receive what will enable him housed, clothed and secure to live his life without hardship.*”⁷

A *just* wage is therefore intricately connected to the achievement of an “adequate” or “reasonable” standard of living. Social justice requires that all people within a society should achieve a reasonable or adequate standard of living.

However, within the concept of an adequate standard of living is the complex problem relating to the unique living conditions, family and social responsibilities of individual workers. A uniform minimum wage does not necessarily confer a uniform standard of living for all workers. Despite this complexity the living standards of the low paid should not stagnate or fall behind the rest of society. It is to be noted that the Australian Bureau of Statistics “Survey of Employee Earnings and Hours”, conducted in May 2000, indicates that the average weekly earnings of employees paid by award only was the lowest average weekly wage identified.⁸

⁷ Pope Leo XIII, *Rerum Novarum*, Homebush, St Paul Publications, 1891, para. 51.

⁸ Other average weekly wages identified included “Registered Collective Agreements,” “Unregistered Collective Agreements,” “Registered Individual Agreements,” and “unregistered Individual Agreements.”

In this respect, assumptions may need to be made about the living conditions, family and social responsibilities of a “typical” person. In its Safety Net decision of 1999 the AIRC stated:

“Considering the needs of the low paid requires the exercise of judgment as to varying income levels and the resultant living standards attained in the Australia community.”⁹

Further, identifying an “adequate” or “reasonable” standard of living should not consider financial aspects alone. The ability of a person to fully participate within the community and to undertake leisure activities also contributes to an adequate or reasonable standard of living.

The AIRC has been charged with the responsibility of establishing and maintaining the award safety net as the minimum terms and conditions of employment.¹⁰ In adjusting the award safety net the AIRC is required to take into consideration the need to provide fair minimum standards for employees in the context of living standards in Australia¹¹ and the needs of the low paid.¹² In addition, the statutory framework requires the AIRC to have regard to such economic factors as levels of productivity and inflation.

⁹ *Safety Net Review - Wages - April 1999*, AIRC, Print R1999, (29 April, 1999) page 213.

¹⁰ *Workplace Relations Act 1996* (Cth) s. 88B.

¹¹ *Workplace Relations Act 1996* (Cth) s. 88B(1)(a).

¹² *Workplace Relations Act 1996* (Cth) s. 88B(1)(c).

The ACCER contends that such factors should not override the primary concern of meeting the needs of the low paid. In 1961, Pope John XXIII wrote:

“if the organisation and structure of economic life be such that the human dignity of workers is compromised, or their sense of responsibility weakened, or their freedom of action removed, then we judge such an economic order to be unjust, even though it produces a vast amount of goods, whose distribution conforms to the norms of justice and equity.”¹³

Therefore, the needs of the low paid should be the primary concern of the AIRC when adjusting the safety net. Low paid workers are in a position of disadvantage in society, with restricted opportunities for earnings growth and career advancement.

In assisting the low paid the ACCER contends that flat dollar increases, rather than percentage increases, should be awarded. Such increases provide the greatest assistance to the low paid.

As in its 2001 written submission, the ACCER suggests that a tiered scale of flat dollar increases be awarded to adjust the safety net. Such adjustments

should assist the low paid while providing a suitable adjustment for all rates of pay for the award system. This enables internal relativities within an award to be maintained with minor compression.

In 2001, the AIRC awarded a tiered scale of:

- a \$13 per week increase in award rates up to and including \$490 per week; and
- a \$15 per week increase in award rates above \$490 per week up to and including \$590 per week; and
- a \$17 per week increase in award rates above \$590 per week.¹⁴

The AIRC indicated that the effect of this increase was to avoid further compression of the relativities between job classifications.¹⁵ While the ACCER recognises that the internal relativities within an award are an important feature of the award system in ensuring that wage rates remain valid in terms of skill differential, the maintenance of such relativities should not occur at the expense of the low paid.

¹³ Pope John XXII, *Mater et Magistra*, 1961, para. 20.

