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2020-21 Annual Wage Review

Reply Submission / Answers
to Questions on Notice
Australian Chamber of
Commerce and Industry

April 2021



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Chamber of Commerce
and Industry

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1. INTRODUCTION / INDUSTRY CLUSTERS

1. We thank the Expert Panel for the opportunity to make this further submission in reply and relating to data or research published after 26 March 2021.¹ It complements and updates ACCI's initial submission to this review.

1.1 Question on Notice – Industry Clusters

2. The Panel's [questions on notice](#), are as follows:

All parties are invited to comment on how the Expert Panel should deal with:

1. *the different operative dates from the 2019–20 Review; and*
2. *whether there should be any changes to the composition of the 3 industry clusters identified in the 2019–20 Review, giving consideration to movements in the change in employee jobs and total wages presented in the report by Professor Jeff Borland² and the most recent data shown in the Fair Work Commission's Statistical report—Annual Wage Review 2020–21.³*
3. In general, ACCI supports the revisions to the industry clusters identified by Professor Borland.⁴ However, we question the downrating of Administrative and Support Services and Retail Trade. We recommend that Administrative and Support Services be uprated to the upper cluster and Retail Trade remain in the middle cluster.
4. The initial staggering of the wage increases recognised that some industry sectors were impacted by the lockdown and state-based health restriction far more than others, such that it was imprudent to apply a wage increase on sectors that were experiencing a 30% decrease in employment and a 40% decline in Gross Value Added, as was the case with Accommodation and Food Services.
5. In 2021, there has been a notable improvement in employment and economic activity overall. However, the industry sectors that experienced the largest financial and employment impacts initially, continue to lag the economic recovery, as international border closures and some state-based health restrictions remain in place. It needs to be recognised that sectors in the upper cluster are also some of the most award-reliant industries, such that any increase in minimum and award minimum wages impacts more heavily on these sectors than it does on others.
6. State-based health restrictions continue to limit the number of people allowed in venues and other social distancing requirements are preventing businesses in the upper cluster operating at full capacity. International border closures are also limiting the tourist traffic to these businesses. Due to these constraints, businesses in the upper cluster continue to lag well behind the recovery in other sectors of the economy. As noted in ACCI's initial submission, employment in the Accommodation and Food Services and Arts and Recreation sectors are down 9.2% and 2.5% respectively for the

¹ <https://www.fwc.gov.au/awards-agreements/minimum-wages-conditions/annual-wage-reviews/annual-wage-review-2020-21/timetable>

² Borland J (2021), [An assessment of the economic effects of COVID-19](#), Version 2, Fair Work Commission Research report 1/2021, 17 February.

³ Fair Work Commission (2021), [Statistical report—Annual Wage Review 2020–21](#), Version 4, 6 April, Chart 6.11.

⁴ Borland J (2021), [An assessment of the economic effects of COVID-19](#), Version 3, Fair Work Commission Research report 3/2021, 21 April.

year to February 2021, and Gross Value Added was down 13.2% and 8.2% respectively year on year to December 2020.

7. Similarly in the central cluster, employment and economic activity for many of the businesses in these sectors are yet to return to their pre-COVID (February 2020) level. For example, in February 2021 employment in the Manufacturing Sector remains down 2.3% year on year, Construction down 2.5%, Rental Hiring and Real Estate Services down 2.2%, Education and Training down 3.2%, while Gross Value Added is down 2%, 5.2%, 3.8% and 0%, respectively.
8. We do question the down-rating of both Administrative and Support Services and Retail Trade from the middle cluster to lower cluster.
9. The Administrative and Support Services sector remains heavily depressed. While employment in the sector improved between May and November 2020, it subsequently collapsed in February 2021 to be 12% in the year to February 2021. While Gross Value Added has shown a steady improvement after a 28% decline between December 2019 and June 2020, it remains down 14% year on year to December 2020. This suggests the sector is still heavily impacted, with an uprating of Administrative and Support Services to the upper cluster more appropriate than a down rating to the lower cluster.
10. For the Retail sector, there is a wide variation in the recovery of retail businesses. While retail businesses in metropolitan and most regional areas are doing well on the strength of increasing household consumption, retail businesses in CBDs and some regional areas continue to struggle. Ongoing state-based health restrictions and people's reluctance to return to the office (work from home arrangements) continue to constrain retail activity in CBDs and national border closures are choking retail trade in major tourist destinations. Given this wide variation in recovery of retail businesses, we suggest the Panel take a cautionary approach to the classification of the Retail sector, leaving it in the central cluster.
11. Businesses in the Electrical and Communications industry continue to feel the COVID downturn due to a lag between building and construction projects commencing and demand for their finishing trade. In its latest industry survey in September 2020, the National Electrical and Communications Association found 80% of businesses in the industry experienced a negative financial impact due to COVID-19, with 20% experiencing revenue losses exceeding 50%. Over half of businesses surveyed had reduced employee hours, and the industry reported 70% fewer tender opportunities compared to September 2019, underlining its inability to sustain real wage increases in the coming year. As businesses employing staff under the *Electrical, Electronic and Communications Contracting Award 2010* operate relative to those in Construction and are impacted by conditions affecting the Construction industry, they should be included in the central cluster, and not the lower cluster as categorised by Professor Borland.
12. For Transport, Postal and Warehousing employment is up overall by 3.9%, but there is a marked divide in Gross Value Added between road, and air and rail, with GVA for road up 4.8%, but air (-86.2%) and rail (-19%) down substantially. It may be more appropriate to separate Transport, Postal and Warehousing, placing air and rail in the upper cluster and road in the lower cluster, but it is also reasonable to leave Transport, Postal and Warehousing in the middle cluster.
13. As noted above, the Panel faces the same situation in 2021 as it did when it decided to apply a staggered approach to the wage increase for 2020. In fact, the multi-speed economy has become even more entrenched. Many of the sectors that were initially the most heavily impacted, continue to be constrained by international border closures and state-based health restrictions. While these

sectors experienced some recovery from the extreme lows in May 2020, they have not yet returned to their pre-COVID levels. In contrast, sectors that were less impacted by the lockdowns and state-based health restrictions at the beginning of the crisis, now appear to be faring well, with employment and economic activity above February 2020 levels.

14. The staggered approach had the wage increase for the lower cluster coming into effect on 1 July 2020, for the middle cluster on 1 November 2020 and the upper cluster on 1 February 2021. The Panel now faces a difficult situation in realigning the industry sectors, to apply the same start date for an increase in minimum and award minimum wages for all industry sectors. This is particularly problematic for businesses in the upper cluster.
15. If the Panel were to apply a wage increase for all industry sectors on 1 July 2021, then businesses in Accommodation and Food Services and Arts and Recreation Services that continue to be constrained by international border closures and state-based health restrictions, would be significantly disadvantaged. With employment and economic activity remaining well below pre-COVID levels, a further wage increase only 5 months after the last increase would compound the financial stress already on businesses in the upper cluster.
16. A second wage increase in a very short period on these businesses would be unfair and irresponsible. It is likely to slow the economic recovery of businesses and reduce the rate of employment growth in these sectors, directly contrary to the statutory parameters for these reviews.
17. There are 3 options available to the Panel to realign the industry clusters.
 - a. Applying a zero increase in the minimum wage in 2021. This enables the industry clusters to be realigned in July 2022, or at a time when the economy is growing strongly and unemployment is approaching the NAIRU (non-accelerating inflation rate of unemployment), thereby supporting a wage increase at that time. This still represents an increase in nominal wages on 1 July 2021, due to the legislated 0.5% increase in the Superannuation Guarantee, which is only marginally below CPI of 0.9% in the year to December 2021.
 - b. If the Panel is to apply an increase in the minimum wage in 2021, staggered commencement dates for this increase will again need to be applied.
 - i. The sectors most impacted in 2020 continue to be constrained by the international border closures and state-based health restrictions in 2021, and are lagging the overall economic recovery.
 - ii. These sectors in the upper cluster are also some of the most heavily award-reliant industries. Imposing a further wage increase on businesses in these sectors only five months after the previous increase would be an unreasonable impost on businesses that remain under severe financial stress.
 - iii. The same applies to the central cluster, with Transport Postal and Warehousing (down 6.5%), Education and Training (-3.2%) and several other sectors where employment still remains below its February 2020 level. It is unreasonable to increase wages in these sectors only 8 months after the last increase.

- iv. Any wage increase should be applied no less than 12 months after the last increase, which for the upper cluster would see the increase being applied from 1 February 2022.
 - v. The recovery of industry sectors in the upper and central clusters would need to be reassessed in the 2022 Annual Wage Review, to decide whether all industries have recovered enough to realign the begin date for any future wage increase.
- c. If the Panel seeks to realign all industry clusters in 2021-22 to a single commencement date (directly contrary to ACCI's recommendation) and decides to apply an increase in minimum and award minimum wages in 2021, then the commencement date of any increase should be 1 January 2022 for all industry sectors. This should enable sufficient time for employment and economic activity in all industry sectors to have recovered, ensuring that businesses in the upper cluster are not too greatly disadvantaged. The Panel for the 2021/22 Annual Wage Review would be expected to take into account the 2022 increase is being applied only 6 months after the last and moderate any increase accordingly.

