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ACTU Reply Submission to Annual Wage Review 2011-2012

27 April 2012

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Introduction

1. We welcome the opportunity to provide this reply submission to the Fair Work Australia Minimum Wage Panel ('the Panel'). The Panel has received a total of 32 initial submissions, 21 of which were filed by organisations representing employer interests. Our review and consideration of these submissions has not altered our view that our claim for an increase of \$26 per week for the lowest paid workers and an increase of 3.8% for employees above the C10 classification level is an appropriate and sustainable claim in light of the prevailing social and economic considerations referenced by the *Fair Work Act*.
2. It bears repeating that this will be the third national wage fixation process conducted under framework provided by the *Fair Work Act*. In its first Annual Wage Review ('AWR'), the Panel noted the changes in substance and emphasis under that framework as compared to the criteria which guided wage fixation under previous provisions. In our submission, the task of the Panel is not to now revisit that characterisation of the elements of the fair safety net required by the framework. Rather, the present task is to maintain that safety net within the established framework in light of relevant and current evidence.
3. In approaching that task, the assertions and predictions in some submissions filed on behalf of employer interests concerning economic performance need to be balanced against real indications that economic conditions have improved in 2012, including growth in numbers of employed persons, growth in the participation rate, growth in job advertisements and rises in business conditions and confidence.
4. Further, the Panel should not be drawn by impulsive calls to indirectly rebalance the settlement of modern awards, pre-empt the outcomes of the 2012 Modern Award Review or overreact to other policy reform processes. Whilst consideration should be given to policy matters that have or are demonstrably likely to impact economic performance, social inclusion, relative living standards and the needs of the low paid, this should not be actuated by a presumption that a minimum wage "correction" is required.
5. In the following chapters, we elaborate on the above matters and provide a response to selected matters raised in the submissions filed which we are concerned urge the Panel to adopt an incorrect approach or are based on assumptions or measures which are not reliable.

The performance of the national economy

6. The Australian economy grew at a slower than average pace in 2011, with real GDP increasing by 2.3% in seasonally adjusted terms and 2.8% as measured by the ABS' preferred measure, the trend estimate.¹
7. Conditions have improved in 2012. Employment growth has outpaced population growth. Job advertisements have risen strongly. Business confidence and conditions have improved.
8. Circumstances remain challenging in some parts of the economy, particularly the non-mining tradable sector (such as manufacturing). The performance of the national economy nevertheless appears to have improved somewhat since late 2011.
9. The IMF recently upgraded its forecast for global growth from 3.3% to 3.5% for 2012 and from 4% to 4.1% for 2013. It noted that "global prospects are gradually strengthening again, but downside risks remain elevated".² There are risks to the global economy, although as our opening submission noted, these risks are not all to the downside.
10. This chapter provides the Panel with updated information about the performance of the national economy. Where appropriate, this chapter includes responses to other organisations' submissions, but these responses are not exhaustive. The data presented in our opening submission stand as justification for our claim that an increase of 3.8% for most award workers, or \$26 per week for the lowest paid, is appropriate in the economic circumstances.

The labour market

11. The labour market looks to have reached a turning point in late 2011, emerging from a period of relative softness. Between December 2011 and March 2012, the number of employed persons in Australia increased by 76 700, while the working age population (those aged 15 and over) increased by 55 400. The March *Labour Force* figures were particularly strong, with employment growing by 44 000 persons in the month. 15 800 of these additional employed people had full time jobs.³

¹ ABS 5206

² International Monetary Fund 2012, *World Economic Outlook*, April, p.1.

³ ABS 6202

12. The unemployment rate in March was 5.2% in both seasonally adjusted and trend terms. The participation rate also rose in March, up from 65.2% to 65.4%. The labour market has strengthened in recent months.
13. In its opening submission, ACCI drew a somewhat different conclusion. ACCI submitted that there has been a “*steady deterioration in the rate of unemployment*”.⁴
14. There has not been a steady deterioration in the rate of unemployment. The unemployment rate increased slightly over the twelve months to March 2012, from 4.9% to 5.2% (in seasonally adjusted terms). However, the unemployment rate has not steadily increased over the year. It rose from 4.9% in April 2011 to 5.3% in August. It remained at 5.3% in September. Since that time, the seasonally adjusted unemployment rate has been either 5.1% or 5.2% each month. The ABS trend estimate of the unemployment rate has been 5.2% for each month since August 2011.⁵ The Panel should not be left with the impression that unemployment is steadily deteriorating.
15. It is true that some forecasts include a slight increase in the unemployment rate in the coming months, which is then expected to be reversed. The RBA, in its latest *Statement on Monetary Policy*, notes:
- ...the unemployment rate is expected to increase modestly. Employment growth is expected to begin to strengthen later in the year in line with solid GDP growth and as firms’ current caution subsides somewhat. The unemployment rate is expected to decline modestly over the later part of the forecast period...*⁶
16. The latest *Mid-Year Economic and Fiscal Outlook* (MYEFO) by the Commonwealth forecasts 5.5% unemployment in the coming financial year, as does the latest *Business Outlook* by Deloitte Access Economics. The more recent IMF forecast, from the April *World Economic Outlook*, is more optimistic, projecting a 5.2% unemployment rate for Australia in 2012 and 2013.⁷
17. Economic forecasts, particularly official forecasts, provide useful information that is relevant to the Panel’s deliberations. However, they should not be treated with undue precision. The complex nature of modern economies means that forecasts for key variables such as the unemployment

⁴ ACCI, *Submission to the 2011-12 Annual Wage Review*, [196].

⁵ ABS 6202.

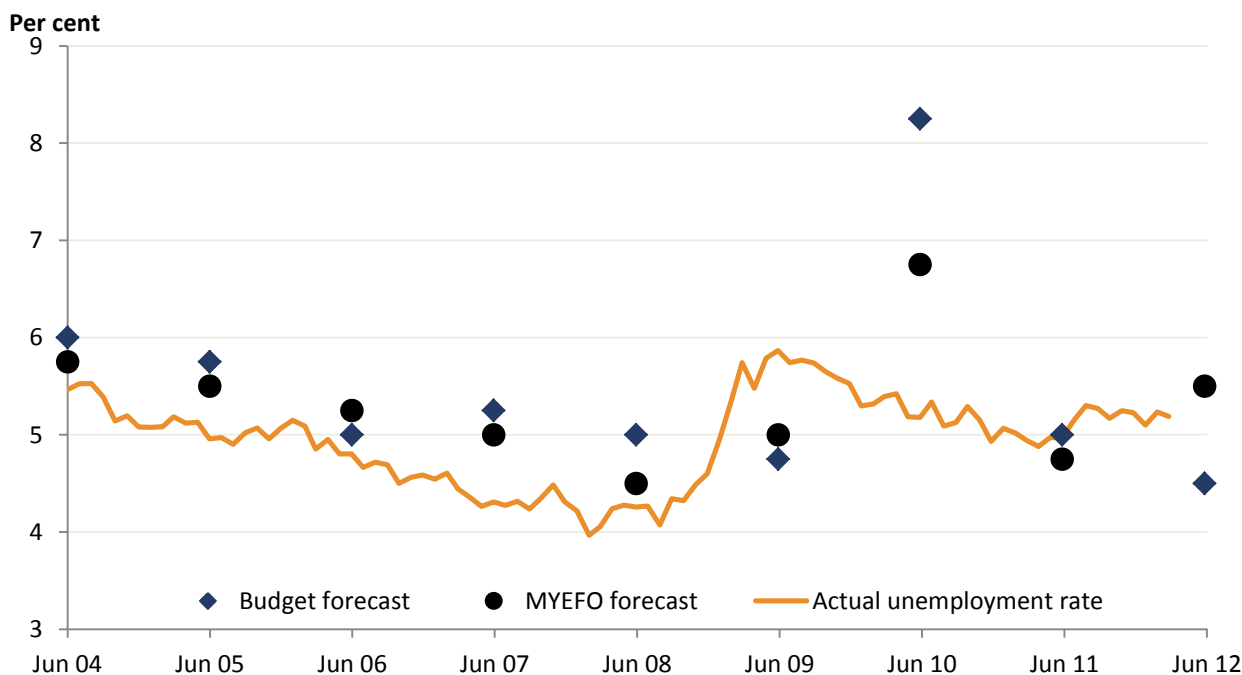
⁶ RBA 2012, *Statement on Monetary Policy*, February, p.67.

⁷ International Monetary Fund 2012, *World Economic Outlook*, April, table 2.3, p.61.

rate are accompanied by wide confidence intervals; the forecast value of the unemployment rate for a particular point in time rarely ends up being 'correct'.

18. This is shown quite starkly in Figure 1, which depicts the unemployment rate since June 2004, compared with the Budget and MYEFO forecasts for unemployment in each year. The official forecasts anticipated a higher unemployment rate than the one that came to pass in each year from 2004 to 2008 (inclusive). The size of the increase in 2009 wasn't forecast by the previous Budget and MYEFO, while in 2010 the unemployment rate did not come close to the levels forecast by the Government. The 2011 result was around the forecast of 5% contained in the 2010-11 Budget, though slightly higher than the MYEFO forecast. For much of the past decade, the unemployment rate has ended up being lower than that which was contained in the official forecasts.

Figure 1: Unemployment rate compared with government forecasts

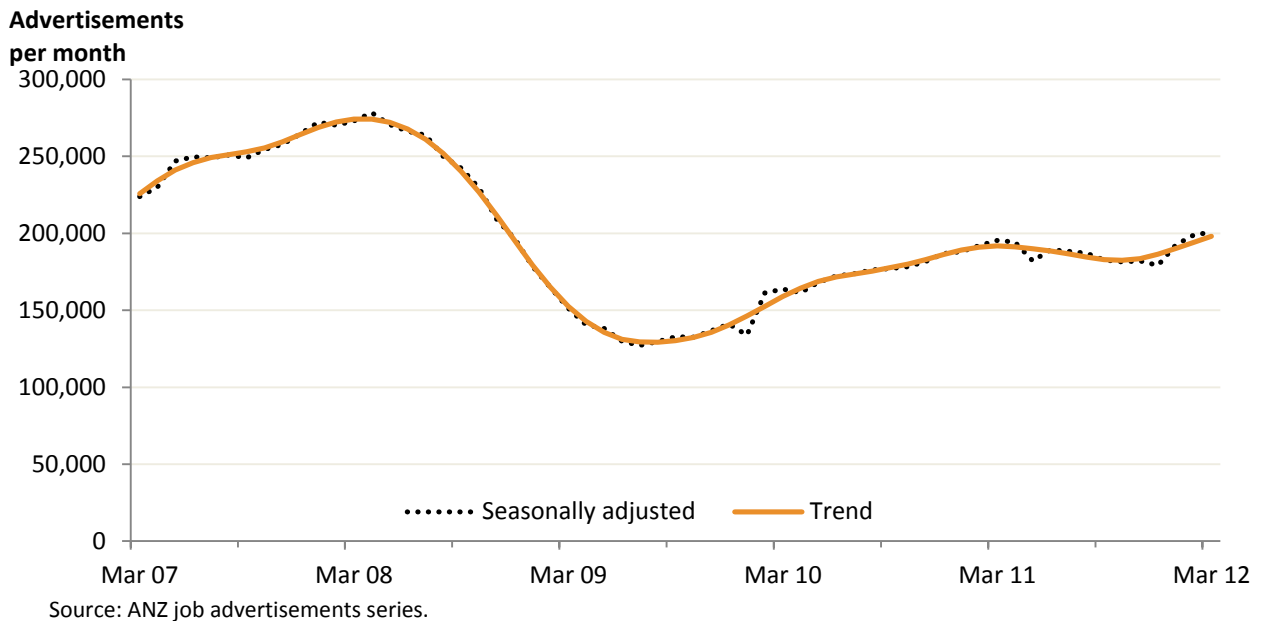


Source: ABS 6202, Budget papers (various years), MYEFO (various years). The Budget forecast for June 2012 is from the 2011-12 Budget, published in May 2011; the MYEFO forecast for 2012 is from the 2011-12 MYEFO, published in December 2011. Previous years follow the same pattern.