¹⁴ *Safety Net Review - Wages - May 2001*, AIRC, PROO2001, (2 May 2001), page 46 & 47.

Therefore, the ACCER would suggest that a tiered scale, which provides the greatest dollar amount to the lower paid, may be appropriate in the current case. Such flat dollar increases will result in compression of relativities; however, these will be only minor and may be managed through the insertion of the tiers at appropriate points in the classification scale (Refer to Appendix 1).

In last year's decision on adjusting the safety net the AIRC took into account the growth in wages and salaries contained in certified agreements. The ACCER suggests that, again, this should be taken into consideration in any decision made by the Full Bench in this case for the adjustment of the current safety net rates.

Finally, the ACCER submits that all employees engaged under the terms and conditions of the award system should receive an increase in their wage. In previous years some parties have submitted that the legislative framework provided by the Act compels the conclusion that employees on higher award classification rates should generally not be eligible for award safety net increases. In the past the AIRC has rejected this submission on the basis that the legislative scheme does in fact enable employees on higher classification rates to be eligible for award safety net increases.¹⁶

¹⁵ *Safety Net Review - Wages - May 2001*, AIRC, PROO2001, (2 May 2001), page 46.

¹⁶ *Safety Net Review - Wages - May 2001*, AIRC, PROO2001, (2 May 2001), page 44.

The ACCER would urge the AIRC to reaffirm their rejection of such a submission if made again. As pointed out in the Safety Net Review decision of 2000/2001, section 88A(b) of the Act provides that it is an object of Part VI to ensure that awards act as a safety net of minimum terms and conditions of employment. In addition, section 88B(2) of the Act provides that in performing its functions the AIRC must ensure that a safety net of fair minimum wages and conditions of employment are maintained. While the Act also places an obligation on the AIRC to have regard to the needs of the low paid when adjusting the safety net, it is not considered appropriate for the latter obligation to displace the former. Further, the Act utilises the plural term “wages” which the AIRC has previously concluded that it cannot ignore.¹⁷

Moreover, the operation of the no-disadvantage test as a means of ensuring fairness in certified agreements is reliant upon the terms and conditions of awards. The stagnation of the award system will therefore have an ancillary effect on the terms and conditions of employment contained in certified agreements. In this respect, it would be incongruous for the AIRC to allow award wages to fall behind those provided in certified agreements to such a degree as to skewer the basis of the no-disadvantage test to an unrealistically low minimum.

¹⁷ *Workplace Relations Act 1996 (Cth)* s. 88B.

The ACCER does not accept the argument of the ACCI that the application of the ACTU is at odds with the enterprise focus of the Act, which it views as a perceived necessity in the Australian industrial relation system. In promoting the right to a just wage Catholic Social Teaching requires the *indirect* employer or the State to set down a code of minimum standards of wages and conditions of employment based on the respect for the dignity of the person.¹⁸ This is intended to safeguard wages from dropping below such a level that it becomes impossible for an employee to sustain an adequate standard of living. Given this, the code of minimum wages will require regular review to ensure that they continue to provide that safeguard.

Further, the focus on enterprise bargaining is considered by the ACCER to be only one method of determining the wages and conditions of employment for employees. Many factors, such as the inequality of bargaining power between employers and employees and the industry in which work is undertaken, may affect either the ability of the employer or employees to bargain effectively. People with little or no bargaining power within the labour market are often being paid a low level of wages. Such people do not have necessarily the ability or skills to bargain for higher wages directly with their employers, and rely on the award system to determine their rates of pay. Therefore, it is an imperative that award rates of pay provide a fair and just system of wages and conditions of employment.

¹⁸ Bishops' Committee for Industrial Affairs, *Industrial Relations - The Guiding Principles*, (1993), page 5.

Furthermore, economic conditions and the labour market may result in changes in the demand for different skills from employees. Such changes may have a greater negative impact on those employees who are paid a minimal amount, as their skill level is generally low and retraining and reskilling is not always available to them. Therefore, enterprise bargaining should not be considered to be the only form of establishing wages and conditions of employment for every group of employees and employers in every industry or occupation sector.