2. REPLY - ECONOMIC CONSIDERATIONS

2.1 Economic Outlook

18. In his statement on the Monetary Policy Decision following the 6 April 2021 Reserve Bank Board meeting, Governor Lowe commented that while *the rollout of the vaccines was supporting the recovery ... the recovery is uneven*. He noted there *are still considerable uncertainties regarding the outlook*.⁵
19. The recovery across the entire economy has been stronger than expected and is likely to continue with above trend growth over this year and next. Yet, *wage and price pressures are subdued* and the Reserve Bank expects them *to remain so for some years, as the economy is operating with considerable spare capacity and unemployment is still too high*. The RBA notes *it will take some time to reduce this spare capacity and for the labour market to be tight enough to generate wage increases that are consistent with achieving the inflation target*.
20. While the *CPI is expected to rise temporarily*, due to COVID-related price reductions in March and June quarters 2020, *underlying inflation is expected to remain below 2% over the next few years*.
21. An important point made by the Reserve Bank Governor is that wages growth *requires significant gains in employment and a return to tight labour market*. The Reserve Bank Board *does not expect these conditions to be met until 2024 at the earliest*. This is an important point, which some in this review misunderstand or mischaracterise. The RBA sees a return towards trend wages growth coming from more employment and a tightening labour market, and not from any attempt to have small employers in bruised sectors somehow assume the stimulatory role of Governments.
22. An increase in wages, without the necessary labour market tightening would be counterproductive. It would only serve to increase the slack in the labour market, pushing out beyond 2024 the conditions necessary to deliver strong wages growth and drive inflation.
23. Indicators suggest that growth in household consumption had moderated in March following a strong rebound in the second half of 2020. The snap lockdowns following COVID outbreaks in several states at the beginning of 2021, were likely to have influenced consumption. Despite the recovery in the second half of 2020, the RBA expects household consumption to remain below the pre-pandemic level in March quarter 2021 – in part due to the continuing restrictions on activity and international border closures. These are factors no wage increase can change, and an inflated increase would compound the damage of these restrictions and closures.
24. The Reserve Bank Governor noted aggregate employment has returned to pre-pandemic levels considerably faster than expected. There has also been a shift in growth from part-time to full-time employment.
25. However, the overall recovery in the labour market was expected to pause over the next few months following the end of JobKeeper. While this was expected to be only temporary, there remains

⁵ Reserve Bank of Australia, Statement by Philip Lowe, Governor: Monetary Policy Decision 6 April 2021. <https://www.rba.gov.au/media-releases/2021/mr-21-04.html>

considerable uncertainty around the extent and the duration of the clearly anticipated dip in employment growth.

26. The expert informing the Panel on industry clustering and the economic effects of COVID-19, Professor Borland, has forecast job losses following the completion of JobKeeper in the order of 125,000 to 250,000.⁶

2.2 Business Conditions and Confidence

27. The ABS Business Conditions and Sentiment survey for March 2021, indicates that while the proportion of businesses indicating it is difficult or very difficult to meet their financial commitments has halved between August 2020 and March 2021, it remains high at 17% of businesses.⁷ There was a much higher proportion of small (18%) and medium (17%) sized businesses, relative to large (8%) businesses, that were finding it difficult or very difficult to meet financial commitments over the next 3 months. These small and medium sized businesses are typically more award reliant than large businesses.
28. Although a much smaller number of businesses were still reliant on some level of government support in March 2021, relative to May 2020, the share of businesses remained high at almost one third (29%). Over 21% were reliant on JobKeeper and other wage support programs, and these businesses are expected to be severely impacted when JobKeeper ends.
29. Sectors finding it most difficult to meet financial commitments include Arts and Recreation Services (42%), Accommodation and Food Services (29%), Retail Trade (27%), Manufacturing (26%) and Construction (22%). These include some of the most award reliant sectors.
30. Without this Government support, 20% of businesses indicated they would be reducing staff hours, 9% of businesses would be forced to reduce staff numbers and 4% of businesses would be forced to close their doors. The end of JobKeeper on 28 March (3 days after the survey was released), is likely to be the main tipping point for most of these businesses. This will have major implications for the unemployment and underemployment rates through April, May and June.
31. The National Australia Bank Business Confidence index shows business conditions continuing to improve in March 2021, up a further 8 points, on the back of strengthening business activity and improving capacity utilisation as restrictions continue to ease and conditions move back to more normal.⁸
32. Yet, business confidence edged down in March, weakening across most industries except mining. The outlook was least optimistic in retail, suggesting an expectation of moderating conditions in the next few months as consumer spending patterns normalise. The approaching end of JobKeeper is also likely to be a major factor in the weakening of confidence, as businesses in all industries become more wary and uncertain of its impact on economic activity and employment. The next few months will be telling as to the magnitude of the impact the end of JobKeeper will have on business confidence and the economy more broadly.

⁶ <https://www.smh.com.au/politics/federal/up-to-250-000-more-unemployed-when-jobkeeper-ends-within-weeks-20210304-p5770h.html>

⁷ ABS Business Conditions and Sentiment March 2021, 25/03/2021. <https://www.abs.gov.au/statistics/economy/business-indicators/business-conditions-and-sentiments/latest-release>

⁸ NAB Monthly Business Confidence Survey, March 2021. <https://business.nab.com.au/wp-content/uploads/2021/04/NAB-Monthly-Business-Survey-March-2021.pdf>

33. Substantial concern remains around the multi-speed recovery. Recreation and Personal Services continue to lag the recovery of other sectors, with capacity utilisation remaining below average. NAB note that this is unsurprising, given that the international border closures and state-based health restrictions continue to negatively impact these sectors. It will be some time yet before these international border closures and state-based health restrictions are lifted, suggesting these sectors will remain considerably disadvantaged and lag the recovery. Uncertainty regarding vaccination rates and international virus variants also needs to be taken into account.

2.3 Employment

34. The most recent ABS Labour Force data indicates further solid growth in aggregate employment in March 2021, with an additional 70,000 job added, the participation rate continuing to rise to 66.3%, unemployment falling to 5.6% and underemployment down to 7.9%. This is all positive news and bodes well for the overall economic recovery.
35. However, in releasing the data, the ABS includes a cautionary note that *the data was collected during the first half of March, prior to the end of JobKeeper on 28 March* and that we will need to wait until *the April Labour Force release, along with weekly payroll jobs data*, for a clearer view of *the state of the labour market after the end of JobKeeper*.⁹
36. It is generally accepted that there will be a significant readjustment in the labour market in the months following the ending of JobKeeper on 28 March 2021. It is highly uncertain what this impact will be and how soon the labour market will bounce back from what is set to be a further shock after a year of shocks. What is also important to note is that the data to indicate the magnitude of the impact and the rate of the subsequent recovery will not be available at the time of the next submission, or at the time the Panel makes its decision. Therefore, it is critically important that the Panel take a cautious approach when considering any increase in minimum and award minimum wages.
37. ABS Weekly Payroll Jobs and Wages provide useful detail on the recovery of employment across the industry sectors. Overall, the data is in line with the ABS Labour Force data, with payroll jobs up 0.1% in the fortnight ending 27 March 2021 and 1% higher than the beginning of the COVID crisis on 14 March 2020.¹⁰
38. The multi-speed recovery is of increasing concern, with payroll jobs continuing to lag in Accommodation and Food Services (down 9.5% relative to March 2020), Information Media and Telecommunications (-9.3%), Transport Postal and Warehousing (-6.4%), Construction (-3.5%) and Manufacturing (-2.7%). In contrast, there has been very strong growth in employment in Public Administration and Safety (up 11% relative to March 2020), Financial and Insurance Services (+6.8%) and Healthcare and Social Assistance (+3.4%).
39. Like the Labour Force data, the Payroll Jobs data is for the period prior to the ending of JobKeeper. As noted above, it is highly uncertain what the impact of the end of JobKeeper will be on payroll jobs, with sectors where payroll jobs remain down year-on-year particularly vulnerable, as they typically had a much higher proportion of businesses (and jobs) reliant on JobKeeper.

⁹ ABS 6202.001 Labour Force March 2021, Media release 15/04/2021. <https://www.abs.gov.au/media-centre/media-releases/hours-worked-recover-pre-covid-level>

¹⁰ ABS 6160.055.001 Weekly Payroll Jobs and Wages – Week ending 27 March 2021. 13/04/2021. <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/weekly-payroll-jobs-and-wages-australia/latest-release>

40. The most vulnerable and uncertain sectors are also some of the most award reliant sectors. Further financial stress on these sectors through an extraordinary (or high real) increase in minimum and award minimum wages, is likely to slow (or stall) any recovery in employment in these sectors, widening the gap in the multi-speed recovery.