19. Given the imprecision of economic forecasts, the Panel should not give undue weight to the forecasts for a 5.5% unemployment rate in mid-2012. It is entirely possible, perhaps even likely, that the unemployment rate in mid-2012 will be below the most recently published forecast for the period. Forecasts for the following fiscal year (2012-13) are necessarily less reliable still.

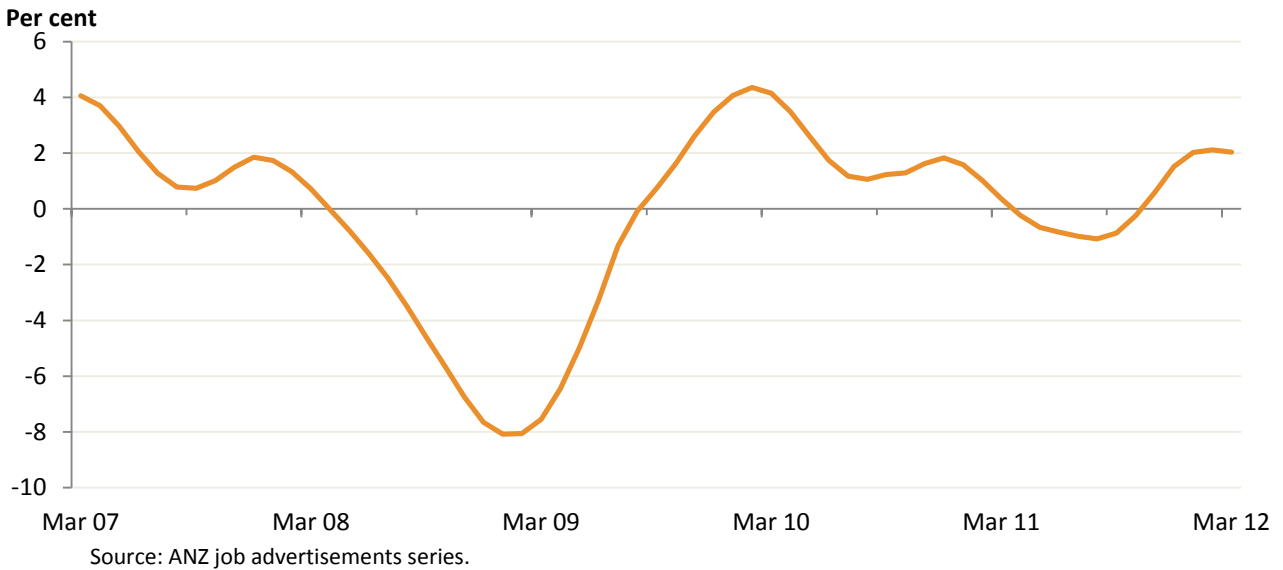
20. There are reasons for optimism about the outlook for the labour market. Employment rose strongly in March, as outlined above. The number of job advertisements, as measured by ANZ, fell slightly in 2011, but a turning point looks to have been reached in late 2011. The number of advertisements has been rising since October in trend terms, and December in seasonally adjusted terms. This is shown in Figure 2.

Figure 2: ANZ job advertisements series



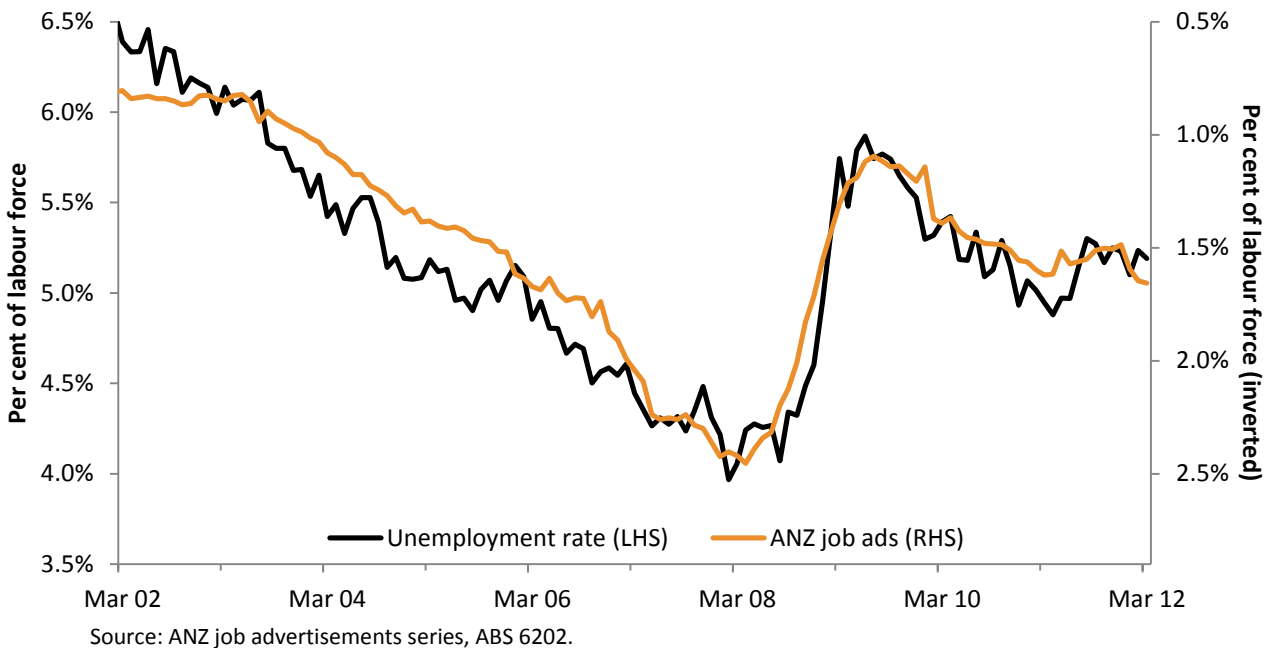
21. The turning point in job advertisements is more evident if the rate of change, rather than the number of advertisements, is examined. In trend terms, the number of job advertisements rose by 2% in January, 2.1% in February and 2% in March 2012, after falling in each month from April to October 2011 (inclusive). Until January 2012, the trend estimate of job advertisements hadn't risen by 2% in a month since May 2010. This can be seen in Figure 3.

Figure 3: Quarterly change in job advertisements (trend)



22. It's clear from Figure 2 and Figure 3 that the number of job advertisements has been increasing for the past several months. This suggests that a turning point has been reached after the labour market softness of mid-2011. The ANZ job advertisement series has been a reliable measure of the state of the Australian labour market in recent years. This is shown in Figure 4, which compares the ANZ job advertisements series (as a proportion of the labour force) to the unemployment rate. The job advertisements rate is shown on the right-hand Y-axis; the axis is inverted, such that a rise in the advertisements rate is represented by a downward movement in the line.

Figure 4: The unemployment rate and job advertisements as a proportion of the labour force



23. The increase in job advertisements, and the reliability of this measure of the performance of the labour market, suggests that recent positive employment data are not an aberration. Conditions have improved since mid-to-late 2011. There has not been a steady deterioration in the unemployment rate, nor in broader labour market conditions.

Economic growth

24. The March quarter 2012 National Accounts have not yet been released. The ABS has indicated that they will be released on 6 June. The information contained in our opening submission and the FWA *Statistical Report* includes the latest available data on Australian economic growth.

25. There have been some signs of an improvement in economic conditions. Employment growth in 2012 has outpaced growth in the working-age population, as outlined above. The latest NAB *Monthly Business Survey* also shows an improvement in conditions and confidence.⁸

26. The NAB survey shows that business conditions improved, up from +3 points in February to +4 points in March, where any positive number represents an improvement in conditions. The long-run average in business conditions in the NAB survey is +1.

27. The NAB measure of business confidence also rose in March, up from +1 to +3. The NAB also noted that “*business confidence improved across most industries in the month*”.⁹

28. The latest IMF forecast, issued on 18 April, contains a projection for 3% economic growth in Australia in 2012 and 3.5% in 2013.¹⁰

29. Economic conditions remain uneven across regions and industries, but the national economy is expected to perform reasonably well in 2012 and 2013, with growth around its trend rate.

30. Growth would have been stronger in 2011 if not for a decline in net exports. As noted by ACCI in its submission (on page 39), household consumption contributed 1.9 percentage points to GDP growth in 2011. This was an increase on the 1.6 percentage points contributed by household consumption in 2010. The decline in net exports dragged down the rate of growth in real GDP. We submit that

⁸ National Australia Bank 2012, *Monthly Business Survey: March 2012*, Tuesday 10 April.

⁹ National Australia Bank 2012, *Monthly Business Survey: March 2012*, Tuesday 10 April.

¹⁰ International Monetary Fund 2012, *World Economic Outlook*, April, table 2.3, p.61.

the rate of growth in household consumption, which has been around trend, is more relevant to most award-reliant industries than the rate of change in net exports.

31. ACCI notes that:

Household consumption remains an important mainstay of economic growth despite subdued conditions in the retail sector, with spending on services tending to offset weaker demand for goods.¹¹

32. This accords with the interpretation of the data advanced in our opening submission to this Review: that the overall pace of household spending has been around trend, but the composition of that expenditure has shifted (in part from goods to services). While this may have implications for particular award-reliant industries or industry sub-divisions, it is far from clear that the change in consumer spending will negatively affect award-reliant businesses as a whole. Some of the expenditure categories that have grown at an above-average pace, such as hotels, cafes and restaurants, correspond to industries with a significant number of award-reliant workers.

Inflation

33. The March quarter CPI data have confirmed that inflation has moderated. The 'headline' CPI measure rose by only 1.6% over the year to the March quarter, below the RBA's medium-term target band. The FWA *Statistical Report* provides information about the pace of inflation at table 4.1.