Part B**THE WAGE FIXING PRINCIPLES AND THE NEEDS OF
THE LOW PAID**

The legislative framework has remained relatively unchanged over the past six years. It is acknowledged by all parties that the Act provides the legislative framework for the maintenance of an effective award safety net of fair and enforceable minimum wages and conditions of employment. Consistent with this principle the Act requires the AIRC to ensure that a safety net of fair minimum wages are established and maintained. Furthermore, the AIRC must have regard to the needs of the low paid when adjusting the award safety net. However, the AIRC must also give regard to the need to provide fair and minimum standards in the context of living standards generally prevailing in the Australian community and economic factors, including levels of productivity and inflation.¹⁹

The establishment of a *living wage* or a *just wage* should be considered to be one of the fundamental principles of any industrial relations system. Such a wage assists in ensuring that the dignity of the individual is maintained.

¹⁹ *Workplace Relations Act 1996* (Cth) section 88B(2)

Given that the principle underpinning the provision of a Federal Minimum Wage is the protection of the low paid, consideration is required as to whether this principle is being met or can ever be met by the current industrial relations framework.

Until an analysis is undertaken of the impact of the Living Wage Case decisions upon the low paid, the true extent of the efficacy of these cases will not be known. In the absence of such analysis, it is not known if the framework is tackling the real needs of these workers. It may be that monetary adjustments alone do not assist in breaking the cycle of low wages and that more comprehensive measures to improve the skill attributes of such workers are needed to redress the nexus of low skills and low wages. Pertinent to this, the Bishops' Committee for Industrial Affairs stated in 1993 that:

“There is a particular need to protect the well-being of those in the working community whose educational qualifications and level of skills place them in a vulnerable position. Care should be taken to ensure that they receive appropriate protection and are given ... opportunities to improve their prospects, ... through access to education and training during their working life.”²⁰

In saying this, the ACCER is not critical of the AIRC in its deliberations upon these matters. Indeed, to give effect to these requirements, the AIRC in its April 1997 decision²¹ established a *Federal Minimum Wage*, which is the minimum wage for full time adult employees covered by federal awards. Furthermore to this point, the ACCER notes the statement of the Full Bench in 1997:

*“the needs of the low paid award wage-earners, however, cannot be met solely by the Commission’s establishing and maintaining a safety net of fair minimum wages and conditions. There are many factors apart from wages which determine the living standards of such employees. They include private circumstances, the level of assistance provided by income support programmes, the taxation system and other government social initiatives.”*²²

However, it is not considered to be appropriate for the welfare system to be used as a means of substitution for the payment of a just wage. That responsibility is the *moral* obligation of the employer.

Pope John Paul II touched on the real dilemma for low paid and low skilled workers when he wrote:

²⁰ Bishops’ Committee for Industrial Affairs, *Industrial Relations - The Guiding Principles*, (1983), page 5.

²¹ *Safety Net Review - Wages - April 1997*, AIRC, Print P1997 (22 April, 1997).

“Furthermore, society and the State must ensure wage levels adequate for the maintenance of the worker and his family, including a certain amount for savings. This requires a continuous effort to improve workers’ training and capability so that their work will be more skilled and productive.”²³

One answer to the needs of the low paid under the current skill-based classification structure is to be able to access higher skilled work. This is not possible though if the worker is not able to obtain such skills in their current roles.

²² *Safety Net Review - Wages - April 1997*, AIRC, Print P1997, (22 April, 1997), page 56.

²³ Pope John Paul II *Centesimus Annus*, Homebush, St Paul Publications, 1991, para 15.

Part C**STATEMENT OF PRINCIPLES**

The ACTU seeks to modify the Principles to overcome a “*perceived practical difficulty*” which has arisen from the rigid application of Principle 8(a). Such a difficulty results in payments to employees being delayed. The ACTU therefore submits that the operative date for the award should be allowed by the principles to be the date of variation to the award but not earlier than the twelve month period or the date an application was made to vary the award, whichever is the later.²⁴

The ACCER has supported the concept of a *Statement of Principles* in promoting consistency and reducing uncertainty in the exercise of the powers of the AIRC.