2.4 NAIRU

41. ACCI agrees that the overall unemployment rate is falling faster than earlier anticipated and does not dispute the prospect that unemployment may return to its pre-COVID level of 5% to 5¼% by the end of 2021.
42. However, as noted in the ACCI submission, 5% unemployment is no longer viewed by the Reserve Bank, the Government and leading economists and academics as full employment or the non-accelerating inflation rate of unemployment (NAIRU), i.e. the official measure of a tight labour market. The Reserve Bank is now suggesting that the NAIRU is closer to 4% (possibly lower), and some leading academics and economists are proposing that the NAIRU is closer to 3.5%.¹¹
43. Therefore, if the Panel were to substantially raise wages, effectively increasing the slack in the labour market, it would be working against the objectives of the Reserve Bank and the Government, i.e. tightening the labour market and restore inflation to the target range before 2024. It is small businesses, jobs and communities that would suffer from such a tension.

2.5 Wages

44. ABS Weekly Payroll Jobs and Wages showing total wages paid decreased 0.4% in the fortnight ending 27 March 2021, despite a modest 0.1% increase in total payroll jobs.¹² The decrease is likely in part to be associated with the strong growth in part-time employment and slight dip in full-time employment observed in the ABS Labour Force data in March 2021.¹³
45. Overall, total wages increased 2.1% between 14 March 2020 and 27 March 2021. The increase is in part driven by the 1% increase in employment over this period, but also indicates an increase in wages of 1.1%, which is slightly above inflation in the year to December 2020 (0.9%).
46. As with payroll jobs, total wages remain below pre-COVID levels in sectors that continue to lag the rest of the economy, with notable declines in wages in Accommodation and Food Services (down 7.7% relative to March 2020), Information Media and Telecommunications (-3.2%), Transport Postal and Warehousing (-8.0%), Construction (-3.4%) and Manufacturing (-0.5%).
47. Note this is a decline is mainly associated with lower employment in these sectors, although wages growth is also likely to have declined and previously scheduled increases may have been ruled out in some of the hardest hit sectors.

¹¹ Lowe, P (2021) *The Recovery, Investment and Monetary Policy*. Speech at the AFR Business Summit 10 March 2021.

<https://www.rba.gov.au/speeches/2021/sp-gov-2021-03-10.html>

Professor Ross Garnaut, 25 February 2021. <https://www.smh.com.au/business/the-economy/there-s-no-excuse-we-need-full-employment-now-20210225-p575xz.html>

¹² ABS 6160.055.001 Weekly Payroll Jobs and Wages – Week ending 27 March 2021. 13/04/2021. <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/weekly-payroll-jobs-and-wages-australia/latest-release>

¹³ ABS 6202.001 Labour Force March 2021, Media release 15/04/2021. <https://www.abs.gov.au/media-centre/media-releases/hours-worked-recover-pre-covid-level>

3. REPLY - LIVING STANDARDS / NEEDS

48. ACCI highlights the point made consistently in previous Decisions of the Expert Panel that, while there is no consensus on how to measure poverty, absolute poverty is not a relevant in Australia, the issue is only that of relative poverty.¹⁴
49. ACCI agrees with comments by the Expert Panel in previous wage reviews, that those in full-time employment should *reasonably expect a standard of living that exceeds poverty levels*.
50. However, on any reasonable assessment the minimum wage in Australia already affords those in full-time employment a decent standard of living in excess of poverty.
51. While ACOSS, ACCER and the ACTU attempt to generalise and exaggerate the potential for all minimum wage and most employees on minimum award wages to be low paid with disposable income below the poverty line (i.e. the working poor), this is far from the truth.
52. The below analysis is indicative and presented to illustrate the very small proportion of minimum wage and low-paid award reliant employees that are in the workforce and in households where disposable income was below the illustrative 60% medium income poverty line. ACCI acknowledge this is an area that requires further research for more definitive conclusions.
53. Based on the data presented in Chart 2.1 of the Australian Government submission only 1.7% of the workforce, or 180,000 employees receive the minimum wage (C14).¹⁵ A further 21% of the workforce, or 2.2 million employees award reliant, but not all of these can be classified as low-paid. Based on the research of Wilkins and Zilio, low-paid award-reliant employees represent only 5.9% of the workforce, or 640,000 employees. So, overall, there are 820,000 minimum wage and low-paid award reliant employees, or 7.5% of the workforce.
54. ACOSS suggest that *The minimum wage itself should be set well above poverty levels for a single adult*. It clearly already is, as one would expect after 20 plus years of mostly real increases and in a country with one of the highest minimum wages in the world.
55. From Table 8.6 we gain some insight into whether minimum and award minimum wages provide sufficient income to maintain a reasonable standard of living, i.e. their total disposable income is above the 60% median income arbitrary / illustrative poverty line. For a single adult on the minimum wage (C14), a disposable income of \$574 pw (i.e. \$740.80 pw less taxes, plus transfers) is 17% higher than the 60% median income arbitrary poverty line.
56. Similarly, dual earner couples receiving the minimum wage, dependent on the number of dependent children, have a disposable income that is between 12% and 21% above the poverty line.
57. It is only single earners with dependents (i.e. single parents working part-time and single earner households with and without children) that receive a disposable income that is below the arbitrary or illustrative poverty line. These households receive support from the welfare system through the family tax benefits, childcare support and a range of other support measures.

¹⁴ [2019] FWCFB 3500 at [317].

¹⁵ Australian Government submission p.13.

58. So, how many households with dependents rely on a single earner?
59. The Australian Government submission indicates that 61% of low-paid workers are single without children. Assuming that households with workers receiving the minimum wage have similar proportions to low paid employees, this would suggest around 110,000 minimum wage employees and 390,400 low-paid award reliant employees are single adult households without children. These workers receive sufficient disposable income to maintain a reasonable standard of living.
60. Single parent households represent only 2.6% of low paid workers, i.e. 4,700 minimum wage and 16,600 low-paid award-reliant workers. A higher proportion of these single parents are likely to work part time than the average population, so if we assume two thirds work part-time this represents 14,200 employees.
61. Unfortunately, the data presented does not distinguish between single earner couples and dual earner couples. However, for the 21% of minimum wage and low-paid award-reliant employees who are members of a couple household without children, only a small proportion of the 172,200 employees are likely to be the single earner, most likely less than one quarter or around 43,000 people. For the 15% of minimum wage and low-paid award-reliant employees who are members of single earner couple households with children, a higher proportion of the 123,000 employees are likely to be the single earner, most likely around half or 61,500 employees.
62. Overall, the above suggests that a very small proportion of minimum wage and low-paid award-reliant employees are in households where disposable income was below the arbitrary or illustrative 60% medium income poverty line, less than 120,000 employee households. This represents less 15% of minimum wage and low-paid award-reliant employees and less than 1.1% of all employees.
63. The above illustrates the very small number of employee households that fall below the 60% median income arbitrary poverty line. These employee households all have dependents and receive some support through the welfare system. ACCI submits that the disposable income of these households being below the arbitrary poverty line is more a reflection on the shortcoming of the welfare system than any inadequacy of the minimum wage.
64. ACCI does not accept the contention of both ACOSS and ACCER that it is the responsibility of the Panel through the Annual Wage Review to raise the minimum wages to offset a reduction in family payment in recent years. This is well beyond the role of the Panel and well outside the parameters of the Fair Work Act.
65. As noted by ACOSS, *the starting point is that the minimum wage should be designed to at least provide a decent living standard, well above poverty levels, for a single adultThe minimum wage should not be directly designed to cover the costs of children because that role is best performed by the social security system.*¹⁶

¹⁶ ACOSS Submission p.16.

4. REPLY – OTHER MATTERS / SUBMISSIONS

66. This second round of submissions is directed to include replies to the contentions of others in their initial submissions. ACCI's contentions in this review are included throughout our submissions, and much of our reply is outlined above, in preceding sections of this second submission.
67. This section replies to additional or particular matters advanced by other submitting parties. It seeks to address and rebut various contentions which (a) ACCI argues are not valid, and (b) should not be accepted nor favour particular outcomes from this review.
68. This is not advanced as a comprehensive, line-by-line rebuttal, and any omissions from the below responses should not be taken as conceded or agreed to by ACCI and its members.