34. This low figure is partly the result of the natural disasters of early 2011. The disasters (particularly Cyclone Yasi and the Queensland floods) resulted in an increase in the price of fruit and vegetables. This pushed up the headline CPI in early 2011. The price of fruit and vegetables has now fallen, dragging the headline CPI down.

35. Underlying inflation is less affected by such movements. The two measures of underlying inflation reported by the ABS, the trimmed mean and weighted median, rose by 2.2 and 2.1 per cent, respectively, over the year to the March 2012 quarter.

¹¹ ACCI, *Submission to the 2011-12 Annual Wage Review*, [172].

36. The fact that inflation has remained contained suggests that the increases awarded in previous AWRs have not adversely affected inflationary expectations in Australia. There is no credible evidence of a wage-price spiral emerging.
37. However, we submit that the Panel should not overreact to the temporary fall in inflation brought about by the receding effect of the 2011 natural disasters. The increase in minimum wages that was awarded in 2011 was less than the change in the CPI over the year to the September 2011 quarter.
38. We submit that the Panel should take a medium-term view of its task of maintaining a fair safety net of minimum wages. Since 2005, minimum wages have not kept pace with the cost of living for workers, as detailed in our opening submission. We further outline our proposal that the Panel take a medium-term view of its task in a later chapter of this reply submission, in which we examine the proposals of some other organisations for an AWR increase that is linked to inflation forecasts.
39. We also note that the March quarter Analytical Living Cost Index for working households has not yet been released. It is due to be released on 2 May.

Conclusion

40. Recent data on employment, business conditions and business confidence support our claims that the performance of the national economy has improved somewhat in recent months. The increase we seek in award wages is modest and appropriate in the circumstances.

The legislative context

41. The ACTU's opening submission was structured around a series of chapters that addressed the statutory criteria that guide the Panel's deliberations. These criteria are set down in the minimum wages and modern awards objectives in the *Fair Work Act 2009*.¹² We provided information to demonstrate that the increase we seek in minimum wages is consistent with each of the criteria.
42. The Panel should dismiss any suggestions that the focus of its deliberations ought to be on anything other than those matters which are clearly set out in the statute. The Panel should likewise dismiss any arguments that are directed towards the criteria that applied under previous legislation.
43. This chapter of the ACTU's submission in reply contains responses to some arguments put by other organisations as to how the Panel ought to interpret and apply the legislative criteria.

The change in the legislative criteria

44. The Panel properly observed in its decision in the first AWR that the content and emphasis of the statutory criteria that guide the Panel differ materially from those that guided the AFPC under the previous Act. The Panel noted that in the current Act "the principal consideration relates to the safety net rather than the 'promotion of economic prosperity'".¹³
45. ACCI disagrees with the Panel, stating that it

*does not believe this to be a fundamental change to the statutory schema, as the AFPC was required to have regard to, inter alia, 'providing a safety net for the low paid.'*¹⁴
46. While the provision of a safety net was one of the considerations that guided the AFPC, the Panel was correct in observing that it was not the preminent criterion as it is under the current Act. The emphasis of considerations has changed towards the provision and maintenance of a fair safety net. The current Act also makes it clear that relative living standards, the needs of the low paid, and the promotion of social inclusion are all relevant considerations.
47. ACCI repeatedly quotes AFPC decisions. Such quotes are of limited relevance to the Panel, as they were made in a legislative context that emphasised different considerations.

¹² s.284 and s.134.

¹³ [2010] FWA FB 4000, [14]

¹⁴ ACCI, *Submission to the 2011-12 Annual Wage Review*, [75].

48. The Panel should not accept any submission that attempts to dissuade it from the view it expressed in the 2010 decision, that the current legislative criteria represent a meaningful and material shift from those that applied under the previous Act.

The maintenance of a fair safety net of minimum wages

49. The Act requires the Panel not merely to establish a fair safety net of minimum wages, but also to maintain that safety net over time.¹⁵

50. We submit that this means that it is not sufficient for the safety net to be fair and adequate at the time of its establishment, but rather for minimum rates to be adjusted over time by a sufficient quantum as to maintain the fairness of the safety net. In circumstances in which the price level is increasing (as it almost always is) and average wages are increasing in real terms (as they generally have in the past two decades), then the maintenance of a fair safety net requires that minimum rates be increased by a sufficient amount as to maintain the relative living standards of low paid employees and enable them to continue to meet their needs.

51. Real wage cuts, as proposed by ACCI, would be inconsistent with the maintenance of a fair safety net, in our view. We disagree with ACCI's submission at paragraph 79 that the Panel should not interpret the word "maintain" in s.284 as mandating that minimum rates should generally be increased each year in the context of rising prices and average wages. We note that ACCI provides no suggestion as to how the Panel should interpret the requirement to "maintain" a fair safety net if it does not accept the interpretation we suggest. If Parliament had intended that the Panel merely establish a fair safety net of minimum wages, and not continue to ensure that the safety net remained fair over time, we submit that it would not have directed the Panel to maintain the safety net in s.284.

Relative living standards

52. Parts of the ACTU's opening submission, as in previous years, are directed towards an examination of the relative living standards and needs of the low paid. ACCI attempts to portray this focus on the low paid as a matter of discretion for the ACTU:

ACCI believes that in a similar way the ACTU requests the focus to be on the low-paid, the Panel should specifically direct its attention on how its decisions affect the employers and employees

¹⁵ Fair Work Act 2009, s.284.

*(including those that are seeking employment) who are most affected by non-productivity based minimum wage increases.*¹⁶

53. The ACTU's submission emphasises the relative living standards and needs of the low paid not merely because we think this *should* be the pre-eminent consideration for the adjustment of minimum wages, but because it *is* the central consideration. Our emphasis on the low paid arises from the legislative criteria that the Panel *must* take into account.

54. ACCI, somewhat dismissively, pre-empts the ACTU's discussion of relative living standards as follows:

ACCI anticipates that some parties, particularly unions, will provide submissions which compare the minimum wages with remuneration of company executives of top ASX 200 companies or salaries more generally in the community, including high skilled employees.

55. We present such comparisons because relative living standards are a factor that the Panel must take into account. If the Panel is not to have regard to "salaries more generally in the community" when it considers relative living standards, then it is unclear as to how the legislative criterion is to be interpreted.

56. ACCI notes at paragraph 65 that the Act refers to minimum wages as a 'safety net'. It says:

*This reflects the fact that minimum wages in modern awards are not market rates of pay. There should be no presumption that minimum wages (and award regulated jobs) should reflect or match what the private sector market is able to pay.*¹⁷

57. The ACTU has made no such request for minimum wages to match market rates. We have asked that minimum wages be increased by \$26 per week for classifications between C14 and C10, and 3.8% above that level. An increase of this order would still leave a considerable gap between minimum rates and market rates, including for the more award-reliant occupations and industries. We provided ample material regarding the gap between minimum rates and average rates (including by occupation and industry) in our opening submission.

58. Instead, we suggest that the level and rate of change in wages generally are relevant considerations for the Panel. For example, the ratio between minimum wages and the mean or median full-time

¹⁶ ACCI, *Submission to the 2011-12 Annual Wage Review*, [31].

¹⁷ ACCI, *Submission to the 2011-12 Annual Wage Review*, [65].

wage provides one indicator of the relative living standards of low-paid workers. The rate of change in the Wage Price Index gives a sense of the rate of increase in wages, without distortions from compositional change; this is also relevant in considering whether the relative wages (and thus living standards) of low paid workers have risen or fallen. Indeed, the Wage Price Index has been relied on by the Panel for this purpose in the previous Annual Wage Reviews.

59. ACCI also suggests that:

*the AIRC has already determined that the Workplace Relations Act 1996 did not support any role for supposed income redistribution in setting minimum wages.*¹⁸

60. The actual statements of the AIRC in the decision in question are far more nuanced and measured than ACCI suggests with regard to the question of whether average or typical wages and incomes are a relevant consideration in minimum wages fixation. Regardless of this, the fact is that the criteria that guide the AWR process differ from those that guided earlier Commissions. The current Act explicitly mandates that the Panel take into account relative living standards and the needs of the low paid. ACCI's attempts to obfuscate this issue with repeated references to past statutes should be ignored.

61. We also note that the increases in minimum wages awarded by the AIRC generally bore some relation to the increases enjoyed by Australian workers generally. Between the September quarter 1997 and the June quarter 2005, the Wage Price Index rose by a total of 30%. Over the same period, the C14 rate of pay rose by 34.8%, while the C10 rate rose by 28.1%. The CPI increased by 24%. Minimum wages therefore increased in real terms, growing at around the pace of general wage movements in the community.

62. The increase we seek in this AWR would see most minimum wage workers awarded an increase of 3.8%, which is around the increase in the WPI forecast by the Commonwealth for the current financial year and the 2012-13 financial year.¹⁹ The increase we seek is modest, particularly given the fact that minimum wages have not kept pace with the WPI since 2005.

¹⁸ ACCI, *Submission to the 2011-12 Annual Wage Review*, [69].

¹⁹ Commonwealth Government, *Mid-Year Fiscal and Economic Outlook*, reproduced in FWA Statistical Report, Table 13.3.

63. If the C14/NMW rate of pay had kept pace with WPI since June 2005, it would have been \$617.50 in December 2011, rather than \$589.30. The living standards of award-reliant workers have eroded relative to those of other workers.

Who are the low paid?

64. The meaning of the reference to “the low paid” in s.284 continues to be disputed. The ACTU submits that all employees who are reliant on awards or the National Minimum Wage are low paid, as they receive the lowest rate that they may legally be paid for the work they perform.

65. The Panel was correct to find that “the lower the wage, the more ‘low paid’ is the employee”, but that all employees on award wages can be said to be low paid in some sense.²⁰ The Panel reiterated this conclusion in its decision in the 2010-11 AWR.²¹

66. Some other organisations seek to employ a narrower definition of ‘low paid’ for the purposes of the AWR.

67. ACCI notes that the Commonwealth “referred to the OECD definition of ‘low paid’” in its submission to the 2009-10 submission.²² The ACTU is concerned that this could be misconstrued. The Commonwealth did not, in the submission quoted by ACCI, express the view that the Panel should interpret the reference to “the low paid” in the Act to be concordant with the OECD definition as those earnings up to two-thirds of the median hourly earnings of full-time employees.

68. Rather, the section of the Commonwealth’s submission that is quoted by ACCI pertains to the definition of ‘low paid’ for the purposes of some specific analysis using the *Household Income and Labour Dynamics Australia* (HILDA) survey.²³ Using such an income-based proxy for “low pay” is necessary when using datasets such as HILDA which lack a reliable variable for the method of pay setting. It is disingenuous for ACCI to imply that by using such a proxy measure the Commonwealth has suggested that the “low paid” for the purposes of the Annual Wage Review are those with earnings below two-thirds of the median.

²⁰ [2010] FWAFB 4000, [237]

²¹ [2011] FWAFB 3400, [192]

²² ACCI, *Submission to the 2011-12 Annual Wage Review*, [122].