The ACCER contends that delayed payments to employees should be avoided wherever practicable and be consistent with the Wage Fixing Principles already established by the AIRC.

Therefore, the ACCER supports the application to modify the current Statement of Principles as detailed in its proposed clause 8 (d) as it does not allow any adjustment to be made earlier than twelve months after the previous

adjustment and is to occur only in circumstances when an application has been submitted by the relevant unions in a timely manner.²⁵

²⁴ ACTU Written Submission 8 February 2002 page 165.

²⁵ Ibid. page 166.

CONCLUSION

In conclusion the ACCER submits that:

- the employer has a *moral* obligation to ensure that a just wage is paid to all employees;
- where the employer does not meets such a moral obligation it is the duty of the *State* to ensure that a just wage is paid;
- in ensuring that a just wage is paid, the State is to establish minimum terms and conditions of employment;
- there is a continuing need for a safety net of *fair and just* minimum terms and conditions of employment to protect the low paid; and
- the needs of the low paid should be the priority for the AIRC in adjusting the safety net.

If the Commission pleases.

APPENDIX ONE:

EXAMPLE OF SAFETY NET ADJUSTMENTS

Metal, Engineering and Associated Industries Award 1998

Wage Group	2001 Salary (per week)	Relativity %	Flat Dollar	Relativity %	Two Tiered Adjustment	Relativity %	Three Tiered Adjustment	Relativity %
Level C14	\$413.40	81.51%	\$428.40	82.04%	\$430.40	82.42%	\$430.40	82.42%
Level C13	\$430.10	84.80%	\$445.10	85.24%	\$447.10	85.62%	\$447.10	85.62%
Level C12	\$452.60	89.24%	\$467.60	89.54%	\$469.60	89.93%	\$469.60	89.93%
Level C11	\$473.50	93.36%	\$488.50	93.55%	\$490.50	93.93%	\$490.50	93.93%
Level C10	\$507.20	100.00%	\$522.20	100.00%	\$522.20	100.00%	\$522.20	100.00%
Level C9	\$528.10	104.12%	\$543.10	104.00%	\$543.10	104.00%	\$543.10	104.00%
Level C8	\$548.90	108.22%	\$563.90	107.99%	\$563.90	107.99%	\$563.90	107.99%
Level C7	\$567.80	111.95%	\$582.80	111.60%	\$582.80	111.60%	\$582.80	111.60%
Level C6	\$609.50	120.17%	\$624.50	119.59%	\$624.50	119.59%	\$622.50	119.21%
Level C5	\$630.40	124.29%	\$645.40	123.59%	\$645.40	123.59%	\$643.40	123.21%
Level C4	\$651.20	128.39%	\$666.20	127.58%	\$666.20	127.58%	\$664.20	127.19%
Level C3	\$692.90	136.61%	\$707.90	106.26%	\$707.90	135.56%	\$705.90	135.18%
Level C2(A)	\$713.80	140.73%	\$728.80	139.56%	\$728.80	139.56%	\$726.80	139.18%
Level C2(B)	\$753.50	148.56%	\$768.50	147.17%	\$768.50	147.17%	\$766.50	146.78%
Level C1(A)	\$837.00	165.02%	\$852.00	163.16%	\$852.00	163.16%	\$850.00	162.77%
Level C1(B)	\$962.10	189.69%	\$977.10	187.11%	\$977.10	187.11%	\$975.10	186.73%

Flat dollar increases equal to \$15 per week in all award rates

Two tiered Adjustment equal to \$15 per week increase in award rates up to and including \$490 per week and a \$17 per week increase in award rates above \$490 per week.

Three Tiered Adjustment equal to \$17 per week increase in award rates up to and including \$490 per week, a \$15 per week increase in award rates above \$490 per week up to and including \$590 per week and a \$13 per week increase in award rates above \$590 per week.