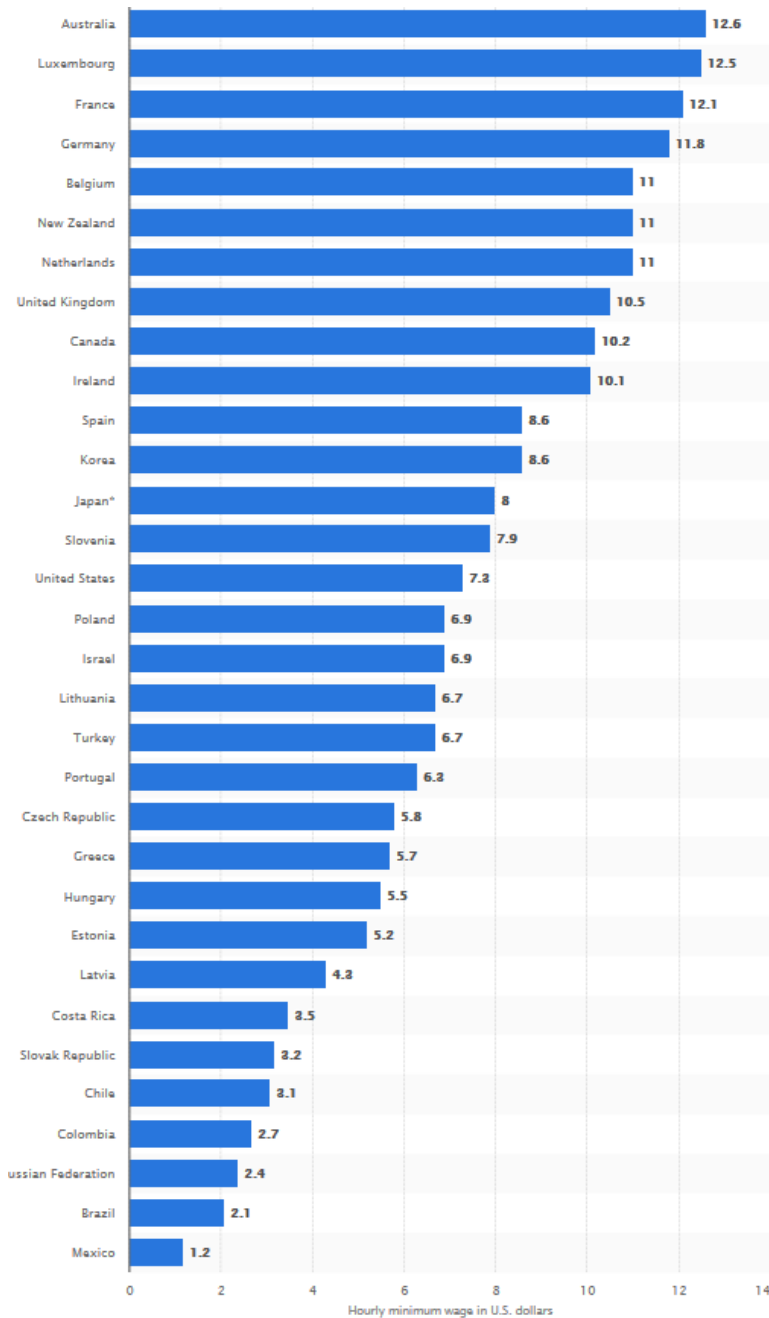
4.1 General Comments

69. **Economic Stimulus:** The minimum wage cannot and should not be used to pump-prime wages growth more broadly across the economy, as demanded by ACOSS, ACCER and the ACTU. To do so would be highly damaging to businesses (most often small businesses), and jobs, in sectors that continue to be constrained by international border closures and state-based health restrictions.
70. While we have observed a strong recovery in employment and economic activity in aggregate, this recovery has not been even across the economy and remains fragile. The sectors that were the most reliant on JobKeeper in the first quarter 2021 include Accommodation and Food Services, Arts and Recreation, and Administration and Support Services. Notably, these are sectors where employment is yet to return to its pre-COVID level. They are also some of the more award-reliant sectors. When JobKeeper ends, businesses in these vulnerable sectors will come under increasing financial stress, forcing them to restructure their operations and reduce staffing levels. The jobs of workers on minimum and award minimum wages will be most at risk, as they are typically the youngest, least skilled and less experienced workers. As recalled above, Professor Borland has forecast the loss of 125,000 to 250,000 jobs driven precisely by these vulnerable award reliant, JobKeeper reliant sectors.
71. It would be counter-productive to apply an excessive increase in minimum and award-minimum wages, as it would increase the financial pressure and lead to higher job losses in these more award-reliant sectors. In sectors that are doing well, the labour market will drive an increase in wages as businesses compete to retain existing and recruit new employees. Given these sectors are typically less award-reliant, an increase in minimum and award-minimum wages will provide less benefit to workers in these sectors.
72. **Superannuation Guarantee:** Neither the unions nor the major welfare groups have mentioned the increase in wages associated with the increase in the Superannuation Guarantee, from 9.5% to 10% on 1 July 2021. This is effectively a 0.5% increase in wages that comes directly out of the pockets of employers. This increase in wages must be taken into consideration in the Panel's decision of any increase in minimum and award minimum wages in 2021-22.

4.2 ACTU

73. **International Minimum Wages Increases:** The ACTU's argument that minimum wages in other advanced economies are increasing at rates higher than that in Australia,¹⁷ belie the fact that in 2019 (the most recent data) Australia maintains the highest minimum wage of all OECD countries in term of purchasing power parity.¹⁸ It also fails to recognise that minimum wages apply to only 1.7% of the workforce or 180,000 employees.

Chart: Ranking of OECD Countries by minimum wage in 2019 (US dollars)



Source: Statista 2021 <https://www.statista.com/statistics/322716/ranking-of-oecd-countries-by-national-minimum-wage/>

¹⁷ ACTU Submission p.176

¹⁸ Statista 2021 <https://www.statista.com/statistics/322716/ranking-of-oecd-countries-by-national-minimum-wage/>

74. Further, unlike other countries, the increases determined by the Panel in this Annual Wage Review extend well beyond the minimum wage, to all award wages. Award wages apply to 21% of the workforce or 2.2 million employees.
75. The Australian Government submission attests that award wages are in most cases substantially higher than minimum wages, with the median full-time award reliant wage being 58.3% higher than the minimum wage rate – \$1,100 per week or 75.3% of the median weekly full-time wage.¹⁹
76. **State-based health restrictions and border closures:** The ACTU has gone to considerable length to show that states continue to impose health and border restriction, restricting people movement and business activity.²⁰
77. While overall there has been a reduction in the level and severity of restrictions, relative to the peak of the COVID crisis in April 2020, the ACTU's analysis shows a considerable level of restrictions remain in place. The international travel and border restrictions are severely impacting international tourism-reliant and international education businesses. Other ongoing or recent restrictions have a considerable negative impact on customer facing industries, such as Accommodation and Food Services, Arts and Recreation and Retail Trade. There are also restrictions in a number of states that impact on the density of workers in non-consumer facing industries, which is affecting Manufacturing, Warehousing and general office workers.
78. What is most concerning from the detail provided by the ACTU is the response to a small number of cases in South Australia, Queensland, NSW and Victoria between November 2020 and February 2021, which saw tight restrictions reimposed, often overnight. The sight of Victorian restaurants planning to get back on their feet on Valentine's Day 2021 after a horror 2020, throwing out food and cancelling bookings was heartbreaking for employers and staff alike.
79. Although these restrictions were only imposed for a week or two, they place considerable financial stress on businesses and have a marked impact on economic activity. There is no certainty for businesses, as the states and territories appear 'trigger happy', prepared to lock down the state/territory at the first sign of a single community transmission of COVID-19.
80. Until all of these restrictions have been removed, economic activity will continue to be constrained. Industry sectors most impacted by these restrictions will continue to lag the overall economic recovery. These industry sectors are mainly customer facing industries, which typically have a higher award reliance. Placing a higher price on job creation and retention, in excess of growth in prices these industries are able to charge is a recipe for further job and businesses losses.
81. **Wages growth in the broader economy:** The Panel's decision on any increase in the minimum and award minimum wages, should take into account wages growth in the broader economy. RBA forecasts indicate wages growth will not increase to a level above 3%, the level it asserts is necessary

¹⁹ Australian Government Submission p.15

²⁰ ACTU Submission pp. 16-33.

to drive inflation growth to within the 2-3% target range, until 2024.²¹ Therefore, we can expect wages growth to remain very low for several years.

82. The ACTU appears to agree with the RBA that restoring inflation to the 2%-3% target range requires *significant gains in employment and a return to a tighter labour market*.²² However, the ACTU's proposed solution that inflation growth will be *considerably assisted by an increase in the minimum wage*,²³ is at odds of the basic economic relationship between wages and employment. An increase in wages will reduce demand for workers, increasing the slack in the labour market.
83. The ACTU's *only recourse* to increase minimum and award minimum wages will only succeed in slowing the rate of employment and aggregate wages growth. This works against the objectives of the RBA (and the Government), pushing the timing for inflation to return to within the target range out beyond 2024.
84. **Enterprise bargaining:** The ACTU addresses this consideration from paragraphs 424 to 433.
85. ACCI does not agree with the ACTU's assertion that *...increasing the minimum wage and awards are an appropriate means for wage determination where market-based wage bargaining takes place in a second-best context*. In fact, if it is the ACTU's view that market-based wage bargaining (i.e. enterprise bargaining) is the best option for wage setting, ACCI question the ACTU's and its members' intransigence in achieving an outcome in enterprise bargaining negotiations.
86. Enterprise bargaining is in sustained decline. Fewer and fewer employees, working in fewer and fewer workplaces are covered by in term enterprise agreements. This has serious implications for productivity, competitiveness and recovery, and for both employers and employees.
87. However the decline in agreement making is multi-causal as the Panel has previously determined. ACCI does not argue on this occasion that required considerations of enterprise bargaining are particularly or additionally germane to the Panel's decision making in 2021, save that any particularly inflated real increase in excess of inflation would further diminish the scope of recovering enterprises to enter into enterprise agreements.
88. **Changes personal income tax rates:** While the ACTU may view *increasing in the minimum wage as a more effective way of raising spending than tax cuts*, and that *the tax cuts are unlikely to have much impact on spending in any case*²⁴, this does not mean that the increases in disposable income associated with the recent changes personal income tax rates should not be considered in this Review. The income of award minimum reliant employees has increased as a result of the increase in the upper limit of the 19% personal income tax bracket from \$37,000 to \$45,000, remembering that median full-time award reliant wage being 58.3% higher than the minimum wage rate, or over \$57,000 per year. Also, minimum wage employees will benefit from the extension of the Low to Middle Income Tax Offset (up to \$1,080) and the Low Income Tax Offset (\$700), which should also be considered in this Review.