²³ Australian Government, *Submission to the 2009-10 Annual Wage Review*, p.50, footnote 30.

Social inclusion through workforce participation

69. The Panel is required to take into account the promotion of social inclusion through workforce participation.²⁴ The ACTU believes that the Panel was correct in 2010 in accepting the position advanced by the Australian Social Inclusion Board that:

*the obtaining of employment and the pay and conditions attaching to the job concerned are both relevant considerations when considering social inclusion.*²⁵

70. The meaning of the criterion is clear and has been correctly construed by the Panel in its previous decisions. The promotion of workforce participation is a desirable goal, but increased participation is only relevant insofar as it promotes social inclusion. The promotion of workforce participation by undermining wages and/or conditions would not promote social inclusion and would therefore be inconsistent with the criterion. The promotion of workforce participation is subsidiary to the promotion of social inclusion. This is reinforced by the fact that the promotion of social inclusion for all Australians is part of the overriding object of the Act.²⁶

71. The Panel should disregard suggestions that it has misconstrued the criterion in previous decisions (for example, by ACCI at paragraph 92).

72. We also submit that “workforce participation” should be understood as the share of the working-age population that is participating in the workforce. By ‘in the workforce’, we mean either in employment or actively seeking employment. This is the commonly understood meaning of the term. We note that ACCI concurs with this definition of workforce participation.²⁷ The Panel should disregard Ai Group’s strange and repeated suggestion that ‘workforce participation’ be understood only as the proportion of persons in employment.²⁸

73. We note that the Australian Social Inclusion Board has made a submission to the current AWR. The Board submits that:

In the Board’s view, improved levels of social inclusion will be achieved by increasing the resources available to low paid workers. Ensuring they receive fair wages that provide for a

²⁴ Fair Work Act 2009, s.284.

²⁵ [2010] FWA FB 4000, [275].

²⁶ Fair Work Act 2009, s.3.

²⁷ ACCI, *Submission to the 2011-12 Annual Wage Review*, [96].

²⁸ Ai Group, *Submission to the 2011-12 Annual Wage Review*

*decent standard of living and the ability to participate in the Australian community is a critical component of this.*²⁹

74. The ACTU concurs with the principles expressed in the submission of the Social Inclusion Board.

75. The ACTU also strongly agrees with the position put by the Australian Government in its submission to the current AWR, that:

*the interaction between wages and the tax-transfer systems should create and maintain incentives for work, with national minimum wages set at a level that is high enough to provide incentives for income support recipients (particularly those in receipt of unemployment benefits) to move into employment and become self-reliant.*³⁰

Encouraging collective bargaining

76. The Panel is required to take into account the need to encourage collective bargaining. In the Annual Wage Review 2009–10 decision the Panel discussed the relationship between increases in minimum wages and enterprise bargaining and came to the following conclusions:

*We accept that the gap between award minimum wages and bargained wages is likely to increase the incentive for employees to bargain. On the other hand, a large gap may be a disincentive for employers to bargain. Furthermore, minimum wages are only one element of the incentive to bargain, which may be more directly affected by other conditions, such as penalty rates, and economic factors including those specific to the enterprise concerned. Looked at more broadly, there is no evidence that the incentive to bargain has been adversely affected by the increases in minimum wages which have occurred over the last decade. There has been a very significant reduction in award reliance across all industries, including those which are traditionally regarded as award-reliant. The evidence, although not completely satisfactory, indicates that increases in minimum wages are compatible with the continuing encouragement of enterprise bargaining.*⁹⁵

77. These conclusions remain apposite. There is a sizable gap between wage outcomes for individuals reliant on awards and those covered by collective agreements. In May 2010, average weekly total cash earnings for employees covered by a collective agreement were \$1352.10 compared with \$810.70 for award only employees.

²⁹ Australian Social Inclusion Board 2012, *Submission to the 2011-12 Annual Wage Review*.

³⁰ Australian Government 2012, *Submission to the 2011-12 Annual Wage Review*, [25]

78. Further, as the Panel noted in 2011,³¹ there has been continuing growth over the last ten years in the proportion of employees covered by collective agreements and individual arrangements with a corresponding reduction in award reliance demonstrating that moderate wage increases are consistent with growth in collective bargaining.
79. The ACTU seeks a modest increase of \$26 per week for the lowest paid and increase of 3.8% for employees above the C10 classification level. If our claim is accepted, the highest rate in the manufacturing award would become \$963.26 per week. This figure is more than \$300 less than average weekly ordinary time earnings in the private sector (\$1303.80) and more than \$450 less than average earnings in the public sector (\$1426.40). The increase we seek will not erode the incentive to bargain at the enterprise level.
80. Suggestions from ACCI and others that significant increases in minimum wages automatically or necessarily have a negative impact on collective bargaining should be rejected.
81. There are a range of matters other than the level of minimum wages that influence the prevalence of collective bargaining. These include the legislative framework, structural factors such as sector and the size of the workplace as well as the level of bargaining power.
82. The domain of collective bargaining is essentially the public sector, while the private sector tends to rely more on individually bargaining and the award system.³² Large enterprises (100 employees plus) tend to bargain collectively while smaller enterprises typically engage in individual negotiation or rely on the award.³³ The presence of a union is also an important element. Where collective bargaining takes place it is usually because it has been initiated by a union.³⁴
83. A reduction in the gap between award wages and bargaining outcomes will not remove incentives to bargain and is unlikely have any negative effect on the central role played by collective bargaining under the Fair Work Act.

³¹ [2011]FWAFB 3400, [280].

³² B. van Wanrooy, S. Wright, J. Buchanan, *Who Bargains? A report prepared for the NSW Office of Industrial Relations by the Workplace Research Centre, The University of Sydney*, May 2009, p 2.

³³ *Ibid*, p 20.

³⁴ *Ibid* p 12.

Other issues

84. The previous chapters of this submission presented information and arguments pertaining to the economic and legislative context of the Annual Wage Review. This chapter responds to a range of other matters raised in submissions.

85. In brief, the ACTU submits in this chapter that:

- The Panel was correct to find in the 2009-10 AWR that “any impact of moderate minimum wage increases on employment levels is swamped by other factors affecting the demand for labour.”³⁵
- The Panel should not give undue weight to forecasts of inflation, but rather should take into account all the relevant criteria.
- The Panel should ‘look through’ both the income tax cuts and the expected price increases that arise from the Clean Energy Future package.
- Even when personal income tax changes are taken into account, the relative living standards of award-reliant workers have fallen further behind those of other workers over the past decade.
- High effective marginal tax rates (EMTRs) are a problem where they exist, but their prevalence has been overstated. The Panel can be confident that the majority of any increase it awards will be retained as an increase in the disposable income of low-paid workers’ households.
- Suggestions by some employer associations that a lower minimum wage increase is warranted because some conditions in some modern awards were improved as a result of the award modernisation process should be dismissed.
- Self-selecting surveys of employers are of little use to the Panel and should be dismissed.
- There is no credible reason to conclude that the 3.4% increase awarded by the Panel in the 2010-11 decision resulted in anything more than a 3.4% increase in total labour costs with respect to award-reliant workers. Wages represent a substantial majority of total labour costs.
- Whether the Panel awards a ‘flat dollar’ increase, as it did in 2010, or a percentage increase as per 2011, or a ‘hybrid’ increase as we seek in this Review, the

³⁵ [2010] FWAFB 4000, [246]

administrative requirements for employers in implementing the increase should not be materially different.

Minimum wages and employment

86. The ACTU acknowledged in our opening submission that the Panel has expressed concerns about the relevance of some academic studies into the relationship between minimum wages and employment. The Panel said in its decision in the 2009-10 AWR that:

*The relevance of some of the studies is limited insofar as they are directed to the effects of increasing a single minimum wage in circumstances which are quite different to those which characterise the Australian industrial relations systems, including the range of minimum rates at various levels throughout the award system.*³⁶

87. In light of the Panel's concerns, the ACTU has not provided an exhaustive review of the literature in this AWR. Instead, we reminded the Panel about two important pieces of recent research by Dube, Lester and Reich³⁷, and by Dolton, Rosazza-Bondibene, and Wadsworth.³⁸ Summaries and excerpts from these papers were provided to the Panel in our submissions to the 2010-11 AWR.

88. The major study by Dube, et al, found "strong earnings effects and no employment effects of minimum wage increases" in the United States over the period 1990-2006. The study by Dolton, et al, pertained to the United Kingdom; it found that "while the average employment effect of the NMW over the entire period is broadly neutral, there are small but significant positive employment estimates from 2003 onward, when the average bite of the NMW was at its highest since its introduction."

89. As expected, ACCI presented a lengthy, though selective, tour of the literature in its opening submission. The ACTU therefore takes this opportunity to inform the Panel about another important recent paper that presents a different view to the impression given by ACCI's summary of some literature.

³⁶ [2010] FWA FB 4000, [246]

³⁷ Dube, A., Lester, T.W. and Reich, M 2010, 'Minimum wage effects across state borders: Estimates using contiguous counties', *The Review of Economics and Statistics*, November 2010, vol.92, no.4, 945-964.

³⁸ Dolton, P., Rosazza-Bondibene, C. and Wadsworth, J., 'Employment, Inequality and the UK National Minimum Wage over the Medium-Term', Discussion Paper No. 5278, IZA Institute for the Study of Labor, October 20

90. The paper in question is titled 'Minimum Wage: Maximum Impact', and is by Professor Alan Manning of the London School of Economics.³⁹ Professor Manning is an accomplished and widely-recognised labour economist with expertise in minimum wages and monopsonistic labour markets.

91. Professor Manning's paper contains a comprehensive evaluation of the effects of the National Minimum Wage in the UK.

92. The paper finds that:

[T]he NMW has raised incomes for the lowest-paid, increased incentives to work and reduced pressure on tax credits to prevent in-work poverty, all without jeopardizing employment prospects.⁴⁰

...

[T]here is little evidence of any negative effect on employment but clear evidence of positive effects on low end wages.⁴¹

...

There is now a consensus that, at the moderate levels of the minimum wage we have experienced in the UK, there has been very little if any adverse effect on employment. The LPC, which includes employer-representatives, has been very thorough in investigating the impact of the NMW so far, primarily through commissioned reports from independent academics, and has concluded that there is no evidence of resultant job losses.⁴²

93. Professor Manning accurately summarises the "consensus" in the United Kingdom regarding the benign employment effects of the NMW in that country. Although the UK NMW remains lower than the Australian NMW (whether measured as a proportion of median earnings, or at current exchange rates, or in USD PPP terms), the UK NMW increased in real terms over the 2000s, particularly in the earlier part of the decade. This somewhat rapid real increase in minimum wages did not have net negative employment effects. The fact that Professor Manning finds that the UK NMW has had significant earnings effects for the lowest paid does suggest that the wage is sufficiently high as to be 'binding'.

³⁹ Manning, A. 2012, 'Minimum Wage: Maximum Impact', Resolution Foundation, April.

⁴⁰ Ibid, p.1

⁴¹ Ibid, p.2

⁴² Ibid, pp.5-6

94. The paper also confirms that the effect of minimum wage increases on the supply of labour must be taken into account as well as any effect on the demand for labour. The ACTU has advanced this argument, particularly with respect to the requirement to take into account the promotion of social inclusion through workforce participation. Professor Manning concludes that:

*We might think, therefore, that these positive impacts on the supply of labour have offset (and in some cases more than offset, with some evidence suggesting the NMW has had a positive impact on employment) any negative effects on employer- demand for labour.*⁴³

95. Professor Manning found that the large real increases in the UK NMW have not had net negative employment effects. Hyslop and Stillman came to a similar conclusion with respect to significant real increases in the minimum wages for young workers in New Zealand, finding:

*...no robust evidence of adverse effects on youth employment or hours worked... [and] significant increases in labour earnings and total income of teenagers relative to young adults.*⁴⁴

96. A subsequent paper by Hyslop, Maré, Stillman and Timmins confirmed that the large increase in youth wages in New Zealand raised the earnings of teenagers relative to adult workers. They find “small and insignificant” employment effects when analyzing annual changes, and minor employment effects over the whole period in which youth wages increased significantly in real terms.⁴⁵

97. While the ACTU acknowledges the Panel’s reticence to extend conclusions from research that pertains to wage-setting environments very different to Australia’s, the clear implication of Professor Manning’s work and that of other researchers such as Hyslop and Stillman is that the relationship between minimum wages and employment is far less straightforward than is often suggested. Real minimum wage increases that are moderate and predictable are benign for employment.

98. The ACTU submits that the Panel was correct to find in the 2009-10 AWR that “that “any impact of moderate minimum wage increases on employment levels is swamped by other factors affecting the demand for labour.”⁴⁶

⁴³ Ibid, p.9

⁴⁴ Hyslop, D. and Stillman, S. 2004, ‘Youth Minimum Wage Reform and the Labour Market’, New Zealand Treasury Working Paper 04/03.

⁴⁵ Hyslop, D., Maré, D., Stillman, S. and Timmins, J. ‘Heterogeneous firm responses to rising teenage wages in New Zealand’, Paper presented to the AFPC.

⁴⁶ [2010] FWA FB 4000, [246]

99. The increase we seek from this AWR, of a 3.8% increase in wages at and above the C10 level, and \$26 per week for the lowest paid, is moderate, reasonable, and predictable. It is affordable. We ask that the Panel award it in full.

The role of inflation forecasts

100. Some organisations propose a quantum for the increase in minimum wages that is linked (at least in part) to inflation forecasts.

101. For example:

- The Western Australian Government submits that the Panel should adjust minimum wages by a percentage equal to the year-average forecast for inflation published in the 2011-12 Budget (2.25%).
- The Accommodation Association of Australia also recommends an increase of no more than 2.25%.
- ACCER proposes a hybrid increase to minimum wages, structured in the same way as the increase we seek, but with a 3% increase at and above the C10 classification and \$20.60 for lower paid workers. The 3% comprises a 2% increase to compensate for expected inflation in the year to the March 2012 quarter plus a real increase on account of productivity growth.
- The Australian Government recommends that any increase “reflect changes in living costs and other changes in the economic environment since the last minimum wage rise in 2011”.

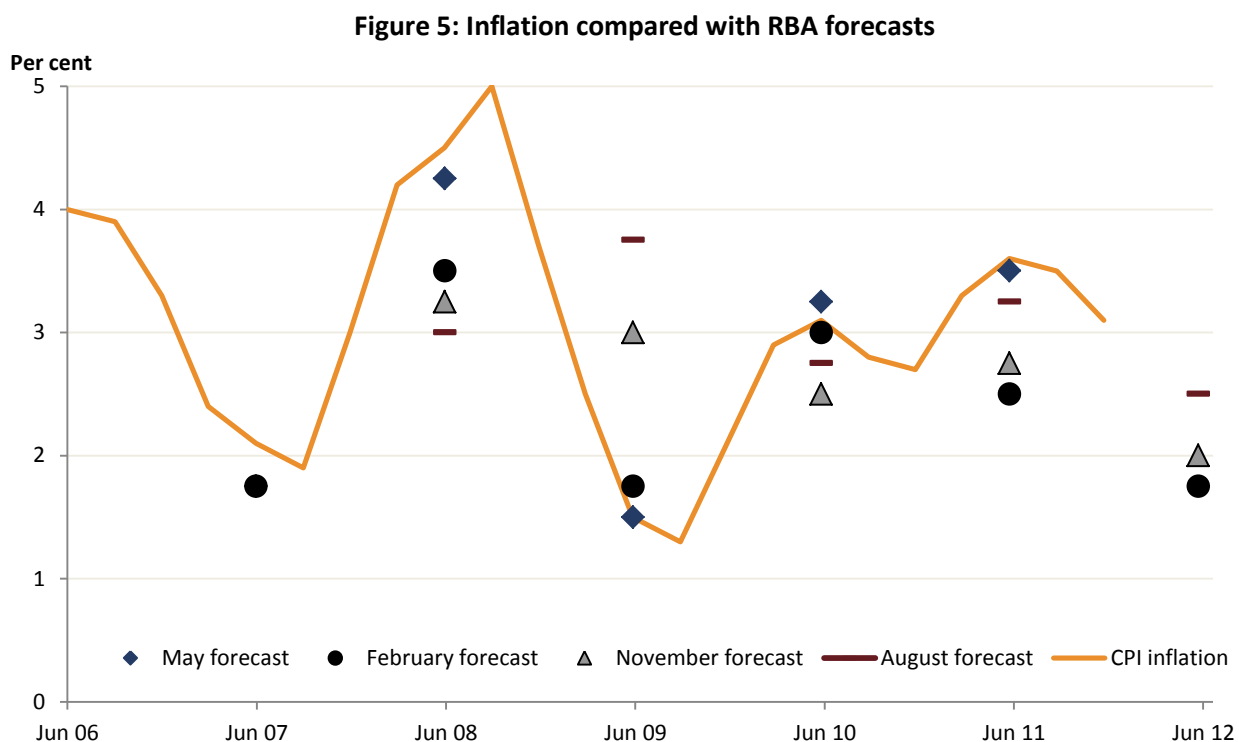
102. Inflation and the change in the cost of living for workers (the two are related, but distinct, concepts) are clearly relevant considerations for the Panel. The ACTU presented a range of material regarding price changes in our opening submission.

103. However, the Panel should not accept suggestions that it link the increase it awards in minimum wages to inflation forecasts in some mechanical fashion. There is a wide margin for error around such forecasts. This margin is readily acknowledged and even highlighted by those who issue forecasts, such as the Reserve Bank.

104. Glenn Stevens, the Governor of the Reserve Bank, recently devoted a speech to the topic of inflation forecasting. He said:

Experience over the inflation targeting era (since 1993) suggests that the probability of the CPI outcome being within half a percentage point of the central forecast is roughly two in five at either a one year or a two year horizon.⁴⁷

105. This is highlighted in Figure 5, which compares the inflation rate with the RBA's forecasts from the *Statement on Monetary Policy*. It can be seen that the inflation rate is often significantly higher or lower than the rate that was forecast, even if the most recent forecast is used.



Source: ABS 6401, RBA *Statement on Monetary Policy* (various years). For June 2011, the forecasts given are from the *Statements* issued in May 2011, February 2011, November 2010 and August 2010. Other years follow the same pattern.

106. In the February 2011 *Statement on Monetary Policy*, the RBA forecast 2.5% inflation for the year to June 2011. In fact, inflation over the year to June 2011 was 3.6%. Similarly, in 2008, the February *Statement* anticipated 3.5% inflation over the year to June of that year. The result was 4.5%.

107. If the Panel had taken the approach suggested in some submissions of explicitly linking the increase in minimum wages to the forecast rate of inflation for the year to the June quarter, then it would have significantly underestimated the rate of inflation in 2011. The cost of living

⁴⁷ Stevens, G. 2011, 'On the Use of Forecasts', Address to the Australian Business Economists Annual Dinner, Sydney, 24 November.

for working households grew even more rapidly, as outlined in our opening submission and in the *Statistical Report*.

108. We do not point out the margin of error around the RBA's inflation forecasts in order to criticise the Bank, nor to dissuade the Panel from taking these forecasts into account as part of the AWR process. Indeed, we presented the latest RBA forecasts in our opening submission.
109. Rather, Figure 5 is intended to demonstrate the dangers of an approach that too heavily relies on the forecast rate of inflation. Instead of such an approach, we suggest that the Panel should take a medium-term view of its task, not over-reacting to high or low inflation in any one quarter.
110. Over the medium term, it is clear that minimum wages have failed to keep up with the cost of living. The C14 and C10 rates of pay increased by 21.7% and 18.7%, respectively, between the June quarter 2005 and the September quarter 2011. Over the same period, the CPI rose by 20.9% and the working households' ALCI rose by 24.1%.⁴⁸ The C14 rate of pay has only just kept up with the CPI, but has fallen behind the cost of living for workers; other minimum rates of pay have not even kept up with the CPI.
111. An approach to minimum wages fixation that is overly focused on the CPI also ignores the fact that the working households' ALCI may arguably provide a more appropriate measure of the change in the cost of living for working households.
112. Submissions that advocate an increase in minimum wages that is equal to the expected rate of inflation also do not take into account the fact that productivity is increasing and the real incomes of non-award reliant workers are rising (other than the ACCER's submission, which does take this into account). The Panel recognised the importance of this in its 2010 decision, when it stated that:

In the context of productivity growth and increasing community living standards, the maintenance of the real value of award wages alone would not adequately maintain relative

⁴⁸ ACTU calculations based on ABS 6401, ABS 6463, and historical minimum wage rates.

*living standards. This is one of a number of relevant considerations that we must take into account.*⁴⁹

113. The Panel was correct to find that increasing minimum wages by the same rate as inflation would not adequately maintain relative living standards.

The carbon price package

114. In our opening submission, we submitted that “the Panel should ‘look through’ the carbon price package that is due to take effect from 1 July 2012”.⁵⁰ We provided material to demonstrate that for many low-paid workers, the expected increase in the cost of living arising from the package will be approximately equal to the increase in disposable income arising from the household compensation package. For example, the CPI is expected to increase by 0.7 percentage points, while a full time worker at C10 will receive a personal income tax cut equivalent to 0.8% of his or her gross income.⁵¹
115. We noted that some low-income households will be ‘overcompensated’ for the expected increase in prices. These households primarily comprise pensioners and recipients of allowances. We argued that the overcompensation of such households is a deliberate policy choice of Parliament, in recognition of the fact that the energy intensity of households’ consumption differs, as does the ability to change behaviour in response to price changes, and Parliament wished to ensure that lower income households did not see a reduction in their real incomes as a result. We submitted that the Panel should not undercut the intention of Parliament to provide a ‘buffer’ for low income households by reducing the amount of any increase it awards in minimum wages on account of the household compensation package.
116. However, we also recognise that the rate of inflation will temporarily increase due to the carbon price package, but that low-paid workers will be shielded from the portion of this increase that can be ascribed to the carbon price. We have not increased the amount we seek from this AWR on account of the expected 0.7% increase in the rate of inflation. Rather, the amount we seek for most award-reliant workers is around the average and projected rate of WPI growth (3.8% for workers at and above the C10 rate of pay).