²¹ Reserve Bank of Australia, Statement by Philip Lowe, Governor: Monetary Policy Decision 6 April 2021. <https://www.rba.gov.au/media-releases/2021/mr-21-04.html>

²² ACTU p.69

²³ ACTU p.69

²⁴ ACTU submission pp.80-81

89. **One-off stimulus payments:** The ACTU believes that the extraordinary increase in the minimum wage that it proposes (3.5%) should be *considered to operate in a similar and complementary manner to the one-off stimulus payments*.²⁵ Yet, while a one-off stimulus measure is temporary, an increase in the minimum wage is permanent, having a long-term and cumulative effect. Businesses are not a bank that can be tapped to stimulate the economy. Over the long term, increasing the cost to business will have a negative impact on employment. Governments and central banks borrow money or issue securities to stimulate economies, employers asked to increase wages must reduce their costs.
90. An extraordinary increase in the minimum and award minimum wages is not the panacea that will drive the economic recovery as the ACTU would have us believe. In fact, an excessive increase in wages in this Review, i.e. above inflation or the wider rate of wages growth (WPI), will slow (and may even stall) employment growth at a time when the economy, while showing signs of recovery, remains very fragile. Far from creating an economic stimulus, an excessive increase in minimum and award minimum wages will increase the slack in the labour market and slow the economic recovery.
91. As the Reserve Bank Governor highlights, we need to continue efforts to grow employment to take up the slack in the labour market.²⁶ Only this will achieve the labour market tightening required to drive sustainable wages growth and restore inflation to the target range.
92. At the local level, in areas in the slow or stalled lanes of a multi speed economy (in tourism areas or CBDs for example), and where employers are already drawing on economic reserves or additional finance or cutting costs, a higher price on job retention could be very damaging indeed.
93. **Profit share of income:** The ACTU go to lengths to highlight the profits of businesses and emphasis there has been *a dramatic increase in the share of profits in total factor income over the year to September 2020, while the wages share has fallen*.²⁷ They go on to propose that these profits should be used to increase wages.
94. Yet, as noted in the ACCI submission these profits are an anomaly, given sales are sharply down over the period in question. They solely reflect the temporary support provided to businesses by JobKeeper, Government grants and the waiver or deferral of rent, interest on loans and payroll tax during the worst of the COVID restrictions and are largely responsible for the survival of many thousands of businesses throughout the crisis. These artificially high profits have fallen sharply in the December quarter 2020, with the decline expected to continue over the first half of 2021 to normal or below normal levels, as government support (particularly JobKeeper) is wound back at a time when some trading restrictions remain in place. These profits are very temporary and are not the basis for an increase in minimum and award minimum wages.
95. More generally across developed OECD economies there is a multi-decade trend change in the profit share versus wages share of growth, which persists across economies with different approaches to collective bargaining, different levels of unionisation and centralisation of industrial relations, and different levels of real minimum wage growth versus minimum wage stagnation. The wages share of growth has declined as the affordability of consumer goods and living standards have increased markedly for wage earners. There is clearly something more complex and

²⁵ ACTU Submission p.91

²⁶ Reserve Bank of Australia, Statement by Philip Lowe, Governor: Monetary Policy Decision 6 April 2021. <https://www.rba.gov.au/media-releases/2021/mr-21-04.html>

²⁷ ACTU Submission p.134-136 and 140-143.

fundamental going on, which dictates that this observation alone is of little relevance to uprating minimum and award wages in 2021.

96. **Gender pay gap:** In its submission the ACTU (and others proposing real wage increases) refers to the 'significant' role increases to award wages have in narrowing the gender pay gap. With respect, ACCI suggests the effect as set out by the ACTU is overstated, with the Expert Panel consistently finding that moderate increases in the NMW and modern award wages are likely to have a 'relatively small' effect on the gender pay gap.²⁸ ACCI sees no circumstances that have emerged since the last decision of the Expert Panel warranting a departure from this previously established view.
97. **Minimum wage bite:** The ACTU note the *limitations for short run interpretations of the wage bite measure are compounded because the data are from separate data sources with different dates and frequencies*, suggesting we should look to long-term trends.²⁹ While the ACTU presents an extended time series from 1983 in Figure 93, what matters to this Review is the trend from 2010, which marks the commencement of the Fair Work Act and beginning of the modern award wage era. Despite annual variation, the minimum wage bite has remained relatively stable since 2010 – it could even be argued that the minimum wage bite trended up slightly between 2013 and 2019. Because of the COVID pandemic, 2020 was always likely to be an extraordinary year, so, as the ACTU suggest, we should avoid short-run interpretations. Further, as noted in the ACCI first submission, caution should be applied and little weight should be given to AWOTE as a comparative measure in 2020 due to composition changes in the labour force as a result of the COVID-related impacts.³⁰
98. In addition, the sustained 38-year decline in the wages bite the ACTU points to has occurred across the period of the Accord, the AIRC, the Fair Pay Commission (including both its high increase in 2008 and freeze in 2009), the catch up increase of this panel, the 3.5% high awarded by this panel etc. It is difficult to see how a minimum wage setter is in any way assisted by the ACTU's Figure 93, the range of approaches don't change the structural trend. In fact the only tentative conclusion one might advance from looking at this is that the decline in enterprise bargaining seems to have occurred at the same time the curve flattens – of course Australia's productivity performance is dire, but the bite has flattened!
99. **Small business:** Small businesses are most vulnerable to increases in minimum and award minimum wages as they typically run on smaller margins and have less capital reserves than larger businesses. As the ACTU notes, *smaller firms are also more likely to be award reliant than other firms*.³¹ Therefore, it is counterintuitive that the ACTU is arguing that raising the minimum and award minimum wages would benefit small business. Raising wages does not give businesses the *confidence that the economy will grow and that there will be demand for their products and services*. Raising wages will only increase the pressure on businesses already under financial stress and limit their ability to invest and grow.
100. The ACTU fails to heed the actual experiences of small business people in surviving 2020, and the personal financial and living standards damage many incurred to stay in business and keep their staff in work. If the ACTU thinks increasing the price of retaining or creating jobs, above any capacity

²⁸ See, for example, [2018] FWCFB 3500 at [38], [2020] FWCFB 3500.

²⁹ ACTU Submission pp. 170-171

³⁰ ACCI Submission p.31

³¹ ACTU Submission p.106

to change prices will instil confidence they are clearly not seeing the closed shop fronts and cafes that abound in many CBDs and high streets across the country.

101. **Productivity growth:** The ACTU confuse and conflate the impact of productivity on wages growth.³² Productivity growth has been very low over the past businesses cycle (since 2012), with wages growth weak as a consequence. Productivity is a measure of materials use efficiency, not aggregate demand. Simply increasing supply to meet the increasing demand for goods without achieving greater efficiency in the use of labour and capital, is not achieving a productivity gain. Sustained growth in wages cannot be achieved without sustained productivity growth.
102. **Food Insecurity:** The ACTU at paragraphs 347 to 352 raises 'Food Insecurity' and the work and research of the Foodbank. Increasing demand for food relief in any community is a serious concern, as we saw with international students suffering the impacts of COVID and shutdowns in 2020, and relying on charities.
103. However:
 - a. The ACTU does not make any correlation to full time employment or any particular hours of work. This material simply cannot demonstrate income inadequacy for any employees.
 - b. The only references to employed persons we observed in the Foodbank report were casuals, presumably those not getting JobKeeper. The exclusion of some shorter-term casuals from JobKeeper was a matter of Government policy / Parliamentary decision making.
 - c. Some of the examples cited were of casuals whose employers closed outright.
 - d. This is 2020, height-of-pandemic data, based on circumstances which are no longer applicable / cannot be assumed to apply in 2021-22.
104. Ultimately, no weight can be attached to the Foodbank report and it does not assist the Panel's decision making.
105. **International Minimum Wage Comparisons:** From paragraphs 301 to 313, the ACTU provides various international minimum wage comparisons and appears to suggest the Panel should somehow outsource its responsibilities and decision making to London, Brussels, Washington, Riga, Ljubljana, Bratislava and Vilnius.
106. The statutory parameters for these cases do not extend so directly to such international comparisons. The ACTU's material is no more germane to the actual decision in this review than Australia having at various points the world's highest minimum wage. Where at 307 the ACTU attempts to extrapolate from the UK approach to address the 'burden of the pandemic' for example, it fails to acknowledge the very different statutory parameters, legacy rates and wider award system. Even without these fundamental differences, the UK has suffered a much longer and repeated impact of the pandemic compared to Australia, rendering such a comparison inapplicable on its own logic.
107. International economics and the wider global economy is relevant to this review (as is the ongoing risk of global downturn driven by ongoing and intensifying pandemic in many key global economies).