⁴⁹ [2010] FWA FB [4000], [241]

⁵⁰ ACTU 2012, *Submission to the 2011-12 AWR*, [277]

⁵¹ See ACTU 2012, *Submission to the 2011-12 Annual Wage Review*, Table 15, p.91.

117. We reiterate our submission that the Panel should 'look through' the carbon price, including the household compensation package. The package is broadly neutral for many low paid workers. Where the package is better than neutral, and provides for an increase in real household incomes, this is a deliberate policy choice to provide a buffer and should not be undercut by the Panel.

118. Some submissions, notable Australian Industry Group's submission, suggest that the household compensation package justifies the Panel awarding a lower increase in minimum wages, as some household incomes will increase. Ai Group submits:

In short, the CEF measures will boost real disposable incomes for low and middle income households and these impacts should be taken into account in the consideration of the role changes to minimum wages in addressing the needs of the low paid and relative living standards.⁵²

119. The ACTU disagrees with such submissions, for reasons already outlined. We also note that the focus by Ai Group and others on over-compensated households (which are at the bottom of the income distribution) is at odds with the claims sometimes made by employer associations that low-paid workers mainly live in higher-income households. The correct approach to examining the net impact of the carbon price package on low-paid workers, we submit, is to look at hypothetical examples for single, adult workers such as those presented in Table 15 of our opening submission.

120. The position advanced by the ACTU is entirely consistent with that put by the Australian Government, which submitted:

It is the Government's view that the NMW should not be used as an avenue for further assistance.⁵³

121. The ACTU agrees that the AWR process should not be used as an avenue for further assistance, but nor do we accept that the process should be used as a pretext to reduce the assistance already provided for in the household compensation package.

⁵² Australian Industry Group 2012, *Submission to the 2011-12 Annual Wage Review*, [100].

⁵³ Australian Government 2012, *Submission to the 2011-12 Annual Wage Review*, [27]

The role of the tax-transfer system

122. Beyond the specific issue of the carbon price package, some employer associations submit that changes in the tax-transfer system should be taken into account by the Panel. For example, Ai Group submits that:

*The sharply re-distributional nature of the Australian tax and transfer systems is clearly relevant to considerations of relative living standards and the needs of the low paid. Ai Group submits that as a general principle changes to the social safety net and in particular the income tax and transfer systems should be taken into account in considering the role of minimum wage adjustments in addressing relative living standards and the needs of the low paid.*⁵⁴

123. Unless the tax-transfer system has become *more* re-distributional over time, then it will not have increased the relative living standards of low paid workers.
124. We provided hypothetical examples of the change in real disposable (ie. after tax) incomes of award-reliant workers since 2000 in our opening submission at Table 14. This table showed that even when tax changes are taken into account, the real incomes of low paid workers have increased at a significantly slower rate than those of workers on average earnings. We also included data at Figure 64 to show that the tax and transfer systems reduce inequality among working-age Australian households by a lower quantum than in the 1990s, and that inequality in disposable incomes among Australian working-age households has risen over time.
125. Ai Group and other employer organisations provide no evidence to demonstrate that the progressivity of the Australian tax system has offset rising inequality in earnings. Measures such as the ‘bite’ of minimum wages, presented in our opening submission, remain an appropriate proxy for changes in relative living standards among full-time workers.

The effect of a wage increase on the disposable incomes of low-paid workers

126. ACCI, at paragraph 290, of its submission, asserts that:

*increases in minimum wages produce relatively minor improvements in minimum-wage employees’ disposable income due to the interaction with the Australian tax and transfer system.*⁵⁵

⁵⁴ AiG, p.32

⁵⁵ ACCI, *Submission to the 2011-12 Annual Wage Review*, [290]

127. The implication in the above quote from ACCI's submission is that tax increases and/or reductions in transfer payments will largely offset any increase in earnings for low-paid workers, such that the net increase in disposable income arising from an increase in earnings will be substantially less than the gross increase awarded by the Panel. ACCI provides no evidence in support of this assertion.

128. The Australian Government puts a different view on the question of the interaction of the tax-transfer system for low-paid workers. Its submission includes the results of DEEWR modelling of the interaction between the tax-transfer system and the wages system and the net incentive to seek employment at the National Minimum Wage. It found that:

...the interaction of the tax-transfer and wages systems provides net financial incentives for those who are not working to find employment.⁵⁶

...

Of all the household scenarios analysed, incentives to take on a minimum wage job were highest for single adults.⁵⁷

...

Financial incentives to take on a minimum wage job were lower for couples and lone parent households with dependent children but were still substantial.⁵⁸

129. This DEEWR modelling is relevant to the question of the effect of the interaction of the tax/transfer system on low-paid workers. However, DEEWR's modelling is concerned with the increase in disposable income that arises from a decision to move from not being in employment to being in full time employment. This is related to the effective average tax rate faced by persons not currently employed. ACCI's claims pertain to the effect of tax/transfer interactions on the disposable income of a low-paid employee who receives an increase in gross earnings. This is related to the effective marginal tax rate faced by persons currently employed on minimum wages.

130. ACCI's claim can be tested by modelling the interaction of the tax-transfer system for particular low-paid worker household types. The increase in household disposable income

⁵⁶ Australian Government, *Submission to the 2011-12 Annual Wage Review*, Section 5.1, [4]

⁵⁷ Australian Government, *Submission to the 2011-12 Annual Wage Review*, Section 5.4, [31]

⁵⁸ Australian Government, *Submission to the 2011-12 Annual Wage Review*, Section 5.4, [32]

arising from an increase in gross earnings (such as through an increase in minimum wages) is the inverse of the effective marginal tax rate (at the household level). For example, if a \$1 increase in earnings resulted in an 80c increase in disposable income, this implies a 20% effective marginal tax rate (EMTRs).

131. The ACTU has conducted such modelling. It demonstrates that a range of low-paid worker household types face low EMTRs. This means that the Panel can be assured that such households would receive the majority of any AWR increase as an increase in disposable income.
132. The results of the modelling for particular representative low-paid worker household types are outlined below. This modelling uses the February 2012 tax-transfer parameters to calculate the households' disposable incomes both prior to and the AWR increase.⁵⁹ The calculations include tax, Newstart, the Low Income Tax Offset, the Medicare Levy, and Family Tax Benefit parts A and B (including the supplement), and Rent Assistance (all where applicable).⁶⁰ All workers in the hypothetical examples are employed at the C14 rate of pay; part time workers work 19 hours per week while full time workers work 38 hours per week.
133. The results are set out in three tables below. The final table establishes that most of the representative low-paid worker households retain the majority of any increase in wages after the operation of the tax transfer system.
134. Table 1 shows the current tax liabilities and transfer entitlements of particular representative low-paid worker households.

⁵⁹ Using the post-carbon price parameters would increase the households' post 1 July disposable incomes (and reduce their EMTRs).

⁶⁰ It is assumed that:

- The household is in the private rental market and pays sufficient rent to receive the maximum rate of Rent Assistance, where applicable;
- The adult(s) in the household are aged between 25 and 59;
- Children in the household (where applicable) are aged between 8 and 13;
- Members of the household are Australian citizens/permanent residents;
- Where the household includes children, the household in question has care of the children more than 50% of the time;
- Dependent children (where applicable) have no income;
- The household is not in receipt of child support, not paying child support;
- The household is not sharing a house with adult persons other than their spouse/de facto;
- Members of the household do not receive income other than from wages plus Government transfer payments;
- The household meets the liquid asset tests of Newstart and FTB where applicable;
- Where a member of the household is in receipt of Newstart, that person meets the activity test of the benefit; and
- Members of the household are not in a Medicare Levy exemption category (eg. blind pensioners; in receipt of sickness allowance; veterans).

Table 1: Disposable incomes of hypothetical low-paid worker household prior to a 2012 AWR increase

			Gross earnings	Newstart	Tax	LITO	Medicare Levy	FTB A	FTB B	Rent Assistance	Household disposable income
No children	Single adult, FT	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	-\$8.8	\$0.0	\$0.0	\$0.0	\$537.7
		Spouse B	na	na	na	na	na	na	na	na	
	One earner couple, FT	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	-\$7.6	\$0.0	\$0.0	\$0.0	\$708.8
		Spouse B	\$0.0	\$113.8	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$56.1	
	FT adult plus PT adult	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	-\$8.8	\$0.0	\$0.0	\$0.0	\$832.4
		Spouse B	\$294.7	\$0.0	-\$26.9	\$26.9	\$0.0	\$0.0	\$0.0	\$0.0	
Two FT adults	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	-\$8.8	\$0.0	\$0.0	\$0.0	\$1,075.4	
	Spouse B	\$589.4	\$0.0	-\$71.1	\$28.2	-\$8.8	\$0.0	\$0.0	\$0.0		
1 child	Single adult, FT	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	\$0.0	\$96.2	\$55.6	\$69.9	\$768.2
		Spouse B	na	na	na	na	na	na	na	na	
	Single adult, PT	Spouse A	\$294.7	\$114.5	-\$44.1	\$28.8	-\$4.8	\$96.2	\$55.6	\$69.9	\$610.8
		Spouse B	na	na	na	na	na	na	na	na	
	One earner couple, FT	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	-\$2.0	\$0.0	\$0.0	\$0.0	\$876.0
		Spouse B	\$0.0	\$113.8	\$0.0	\$0.0	\$0.0	\$96.2	\$51.6	\$69.9	
	FT adult plus PT adult	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	-\$8.8	\$0.0	\$0.0	\$0.0	\$1,013.9
		Spouse B	\$294.7	\$0.0	-\$26.9	\$26.9	\$0.0	\$96.2	\$15.4	\$69.9	
	Two FT adults	Spouse A	\$589.4	\$0.0	-\$71.1	\$28.2	-\$8.8	\$0.0	\$0.0	\$0.0	\$1,115.6
		Spouse B	\$589.4	\$0.0	-\$71.1	\$28.2	-\$8.8	\$40.2	\$0.0	\$0.0	

Source: ACTU calculations, based on tax/transfer parameters as at February 2012.

135. Table 2 shows what the disposable incomes of these representative low-paid workers households would be if the NMW/C14 rate of pay were to be increased by \$26 per week, but all other factors (including tax/transfer parameters) remained constant.