³² ACTU Submission p.133

The Panel considers international growth and forecasts (such as those in Section 14 of the Statistical Report) and these are addressed elsewhere in these submissions.

108. However:
 - a. Australia stands alone in varying its minimum and award wages.
 - b. The minimum wage uprating parameters of the Fair Work Act are unique, and are of the Australian Parliament, not any other nation's legislature.
109. The approaches of the UK, NZ or any other OECD or EU economy are not transplantable into Australia, and are not transferable outside the structure of their minimum wage systems.
110. We also recall that the Panel has consistently eschewed adopting a formulaic target. The information on the UK and US is therefore academically interesting but of no relevance to the decision on this review.
111. At 307 the ACTU makes an illogical point. There is no 'reward' available in this matter to those who have lost employment during the pandemic. In fact, increasing the price of their re-employment by 3.5% would impose an additional burden and disadvantage upon them.
112. The ACTU introduces the US at 308 and 309. The idea of Australia following the US on minimum wages is rather ironic given previous ACTU allegations that employers want to import US style industrial relations into Australia. In ACCI's view the US and Australian labour market and minimum wage systems are so different as to allow little direct relevance of extrapolations from the impact of uprating minimum wages in one country to the other (US research on employment effects may be relevant, but those introducing such materials need to show the panel how it is translatable across very different economies and minimum wage systems). We also recall the years that have elapsed between upratings of US minimum wages which is entirely different to the annual approach in Australia.
113. Regarding the EU and candidate economies (ACTU Figure 100, p.181) and claims 12 countries increased their minimum wages by more than 3.0% between 2020 and 2021 (ACTU para 310):
 - a. A number of these increases would have been determined pre-COVID, and merely come into effect in 2020. Table 100 in the ACTU submission includes increases in January, February and March 2020 for example.
 - b. Eight of the countries listed increased their minimum wages by less than the 2020 uprating awarded by this Panel for Australia, and four of those awarded no increase.
 - c. All the minimum wages cited are lower than Australia's, generally much lower. Latvia's minimum wage per month is similar to Australia's rate per week, indicating no comparability.
114. Two other points fundamentally distinguish Australia from the international materials cited by the ACTU:
 - a. Australia through its award system prescribes more minimum wages, across the actual distribution of wages paid, than any other country.

- b. The actual entry rates in key award covered industries, such as retail, are higher again than the NMW.

4.3 SDA

115. A number of the core contentions of the SDA are consistent with those of the ACTU, and are addressed in preceding sections.
116. **COVID-19³³**: There is much to the SDA's emphasis on the importance of the work of some retail employees during the height of the pandemic and the adversity they faced, but it is not germane to this wage review. We cannot reconcile claims that a wage increase should "acknowledge hard work" during the pandemic³⁴ with the statutory parameters for minimum wage setting.
117. **Productivity³⁵**: We acknowledge this is not germane to your decision making in this review, but if the SDA genuinely wanted greater sharing of productivity gains, it should have supported passage of more of the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021*, particularly Schedule 3 which would have at least given the industry an opportunity to reconsider enterprise bargaining.
118. **Be careful of aggregates**: The SDA brings forward aggregate retail trade growth and profit data, but in this industry more than most, aggregates can mask very different experiences particularly for smaller, non-food retailers. Many have not returning to viability, let along profitability after 2020.
119. **Stagnation³⁶**: The well merited decision of the Panel to stagger the 2020 increases across a period of months saved jobs and businesses, and should not be mis-represented as stagnation.

4.4 Victorian Government

120. It is more than passing odd that the state which suffered the greatest economic, business and employment impacts from COVID by some margin, and that on its own submission is facing greater and more sustained adversity than other states and territories would support the highest wage increase in this review of the state submissions (2%).
121. **Victoria contradicts itself**. We were very struck by the following from the Victorian submission (p.14):

The coronavirus (COVID-19) pandemic has had a significant impact on Victoria's economy and labour market. Employment has declined and the unemployment rate has increased. While the impact has been experienced throughout the Victorian economy, particular industry sectors and cohorts of workers have been more severely affected. Many of these sectors will take longer to recover, especially those reliant on international visitors.

Almost all industries in Victoria saw job losses during the coronavirus (COVID-19) pandemic, but customer-facing service industries requiring physical proximity, including arts and

³³ SDA Submission, p.3

³⁴ SDA Submission, p.4

³⁵ SDA Submission, p.2

³⁶ SDA Submission, p.2

recreation, accommodation and food services and other services, have been disproportionately affected...

From February to August 2020, employment declined by 69,700 (31 per cent) in accommodation and food services and 26,000 (34 per cent) in arts and recreation...

122. Answer: These are the payers of minimum wage increases, in the award reliant industries that Victoria acknowledges have been most impacted. How could Victoria then argue for an increase at twice the rate of inflation?
123. When the Victorian submission is read closely the narrative and data do not seem to favour the outcome being commended to the Expert Panel. The overwhelming impression is of plans and forecasts for restart and rebound, but also of risks and uncertainties to these forecasts and of Victoria starting further back than the rest of Australia. Properly read the Victorian submission should compel greater caution than the Government's headline position.
124. At various points Victoria points to subdued recovery (p.10), and there are various acknowledgements that the end of JobKeeper brought fresh uncertainty. Victoria acknowledges 'spare capacity' in its labour market, which is a nice way of saying too many Victorians lack jobs or sufficient hours. If Victoria acknowledges that "*near-term weakness in the labour market and resulting spare capacity is likely to keep wages growth and inflation low for some time*", then surely an inflated real increase will exacerbate or prolong this problem, or cause other problems? The answer cannot be to transfer responsibilities and burdens onto Victoria's smallest employing businesses, that is not sustainable.
125. Victoria also acknowledges that the increase it champions is not needed to meet rising costs, saying at p.12 that "Inflation is forecast to be 0.75 per cent in 2020-21 and 1.50 per cent in 2021-22. As the economy and labour market continue to recover, inflation is forecast to increase gradually, although it will likely remain low over the medium term". How then can an over inflation rise be justified?
126. Victoria acknowledges uncertainty, at p.12 indicating that "*The near-term economic outlook depends significantly on health outcomes, notably the prevention of the spread of the virus and the rollout of the vaccination programs*".
127. Victoria also charts a path to recovery without the stimulatory action the ACTU claims needs to be taken: "*Household consumption is expected to recover to pre-pandemic levels around the end of 2021. This will be supported by recovery in labour income, net household wealth and a gradual decline in uncertainty related to health and economic outcomes. Public demand is expected to increase, led by higher infrastructure spending...*" (p.12). If this is correct, then the actions the ACTU wants the Panel to take, forcing small employers to take on a role in economic stimulus when they can least afford it (not that at any point that is sound economics) are unnecessary. Why cause such damage if we are on a path towards recovery and government is doing the economic stimulus?
128. **Forms of work:** The Victorian Government argues (p.5) that:

The Victorian Government considers that insecure or precarious employment in Australia is too prevalent, and its adverse impacts on individual workers and the broader community warrants intervention by government, whilst still ensuring that entrepreneurial and innovative businesses are encouraged.

129. This is not in any way relevant to the task before the Expert Panel. Claims about ‘insecure work’ (sic) are irrelevant.
130. **Recovery from the impact of COVID-19:** The Victorian Government argues (p.5) that:
- The Victorian Government submits that in the Annual Wage Review (AWR) 2020-21, a reasonable increase of two per cent to the National Minimum Wage and award minimum wages will assist those on low incomes in Victoria to recover from the impacts of coronavirus (COVID-19), counteract an increase in inequality due to the health crisis and help the Victorian economy to recover from the pandemic – particularly with the imminent cessation of Commonwealth Government support to Victorian workers, employers and job seekers affected by the pandemic.*
131. Answer: There is no basis to consider an increase in excess of inflation, this is not a year for real minimum wage growth which would put more jobs at risk. Impacts of health crises are matters for government transfers and supports, not cost shifting to small family businesses, which remain amongst those Victorians most impacted by the non-health impacts of COVID-19, many of which flowed from restrictions imposed by the Victorian government.
132. The employees most impacted by the pandemic lost their jobs, including many thousands working in restaurants and other businesses which were prohibited from opening. A wage increase is not a gift or reward for periods of adversity, particularly not when the small employers who would be required to pay have suffered greatest adversity.
133. **Savings:** The Victorian Government argues (p.6) that:
- ...an increase of two per cent to all minimum wages will help to counterbalance increases in income inequality due to the downturn and provide opportunities for those from marginalised cohorts to rebuild their savings, increase their economic participation and be more economically secure when reaching retirement age.*
134. Answer: The cat has been belled for the proponents of wage increases to stimulate spending. The Victorian Government is cutting across the ACTU’s arguments that inflated wage increases will be spent, acknowledging that they would be used to rebuild savings and for retirement. Superannuation costs are already rising from 1 July 2021, and the Victorian Government is acknowledging that small employers are effectively being asked to subsidise savings, not spending.
135. **Vulnerable groups / marginal cohorts:** The Victorian Government submission concludes with an extensive examination of the impact of COVID associated downturn and restrictions on particular cohorts of employees. The key response to this is that the best thing for all Victorians, including these cohorts is reducing the spare capacity in the Victorian labour market, which means an outcome in this review which supports job creation and the offering of more hours.
136. **Victorian Jobs Plan:** If the Victorian Government’s Jobs Plan is going to ‘kick start’ the state economy as claimed, then there is no case to, as the ACTU and others argue, try to do so through an inflated real minimum wage increase.
137. Victoria’s **New Jobs Tax Credit** is payroll tax relief, and seems a very positive initiative. However, small employing businesses most subject to these decisions have payrolls below the tax-free threshold and don’t pay payroll tax, so we are not clear how the Victorian Government can claim that

“The New Jobs Tax Credit will offset any cost increases, including increases to minimum wages, for small and medium sized firms” (p.6).