Table 2: Disposable incomes of hypothetical low-paid worker households after a \$26 increase in the NMW in 2012

			Gross earnings	Newstart	Tax	LITO	Medicare Levy	FTB A	FTB B	Rent Assistance	Household disposable income
No children	Single adult, FT	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	-\$9.2	\$0.0	\$0.0	\$0.0	\$558.4
		Spouse B	na	na	na	na	na	na	na	na	
	One earner couple, FT	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	-\$8.9	\$0.0	\$0.0	\$0.0	\$713.0
		Spouse B	\$0.0	\$98.2	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$56.1	
	FT adult plus PT adult	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	-\$9.2	\$0.0	\$0.0	\$0.0	\$866.0
		Spouse B	\$307.7	\$0.0	-\$28.9	\$28.8	\$0.0	\$0.0	\$0.0	\$0.0	
Two FT adults	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	-\$9.2	\$0.0	\$0.0	\$0.0	\$1,116.8	
	Spouse B	\$615.4	\$0.0	-\$75.0	\$27.2	-\$9.2	\$0.0	\$0.0	\$0.0		
1 child	Single adult, FT	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	\$0.0	\$96.2	\$55.6	\$69.9	\$789.3
		Spouse B	na	na	na	na	na	na	na	na	
	Single adult, PT	Spouse A	\$307.7	\$106.7	-\$44.9	\$28.8	-\$5.3	\$96.2	\$55.6	\$69.9	\$614.7
		Spouse B	na	na	na	na	na	na	na	na	
	One earner couple, FT	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	-\$3.3	\$0.0	\$0.0	\$0.0	\$883.3
		Spouse B	\$0.0	\$98.2	\$0.0	\$0.0	\$0.0	\$96.2	\$54.7	\$69.9	
	FT adult plus PT adult	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	-\$9.2	\$0.0	\$0.0	\$0.0	\$1,038.1
		Spouse B	\$307.7	\$0.0	-\$28.9	\$28.8	\$0.0	\$89.4	\$12.8	\$69.9	
	Two FT adults	Spouse A	\$615.4	\$0.0	-\$75.0	\$27.2	-\$9.2	\$0.0	\$0.0	\$0.0	\$1,157.0
		Spouse B	\$615.4	\$0.0	-\$75.0	\$27.2	-\$9.2	\$40.2	\$0.0	\$0.0	

Source: ACTU calculations, based on tax/transfer parameters as at February 2012.

136. Table 3 shows the difference between the results in Table 1 and Table 2. In other words, it shows the change in tax liabilities and transfer payments that each household would face after a \$26 rise in the NMW/C14 rate of pay. The second last column shows the change in the

household's disposable income that arises from the wage increase. The final column shows the proportion of the gross wage increase that is retained by the household as an increase in disposable income. For example, a single full time adult at the NMW who received a \$26 per week increase in gross earnings would take home a \$20.7 per week increase in household disposable income. This means that the single adult household would retain 80% of the wage increase as an increase in disposable income.

Table 3: Change in household disposable income for hypothetical low-paid worker households arising from a \$26 increase in the NMW in 2012

			Gross earnings	Newstart	Tax	LITO	Medicare Levy	FTB A	FTB B	Rent Assistance	Household disposable income	Proportion of AWR increase retained
No children	Single adult, FT	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$0.4	\$0.0	\$0.0	\$0.0	\$20.7	80%
		Spouse B	na	na	na	na	na	na	na	na		
	One earner couple, FT	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$1.3	\$0.0	\$0.0	\$0.0	\$4.2	16%
		Spouse B	\$0.0	-\$15.6	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
	FT adult plus PT adult	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$0.4	\$0.0	\$0.0	\$0.0	\$33.6	86%
		Spouse B	\$13.0	\$0.0	-\$2.0	\$1.9	\$0.0	\$0.0	\$0.0	\$0.0		
Two FT adults	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$0.4	\$0.0	\$0.0	\$0.0	\$41.4	80%	
	Spouse B	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$0.4	\$0.0	\$0.0	\$0.0			
1 child	Single adult, FT	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	\$0.0	\$0.0	\$0.0	\$0.0	\$21.1	81%
		Spouse B	na	na	na	na	na	na	na	na		
	Single adult, PT	Spouse A	\$13.0	-\$7.8	-\$0.8	\$0.0	-\$0.5	\$0.0	\$0.0	\$0.0	\$3.9	30%
		Spouse B	na	na	na	na	na	na	na	na		
	One earner couple, FT	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$1.3	\$0.0	\$0.0	\$0.0	\$7.3	28%
		Spouse B	\$0.0	-\$15.6	\$0.0	\$0.0	\$0.0	\$0.0	\$3.1	\$0.0		
	FT adult plus PT adult	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$0.4	\$0.0	\$0.0	\$0.0	\$24.2	62%
		Spouse B	\$13.0	\$0.0	-\$2.0	\$1.9	\$0.0	-\$6.8	-\$2.6	\$0.0		
	Two FT adults	Spouse A	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$0.4	\$0.0	\$0.0	\$0.0	\$41.4	80%
		Spouse B	\$26.0	\$0.0	-\$3.9	-\$1.0	-\$0.4	\$0.0	\$0.0	\$0.0		

Source: ACTU calculations, based on tax/transfer parameters as at February 2012.

137. As can be clearly seen from Table 3, most of the representative low-paid worker households would retain the majority of an AWR increase as an increase in their household disposable incomes. The only households for which this is not the case are two adult households in which one spouse is not employed, and single adult households with a child where the adult is employed part time. All other household types included in this analysis retain between 62% and 88% of an AWR increase as an increase in household disposable income.

138. ACCI's assertion that "increases in minimum wages produce relatively minor improvements in minimum-wage employees' disposable income" is not supported by the evidence. The Panel can be assured that an increase in wages will boost the disposable incomes of minimum-wage reliant households.

The relevance of award modernisation

139. The Part 10A award modernisation process required the AIRC to establish a fair and relevant minimum safety net in accordance with the modern awards and minimum wages objective.
140. The creation of modern awards necessarily involved striking a balance as to appropriate safety net terms and conditions in light of diverse award arrangements contained in the pre-modern awards. In order to minimise disadvantage to employees and cost increases for employers, the AIRC:
- adopted terms and conditions with wide application in the existing awards for the relevant industry or occupation;
 - instituted lengthy transition provisions that phase in changes to wages, penalties and loadings; and
 - delayed the first phase of the transition from 1 January 2010 to 1 July 2010 to ensure that employers had sufficient time to prepare.
141. The Panel has rejected claims for special treatment based on the alleged costs of award modernisation on two subsequent occasions. In its Annual Wage Review 2009–10 decision, the Panel observed:

There was no evidence of the net cost of award modernisation and the material, even on an industry basis, was not comprehensive. Increases in wages and some conditions will be phased in in five instalments and this will moderate the effect of cost increases. We are also aware that the modern awards will bring significant benefits for many employers, including some reductions in minimum wages, penalty rates and other conditions. We accept that for some employers, particularly in award-reliant industries, there will be cost increases arising from the application of modern award wages and conditions. And this is clearly a relevant consideration for us.⁶¹

142. In 2011, the Panel concluded:

Nothing has been advanced this year which has caused us to review the conclusions reached then—either in relation to the costs of award modernisation or in relation to the desirability of

⁶¹ [2010] FWA FB 4000, [291].

*giving special treatment to a particular industry, or part of an industry, because of award modernisation.*⁶²

143. There is no reason to depart from the approach outlined above. As the NRA acknowledges in its opening submission,⁶³ the material relied on by employers in these proceedings has already been considered by the Panel.
144. Employer organisations claim that the cost increases associated with award modernisation in certain parts of the economy have been significant and that these matters should be taken into account in determining the annual wage increase. A similar argument could be mounted on the basis of employee disadvantage by reference to entitlements in specific industries, for example we note that as a result of award modernisation:
- the minimum wage rate for a level 1 retail worker was reduced in every state except Tasmania;
 - the annual leave loading for casual retail employees in Victoria was eliminated, reducing the loaded rate from 133.3 to 125 per cent; and
 - the Saturday penalty that applied to restaurant workers in Queensland and WA was reduced from 50 to 25 per cent.
145. The ACTU has not sought to compensate employees for the loss of award conditions through higher annual wage increases. In our submission, it is inappropriate to adjust the annual wage increases on account of the costs (or savings) associated with the transition to modern awards.
146. The phasing arrangements adequately address changes to award entitlements and the appropriate forum for dealing with concerns regarding the content of modern awards, apart from minimum wages, is the 2012 award review. There is no valid reason for the Panel to 'err on the side of caution'⁶⁴ in anticipation of what may happen as a result of the 2012 award review.
147. Employer organisations assert that each phase of the transition has a cumulative or compounding effect on cost increases without acknowledging that the transitional

⁶² [2011] FWAFB 3400, [323].

⁶³ National Retail Association, *Submission to Fair Work Australia - Annual Wage Review 2011/2012*, March 2012, [9].

⁶⁴ Ai Group, *Submission to Fair Work Australia – Annual Wage Review 2011/2012*, March 2012, p46.

arrangements effectively permit employers to pay below-award rates for up to five years. The delayed implementation of minimum wages, loadings and penalties has negative implications for low paid workers as well as financial benefits for business that should be taken into account.

148. Claims that moderate wage increases are unsustainable in conjunction with the implementation of modern awards should also be rejected. Independent qualitative research conducted by the Fair Work Australia Minimum Wages and Research Branch during the first and second phases of the transition to modern awards indicates that:

- Award-dependent businesses are able to ‘mitigate’ the negative effects of modern awards by identifying and implementing strategies to manage change, including planned price increases, cost cutting measures and changes in trading hours.⁶⁵
- Only a minority of the employers surveyed were concerned about the impact of the transition to modern awards on labour costs.⁶⁶ In most enterprises increases in labour costs were associated with the minimum wages increase rather than the transition to modern awards.⁶⁷
- Minimum wages increases were viewed by the majority of employers as neither having a pronounced impact on nor constituting a significant pressure on the enterprise’s performance and very few employers planned for minimum wages increases as part of budgeting or business planning processes.⁶⁸

149. Modifying minimum wage increases on account of the transition to modern awards is unwarranted, and is likely to have a negative impact on the fairness and relevance of the safety net established during award modernisation.

The role of employer surveys

150. ACCI presents a significant amount of material collected as part of its survey of employers. ACCI notes that:

⁶⁵ A Southwell, S Elliott, N Stafford and G French, *Research Report number 10/2010 – Consolidated Social Research*, June 2010, p47.

⁶⁶ J Evesson et al, *Research Report 7/2010 Enterprise Case Studies: Effects of minimum wage-setting at an enterprise level*. February 2011, p2.

⁶⁷ *Ibid* vi.

⁶⁸ *Ibid* p15.