4.5 Queensland Government

138. The Queensland Government submission supports an increase that *“at a minimum, keeps up with inflation and maintains the living standards for private sector workers reliant on the NMW or national modern award minimum wages; that protects the low paid; and that is economically responsible”*.³⁷ This is a more measured proposal than that of Victoria.
139. **Bargaining:** At p.2 Queensland observes that declining bargaining and increased award reliance, and argues that this *“places even greater emphasis on the Panel’s consideration of minimum wage and national modern award increases that are fair in the context of improved living standards for all private sector workers”*.
140. **Answer:** The proportion of Australian employees covered by awards or agreements does not vary the Act, or rebalance the considerations the Expert Panel has regard to. Nor does it promote one statutory consideration over others. It should also be noted that arguments about higher award reliance cut both ways, and the economic and jobs impact of particular increases is higher and more immediate if award wage reliance is higher.
141. **Pay equity:** It is argued that raising the NMW and award rates will promote gender pay equity as more women are covered by minimum and award rates (p.3, 5). This is dealt with above in relation to similar arguments from the ACTU and other proponents of substantial real increases.
142. **Underemployment:** Queensland argues that *“Some 279,300 part-time employees in Queensland are also national modern award-reliant. Given current high levels of underemployment, Queensland submits that the needs of the low-paid are also important considerations for this group”* (p.3).
143. **Answer:** Assessments of the needs of the low paid cannot be based on part time proportions of a full-time wage. There is no precision on the number of hours or days that would facilitate such a consideration, even were it a valid approach. In addition it would remain to be tested the extent to which part time employment is undertaken by sole wage earners or by second wage earners in households reliant on other incomes (wages and government transfers).
144. **State averages:** Queensland observes that its average pay level for award reliant non-managerial employees is lower than the national average (p.4).
145. **Answer:** This is likely to be compositionally based, and is regardless not germane to any uprating of the minimum wage in this year’s review. It is axiomatic that particular states and territories will differ from national averages.
146. **Geopolitical risk:** Queensland observes that *“Although the global economic recovery is progressing, there remains a higher-than-usual degree of uncertainty with significant downside risks to the outlook...”* (p.6). The Queensland Government adds *“The key risk to Queensland’s economic outlook is the global evolution of the COVID-19 health pandemic. While Australia has been relatively successful to date in suppressing the pandemic, the risk of further waves remains”*.

³⁷ Initial Submission, Queensland Government, p.2

147. Answer: This is right, and Queensland is right to focus on key trading partners and key economies globally. In the weeks since the lodgement of the initial submissions the geopolitical risk has increased, with new virus variants in various countries and fresh waves of the pandemic. It remains unclear whether vaccinations in key global economies will have their intended effect.
148. **How employers accommodate increases:** Queensland observes that “...while it has been argued that moderate increases in real wages in the absence of offsetting productivity improvements may lead to a negative impact on employment, this has not been borne out by the evidence. Factors such as employer efforts to increase workers’ productivity to justify the wages paid and incentive effects on employees and through the broader effects of a fairer system on social and economic cohesion in society as a whole are effective in mitigating any potential dis-employment effects.” (p.13).
149. Answer: It is not clear that any assumptions or guesses as to how employers have accommodated wage increases in previous years can hold true in 2021 and 2022. Circumstances remain extraordinary. Many employers of award wage employees saw their cash reserves severely depleted during 2020 to simply remain in business when unable to trade, and their viability and solvency remain far more tenuous (and in far greater numbers) this year than in a more ‘typical’ year at other stages of an ‘ordinary’ economic cycle.
150. We are particularly concerned about the reference on (p.14) to the 2016 and 2017 decisions and the suggestion that “*the Panel’s past assessment of what constitutes a ‘modest’ increase may have been overly cautious, in terms of its assessed dis-employment effects*”. As with so many of our pre-pandemic thinking, any such assumptions must be fundamentally reset given the pandemic and recession, and continued vulnerability and risk. Pre-pandemic assumptions about small restaurants, shops etc and their capacity to pay simply cannot stand or be maintained given the experience of 2020 and 2021.
151. **Lower wage growth:** Queensland refers to the importance of increasing wage growth (p.15). Such arguments are dealt with in the earlier sections of this submission and in ACCI’s initial submission.
152. **Gap between bargained and award wages:** The Queensland Government (p.16) highlights differences between enterprise bargained wage outcomes and award wage rises, and differences between productivity growth and minimum wage growth.
153. Answer: This is not a new argument, awards are a safety net which will be exceeded by market rates determined by a range of means, including enterprise bargaining. Enterprise agreement remuneration includes some component of enterprise specific reward, including reward for efficiencies, productivity or variations to the operation of award hours and organisation of work. This remains quite separate to the safety net of general application. Quite specifically, employers who pay minimum wage increases must be assumed to lack the financial capacities and efficiencies which lead their counterparts to be able to pay more.
154. In addition, it seems enterprise bargaining is retreating to a core of large, highly unionised enterprises, and to a concentration in particular industries. This means arguments to extrapolate from bargained to safety net rates cannot be sustained, including in particular arguments that this can be accommodated without negative outcomes. We don’t assume that small to medium sized enterprises can spend the same amount as Australia’s largest organisations on marketing, IT or employee assistance, why would we assume wage affordability could be extrapolated in this way?

155. If this were pursued it would artificially inflate minimum wages, based on efficiencies and purchasing power, international logistical integration enjoyed only by our largest corporates.

4.6 ACOSS

156. The submission of the Australian Council of Social Services (ACOSS) advances a number of contentions in support of a “substantial real wage increase” (unspecified).³⁸

157. **Real wage increases:** ACOSS argues that “(the minimum wage) *has only increased in real terms by an average of 0.7% per annum over the last decade.*”³⁹

- a. Real wage growth, year on year of 0.7% is high. It actually creates scope for a minimum wage pause when merited to retain jobs and small businesses.
- b. The minimum wage is not the reference point, most employees directly subject to this review earn higher award classification rates, and the actual NMW is transitional in many cases.

158. **Employers assuming the role of stimulus:** ACOSS argues that “*A substantial increase in the minimum wage is needed to help sustain the recovery as government income supports are reduced.*”⁴⁰

- a. ACCI cannot reconcile a role of counteracting government policy with the statutory parameters for these reviews.
- b. It cannot be the role of private sector employers to counter the impact of reductions in temporary supplements to JobSeeker, which have been passed by the Parliament.
- c. Employers cannot take over the role of JobKeeper from government, Treasury advised quite correctly that it was time for JobKeeper to end as a whole of nation program.
- d. ACOSS is very transparent in trying to have small businesses assume previous government responsibilities and to countervail decisions of the Government and this Parliament:

*In the absence of support for household incomes from the JobKeeper Payment and the Coronavirus Supplement, stronger growth in earnings - especially in the lower half of the pay distribution - is needed to sustain consumer demand and growth in employment.*⁴¹

159. **Putting up JobSeeker at the expense of employers and jobs:** ACOSS argues that “*a higher minimum wage creates more room for the substantial increases in social security payments that are needed to reduce poverty.*”

- a. The Government has recently increased JobSeeker in real terms for the first time in over 30 years to \$620.80 per fortnight. It is very unlikely there is any consideration of a further increase, nullifying this contention.