*As is the case with the ABS EEH Survey, the [ACCI] employer survey relies on self-reporting.*⁶⁹

151. The ACTU is concerned that this could give the impression that the results of the ACCI employer survey can be relied upon to the same extent as an ABS survey of employers. This is not the case.
152. While both the ABS EEH survey and the ACCI employer survey ask employers to report details about their employees and their businesses, they differ in important respects. The ACCI survey appears to be *self-selecting*, a far more important characteristic for the reliability of its results than the fact that it relies on *self-reporting*. The ACCI employer survey appears to include the responses of 177 businesses. The number of businesses that were asked to complete the survey is unknown, and thus the response rate to the survey is unknown.
153. By contrast to the ACCI employer survey, the ABS EEH survey methodology is as follows:
- Information for the EEH survey is collected via mail questionnaires from a sample of approximately 9,000 private and public sector employers selected from the ABS Business Register. The employer sample is stratified by state, sector, industry division and employment size to ensure adequate state, sector and industry representation. These employers select a sample of employees from their payroll(s) using instructions provided by the ABS. Approximately 60,000 employees are sampled. A minimum response rate of 95% is achieved for the survey as a whole and for each state and industry.*⁷⁰
154. It is not possible to draw scientifically valid conclusions about the characteristics of employers generally from the ACCI survey of 177 employers. The respondents are not representative of the broader population of employers. This is borne out by the results of the survey; for example, 48.6% of respondents report that the majority of their employees work in regional areas.⁷¹ This is not true of employers generally. We submit that the Panel should disregard the results of the survey.
155. We note that Mr Anderson of ACCI has expressed similar concerns about a survey of employees conducted by the ACTU in 2011. According to the *Sydney Morning Herald*,

⁶⁹ ACCI, *Submission to the 2011-12 Annual Wage Review*, [25]

⁷⁰ ABS 2010, *Employee Earnings and Hours*, Cat. No. 6306.0, explanatory notes.

⁷¹ ACCI, *Submission to the 2011-12 Annual Wage Review*, p.100.

*The chief executive of the Australian Chamber of Commerce and Industry, Peter Anderson, said the union survey was "interesting" but of limited value because it only sampled union members, not employees generally.*⁷²

156. The ACTU survey, titled the *Working Australia Census*, obtained valid responses from 41 584 employees. The ACTU also commissioned a poll from Essential Media Communications, in which a representative sample of approximately 1000 Australians were asked the same questions as were contained in the *Working Australia Census*, to provide a benchmark for the results.
157. The ACTU did not include results from the *Working Australia Census* in our opening submission to the Panel. We believe that our survey provides important insight into Australians' working lives, but we chose to focus on independent, scientifically robust data sources in our opening submission to the Panel. We submit that the Panel should give no credence to the ACCI employer survey.

Non-wage labour costs

158. The AIRC Full Bench found in its decision in the 2003 Safety Net Review that there is a wedge between the labour cost paid by employers and the take-home pay received by employees. This wedge comprises non-wage labour costs ("on costs") and taxes.⁷³ The AIRC reiterated this observation in its decision in the 2004 Safety Net Review, finding:

*On-costs mean that for every dollar awarded by the Commission, employers must spend more than \$1, whereas the impact of tax and tax transfer arrangements means that, in many cases, the employee receives substantially less than \$1 as additional disposable income.*⁷⁴

159. In neither of these decisions did the AIRC express a view about the average size of this wedge between costs paid by employers and take-home pay received by employees.
160. In its opening submission to the current AWR, ACCI provides estimates of the change in "total labour costs" that it claims employers faced as a result of the Panel's decision to increase

⁷² *Sydney Morning Herald* 2011, Wednesday 7 September, p.5.

⁷³ [2003] AIRCFB PR002003, [227]

⁷⁴ [2004] AIRCFB PR002004, [308]

award wages by 3.4% in 2011.⁷⁵ No information is given about the methodology used to arrive at these estimates. They are implausibly high.

161. The estimates provided by ACCI suggest that the 2011 increase in gross earnings awarded by the Panel was accompanied by an equal dollar increase in on-costs. For example, the 3.4% increase in the C14 rate represented a \$19.37 weekly increase in gross earnings; ACCI claims that total labour costs increased by \$38.74.
162. ACCI's estimates suggest that it believes that gross earnings only represent 50% of total labour costs, at least at the margin. This is difficult to reconcile with the data that ACCI presents elsewhere in its submission, in which it notes that "employee earnings accounted for 86.6% of total labour costs" in the most recent ABS survey of labour costs.⁷⁶ ACCI provides no reasoning in support of its implicit claim that earnings account for only 50% of total labour costs at the margin. Far from being an 'underestimate' of the impact of the 2011 AWR decision on total labour costs, we submit that the ACCI figures are a significant overestimate.
163. Instead, we submit that there is no reason to expect that the ratio of employee earnings to total labour costs has changed significantly. In the latest ABS *National Accounts*, wages and salaries represented 89.4% of the total compensation of employees.⁷⁷ Employers' social contributions represent the remaining 10.6%; these comprise contributions to pension and superannuation funds, and premiums paid by employers to workers' compensation schemes.
164. An increase in gross wages awarded by the Panel in this Annual Wage Review will result in a proportionate increase in non-wage labour costs, *at most*; furthermore, wages represent the majority of labour costs. We submit that the Panel should disregard ACCI's implausible and unsubstantiated estimates of the effect of the 2011 decision on total labour costs.

The nature of the adjustment

165. As outlined in our opening submission, the ACTU seeks a 'hybrid' adjustment, with wages at the C14 to C10 classification level (or equivalent) to be increased by \$26 per week and wages

⁷⁵ ACCI, *Submission to the 2011-12 Annual Wage Review*, [8].

⁷⁶ ACCI, *Submission to the 2011-12 Annual Wage Review*, [151]

⁷⁷ ABS 5206, table 7.

above the C10 (or equivalent) classification level increased by 3.8%. The reasons for seeking an increase of this nature are set out in our opening submission.

166. Other parties present a range of views about the appropriate structure of an increase arising from the current AWR.

167. ACCI claims that it has received feedback from employers that percentage adjustments to minimum wages require:

*significantly more resources devoted by employers and ACCI members to determine the legally required minimum wages as a result of complex transitional wage and conditions calculations.*⁷⁸

168. ACCI does not elaborate as to why a percentage adjustment would impose additional administrative complexity on employers relative to a flat-dollar or hybrid increase. We note that several other employer organisations advocate a percentage increase. We submit that the Panel should disregard ACCI's curious and unsupported claim that percentage increases to minimum wages are more difficult for employers to implement.

⁷⁸ ACCI, *Submission to the 2011-12 Annual Wage Review*, [15].

Deferrals and exemptions

169. We request that the Panel increase minimum wages, with its determination to come into operation on 1 July 2012.
170. We submit that there are no circumstances that would warrant a deferral of any increase to minimum wages.
171. We also submit that the Panel should follow its approach in previous Annual Wage Reviews and adjust the National Minimum Wage and the wage rates in all modern awards at the same time and without distinguishing between awards.

Deferrals for businesses affected by natural disasters

172. Some employer associations (for example, ACCI at section 2.3.2) call upon the Panel to defer the requirement for some employers to comply with any increase in minimum rates. It is suggested that this deferral be granted to employers affected by natural disasters.
173. The ACTU opposes these proposals. It is not appropriate that low-paid workers see their real incomes reduced in order to provide disaster relief to their employers. Low-paid workers living in disaster-affected regions are themselves likely to have endured considerable difficulty as a result of extreme weather events. We submit that it is inconsistent with the requirement to maintain a fair safety net of minimum wages to ask such workers to endure a real wage cut.
174. Direct Government assistance is the most appropriate and practical means for assisting businesses and workers affected by natural disasters.
175. We note that the Panel did not accede to requests that it grant a deferral to disaster-affected businesses in 2011, when a greater number of Australians were affected by severe disasters. The Panel's reasons for refusing to grant a deferral in the 2011 AWR are pertinent to the present Review.
176. After noting that there were a number of businesses that had been afflicted by disasters, the Panel found that:

*There are, however, a number of matters which weigh against the proposals which have been advanced. Of these, by far the most significant is the lack of any obvious mechanism to properly identify the employers affected and to whom the deferral should apply. None of the state or federal government programs referred to provide a ready means of identifying all such employers... There is an unacceptable risk of significant unfairness to employers and employees if the deferral mechanism does not effectively target the group in need.*⁷⁹

*We are also conscious that a deferral of a wage increase would place some of the burden of adjustment on the lowest paid in the community, who might themselves be in a difficult financial position because of the effects of natural disasters on themselves and their families. Many low-wage workers will also have been directly affected by the floods and cyclone (not only in Queensland). We have no information on how the losses have been distributed across the different classes of employees and enterprises. It is also relevant that governments are already providing assistance through the various programs.*⁸⁰

177. The Panel's reasons for not granting a deferral in its 2011 decision were sound. We submit that the same reasons of practicality and equity apply in 2012 and the Panel should refuse requests for a deferral on similar grounds.

Exemptions or differential treatment for various industries

178. ACCI suggests that the Panel abandon the long held custom and practice of reviewing and adjusting all award rates and the National Minimum Wage at once and as a whole, instead the adjustment of each Award or even each classification level within each award in isolation. It suggests:

*The minimum wage objectives, coupled with the Act's objectives at s.3 suggest there must be cogent evidence to warrant an increase to minimum wage rates for each modern award.*⁸¹

...

Given that these modern awards are predominantly structured along an industry or occupational basis, it is now possible to distinguish and target decisions on an industry by industry basis. ACCI believes that the Panel in this year's review should consider a decision on an industry by industry basis and provide reasons to justify an increase for each modern award.

⁷⁹ [2011] FWAFB 3400, [316]

⁸⁰ [2011] FWAFB 3400, [317]

⁸¹ ACCI, *Submission to the 2011-12 Annual Wage Review*, [78].

179. The ACTU opposes the impractical, unfair and unwieldy process proposed by ACCI . We oppose the proposal for the same reasons that we opposed similar proposals for industry-by-industry exemptions or differential treatment in previous Annual Wage Reviews. We submit that adjusting the minimum rates in various awards by different amounts would:
- Undermine the consistency and coherence of the safety net;
 - Be inconsistent with the requirement to ensure equal remuneration for work of equal or comparable value;
 - Be inconsistent with the Panel’s obligation to establish and maintain a fair and relevant safety net; and
 - Would distort award relativities.
180. We also note that ACCI’s suggestion of differential treatment of particular industries appears to be contrary to its statements regarding the two-speed economy. ACCI states that:
- [I]t is futile and expensive to resist the pressures for structural change while also being contrary to the broader national interest... There is also consensus amongst policy makers that, at least for the most part, the process of structural adjustment should be accommodated rather than resisted.*
181. ACCI’s proposal to abandon the coherence of the safety net and provide differential adjustments for various industries would constitute the sort of resistance to structural adjustment that it purports to oppose.
182. In previous AWRs, the Panel has rejected requests for it to award lower increases in minimum rates for particular industries (for example, the ARA’s submission in the 2010-11 Review that award-reliant retail businesses should be exempt from any minimum wage increase due to adverse trading conditions).⁸² No material has been advanced that should cause the Panel to deviate from the approach taken in previous Reviews.

⁸² [2011] FWAFB 3400, [323]