³⁸ ACOSS submission, p.17

³⁹ ACOSS submission, p.3

⁴⁰ ACOSS submission, p.3

⁴¹ ACOSS submission, p.8

- b. ACOSS arguments to this Panel about putting up JobSeeker are misdirected – that is not within the Panel’s remit.
 - c. There is no reduction in poverty if more award and minimum wage earners lose jobs, or find it harder to regain jobs lost in the pandemic induced recession.
160. **Household composition:** It is not remarkable that a proportion of minimum wage earners reside in comparatively lower disposable income households.⁴² It would be extraordinary if this was not the case. Of itself that cannot assist the Panel in determining whether rates should rise, or by how much.
161. **Minimum wages and employment:** ACOSS argues that “*There is no automatic relationship between minimum wages and employment levels*”.⁴³
- a. Assumptions based on the pre-pandemic labour market cannot be uncritically carried forward in 2021/22.
 - b. Many of the employers of award and minimum wage employees are more marginal and at greater risk of closure than they were pre-pandemic.
 - c. International evidence must be assessed in its proper context, including many of the nations concerned not having an award system comprising many thousands of minimum wages.
162. **Minimum wages and employment:** ACOSS argues for a benchmarking and standards driven approach.⁴⁴ The Panel has been very clear that it cannot adopt a mechanistic approach and needs to examine and weigh its considerations each year.
163. **Ending JobKeeper will have an impact:** ACOSS acknowledges the uncertainty in which this review is being undertaken. ACOSS also shares with employers concern that ending JobKeeper risks having some negative impacts⁴⁵ (despite in ACCI’s view being a sound budgetary and economic decision). ACOSS echoes the estimate of 100,000 to 250,000 redundancies without appreciating their proposed response, an excessive increase in minimum and award minimum wages, will exacerbate the situation, putting additional jobs at risk.⁴⁶
164. **Counteracting inequality:** ACOSS argues that “After the COVID recession, it is likely that wage inequality will increase in the absence of a substantial increase in minimum wages”.⁴⁷ ACCI argues that the greatest threat of widening inequality post-recession would lie in a failure or delay of job creation, re-employment and recovery. These are real risks of an inflated approach to minimum wage uprating in 2021, at the point of nascent, multi speed, inconsistent recovery. The same can be said of poverty, with the best antipoverty measure at this point, in addition to the tax and transfer system, supporting job creation.
165. **Youth unemployment:** ACOSS rightly observes that “*The unemployment rate among young people (12.9%) remains elevated*”.⁴⁸ It can be added that long term labour market scarring of a generation

⁴² ACOSS submission, p.3

⁴³ ACOSS submission, p.3

⁴⁴ ACOSS submission, p.3

⁴⁵ ACOSS submission, p.6

⁴⁶ ACOSS submission, p.7

⁴⁷ ACOSS submission, p.8

⁴⁸ ACOSS submission, p.8

of young people is one of the enduring risks of pandemic and recession. Australia needs to be doing all it can to keep our young people engaged with work.

4.7 Australian Catholic Council for Employment Relations (ACCER)

166. **Balance:** There is simply insufficient regard in the ACCER submissions for the adversity facing employers, particularly small businesses. For an organisation that says a great deal about fairness and low incomes in its submission, it fails to address the adversity being faced by small employers, and small business families (often taking out of their business amounts very consistent with award wages).
167. **We did an advanced word search of the ACCER submission for the words “small business”, and found nothing.**
- Apologies to ACCER if we are in error in any way, but a failure to address the adversity or circumstances of the overwhelmingly small businesses that pay increases arising from these reviews in 28 pages (77 pages including attachments) seems damning.
 - With small business people losing lifetimes of work, houses and retirement savings in the tens of thousands during COVID, and many facing ongoing uncertainty along with their employees, it seems extraordinary that such an organisation could ignore them completely.
168. **4% is unrealistic:** ACCER argues that in a period of ongoing uncertainty and nascent recovery, with many small businesses still recovering constrained by border closures and state based health restrictions and with an adjustment to the ending of JobKeeper, the Panel should award an extraordinary increase in minimum and award wages — its largest increase in over a decade ever under the current legislation. This is a simply unrealistic proposal.
169. **JobKeeper:** The rate of JobKeeper was a best guess in a period of government needing to act very rapidly. There were always going to be winners and losers in terms of income, but in reality the winners were the jobs and businesses that were saved. JobKeeper was not an exercise in rebasing the minimum wage. This review is about uprating not rebasing award wages and minimum wages.
170. **Recognise what’s there:** Australia already has one of the highest minimum wages in the world, and in many award reliant industries such as retail the entry rates are higher again. ACCER again argues that the Panel has consistently erred in its statutory duties through some inherent minimum wage inadequacy.⁴⁹ We see nothing more in this argument in 2021 than in the preceding years in which it was not accepted or of any weight in the Panel’s final determination of a minimum wage increase.
171. If Australia fails to have a “decent living wage”⁵⁰ after 25 years of overwhelmingly real wage increases, and maintaining one of the very highest minimum wages in the world, year on year:
- This cannot be an argument to pull harder on the same lever.
 - Perhaps this should lead to a recognition that minimum wages cannot assume the burden of income transfer to the lowest paid ACCER would have it assume.

⁴⁹ ACCER Submission, para 6.

⁵⁰ ACCER Submission, para 133.

172. **Safety net and fairness:** ACCER overplay the statutory construction elements of what is overwhelmingly an economic and labour market driven review. The review must be undertaken in accordance with the directives of the Fair Work Act, which are to balance a now well established range of considerations. We see various errors or misunderstandings in the ACCER contentions:
- a. Fairness⁵¹ must extend to fairness for all, both employers and employees. Section 284 cannot be read down to be solely about perceptions of fairness to employees.
 - b. The overarching objectives of the Act, particularly s 284(1)(a) to (e), requires the panel to balance economic and jobs considerations, not the absolutes the ACCER seems to argue.
 - c. On the safety net⁵² – There is no basis to conclude at any point since its commencement in 2010 that the Fair Work Act has delivered anything other than a minimum and award wage safety net. If this is not correct it is in the years that the Panel has delivered substantial real wage increases that this contention was most likely to be sustained. However, as we maintain the Panel is not at large on this issue, the statute directs panel consideration on what is and is not a safety net increase.
173. **International considerations:** ACCER seems to be in error about Australia’s international obligations on minimum wage setting.⁵³ The minimum wage provisions of the Fair Work Act are consistent with Australia’s international obligations under ILO Convention 131. Convention 131 is very clear that minimum wage setting and variation must balance competing considerations, as clearly shown at Article 3:

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.

174. There is no basis to conclude that the Panel, or the Parliament can or should attempt to see minimum wages set based on disproportionate weight or determinism by a single factor as ACCER seem to argue. We see no basis to depart from established approaches to balancing statutory considerations in the way ACCER proposes.
175. Furthermore, linking the preceding two matters, ACCER would have the Panel adopt an approach to s 284 which would be at odds with Australia’s international treaty obligations. Were ‘fairness’ and the ‘safety net’ to be the prevailing or sole considerations as ACCER claim, ACCI would seriously consider formally complaining to the ILO that Australia’s legislation was not in compliance with Article 3 of Convention 131, because it would not balance the proper considerations. Does ACCER argue

⁵¹ ACCER Submission, para 16 etc

⁵² ACCER Submission, para 21

⁵³ ACCER Submission, para 23

a construction is to be preferred which would be inconsistent with Australia's treaty obligations?
Recalling that:

- a. Australia ratified C131 on 15 June 1973, and we have almost 50 years of consistent compliance with its terms.
 - b. Section 3(a), the first paragraph of the Objects of the Fair Work Act emphasises the importance of Australia's international labour obligations.
176. **A Safety Net is not arbitrary:** All parties are to be commended for advancing their values and sticking to their guns on the approach they say should apply. However the Panel has been very clear that it will not adopt a mechanistic formula for minimum wage setting.
177. **There has been no wage cut:** It is not accurate to suggest minimum wages have been cut⁵⁴; a change in a relativity to a moving average determined by the wider labour market is not a cut.
- a. When average wages are inflated by a mining boom, and minimum wages increase by 8.2% over 2 years (2010 and 2011), how can the later be possibly painted as a cut?
 - b. This pays insufficient attention to purchasing power, affordability and living standards. It is only when wages decrease in real terms (i.e. fails to keep up with inflation) that it can be considered as a cut in wages.
 - c. Had Parliament intended that minimum wages be indexed to community wide wage movements it would have legislated to that effect and removed or reduced the Panel's discretion . In reality we find it hard to reconcile the ACCER analysis with the statutory task before the Panel.
 - d. Noting Figure 3 in the ACCER submission – what is the further evidence that the living standards of the lower paid in Australia have declined? We also make the obvious point that this ignores the role of taxes and transfers. During the period cited we recall for example substantial increases in the tax-free threshold for lower income earners.
178. **Comparing the wages and pensions safety nets:** ACCI recalls that we have been unsuccessful in interpreting s 284(1)(c) as allowing a comparison between the living standards of those in and out of work. On this logic, the pension safety net is irrelevant.

⁵⁴ ACCER Submission, Figure 2, at paragraph 112.

5. ABOUT THE AUSTRALIAN CHAMBER

The Australian Chamber of Commerce and Industry (ACCI) is the largest and most representative business advocacy network in Australia. We speak on behalf of Australian business at home and abroad.

Our membership comprises all state and territory chambers of commerce and dozens of national industry associations. Individual businesses are also able to be members of our Business Leaders Council.

We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, employing over 4 million Australian workers.

The Australian Chamber strives to make Australia the best place in the world to do business – so that Australians have the jobs, living standards and opportunities to which they aspire.

We seek to create an environment in which businesspeople, employees and independent contractors can achieve their potential as part of a dynamic private sector. We encourage entrepreneurship and innovation to achieve prosperity, economic growth and jobs.

We focus on issues that impact on business, including economics, trade, workplace relations, work health and safety, and employment, education and training.

We advocate for Australian business in public debate and to policy decision-makers, including ministers, shadow ministers, other members of parliament, ministerial policy advisors, public servants, regulators and other national agencies. We represent Australian business in international forums.

We represent the broad interests of the private sector rather than individual clients or a narrow sectional interest.

CHAMBER



INDUSTRY ASSOCIATION

