Responses to Consultation Questions for the Fair Work Commission Annual Wage Review 2013

17 May 2013
Responses

1.1 Question to all parties
All parties are invited to consider, and comment upon an article published in the Australian Financial Review from Dean Parham 'Productivity boost first, then labour can share'.

What are the best measures of productivity to use when thinking of the improvements that are available to share between labour and capital?

Response:
The Government believes the choice of a measure of productivity is a matter for the Panel. Labour productivity is calculated as real gross domestic product or gross value added per hour worked. Labour productivity is affected by changes in other inputs, including in the amount of capital available per worker/hour worked (known as capital deepening).

Multifactor productivity is calculated as gross value added or gross output per unit of labour (or quality adjusted labour) and capital. It accounts for the use of both labour and capital inputs in production.

Labour productivity can be calculated for the whole economy, while multifactor productivity statistics are available only for the market sector of the economy (i.e. excluding the Public administration and safety, Education and training, and Health care and social assistance industries).

1.2 Question to all parties
In Figure 55 of its initial submission, the ACTU shows that real output per hour worked (labour productivity) has risen faster than real hourly labour income, particularly since the early 2000s.¹

In Table 8.1 of their initial submission, ABI provides data showing that the source of recent trend growth in labour productivity is capital deepening.² This capital deepening is illustrated in their Chart 8.1.³ On the basis of this evidence, they conclude, "Long term changes in the share of income are more likely to be attributable to changes in the share of inputs."⁴ Parties are invited to comment on the implications of these developments for the setting of minimum rates of pay.

Response:
The Panel may wish to refer to the response to question 1.1 above.

¹ ACTU submission p. 56 at para 169.
² ABI submission p. 16 at para 8.6.
³ ABI submission p. 18 at para 9.2.
⁴ ABI submission pp. 16–17 at paras 8.8–8.9.
2.1 Question to all parties

The ACTU submits that between the June quarter 2005 and the December quarter 2012:

- The purchasing power of the NMW/C14 rate fell by 0.3 per cent;
- The purchasing power of the C10 rate fell by 2.74 per cent;
- The purchasing power of the AWOTE rose by 11.7 per cent; and
- Labour productivity rose by 9.9 per cent.

The ACTU also submits that about half of award reliant employees are on rates that are greater than the C10 level, including about 9 per cent who are employed as professionals.

Do any parties dispute these figures?

Response

The Government does not dispute ACTU’s numbers, where the source data was publicly available. We note that the numbers are based on purchasing power calculated using the Selected Living Cost Indexes.

As noted in Section 6.3 of the Government’s initial written submission (pages 59-63), the real value (in terms of the CPI) of the National Minimum Wage has increased by 12 per cent over the period 1997 to 2012, and 4.2 per cent under the Minimum Wages Panel’s first three decisions.

2.2 Question to all parties

The ACTU has adopted the Living Cost Index—Employees as its preferred measure of changes in the cost of living for the purpose of evaluating the real value of changes to award wages, in preference to the Consumer Price Index in figures 55, 96 and 97 in its submission.

Do any other parties have a view about which is the more appropriate measure?

Response

The Government has consistently submitted that determining the most appropriate measure of living costs is an issue for the Panel.

Traditionally the Government has referred to the Consumer Price Index (CPI) in its submissions. The CPI has several advantages – it is a measure that is available with a long time series and it is subject to government forecasts in future years. The CPI is the standard measure of inflation both in Australia and overseas.

However, the Government acknowledges that the Living Cost Index - Employees (LCI) is a broader measure of the costs faced by employees, since it contains items such as mortgage interest and consumer credit charges that are excluded from the CPI.
2.3 Question to all parties

*In what ways, if any, is the comparison between the purchasing power parity of the Australian National Minimum Wage and that of other OECD countries, and of its value relative to median (or mean) fulltime earnings relevant to an assessment of the needs and relative living standards of minimum wage workers in Australia?*

**Response**

The Government notes that when considering OECD data on Purchasing Power Parity (PPP), Australia has one of the highest minimum wages among comparable countries. However, the Government also notes the limits of PPP comparisons. There are technical issues associated with calculating PPP, because the goods consumed across countries can vary significantly and there can be substantial differences in how prices are measured across countries. Economic structures, taxation arrangements and price levels differ substantially across countries, limiting the value of international comparisons.

2.4 Question to ACOSS, ACCER and the Australian Government

*Does ACOSS, ACCER or the Australian Government have any information on how many single earner couple families there are that are reliant on award rates of pay?*

**Response**

We are not aware of any data source which contains the specific information requested. However, using the Household, Income and Labour Dynamics in Australia (HILDA) survey data, we can estimate the number of single-income couple families where the single earner is on relatively low wages.

Using the latest available wave of the HILDA survey, DEEWR estimated that in 2011 there were around 575,000 single earner couple families on a low wage (defined as hourly earnings below 2/3 of the median – this will include people beyond minimum wage workers). This represents around 16 per cent of single earner couple families.\(^5\)

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\(^5\) See the Government initial written submission for the definition of low wage earners.
3.3 Question to all interested parties

Is overemployment (the percentage of employed people in a specified population group who wanted to work fewer hours than they actually worked) a relevant consideration in the Annual Wage Review?

Although dated, the ABS information suggests that overemployment exceeds underemployment:

Between April and July 2007, the ABS surveyed Australian workers aged 15 years and older about their employment arrangements. At that time, around two-thirds felt they were working close to their preferred number of hours. While 1.4 million workers (14%) wanted to work more hours, about 2.2 million (21%) preferred to be working fewer hours.

Response

The Government is cautious about the information on overemployment quoted in the question. This is mainly because the information does not identify who are overemployed and why they are overemployed.

Data from the HILDA survey suggests that overemployment is a temporary phenomenon in many cases. Of those aged over 21 who wanted to work fewer hours in 2010, only 16 per cent continued to want fewer hours of work in 2011. 37 per cent were happy with the hours they worked in 2011, while another 10 per cent wanted to work fewer hours in 2011. The remaining 36 per cent were not employed in 2011.

The National Employment Standards in the Fair Work Act 2009 include a right for parents of a child under school age, or under 18 with a disability, to request flexible work arrangements. The Government is making flexible work available to more employees through the introduction of the Fair Work Amendment Bill 2013, which expands the right to request flexible working arrangements to additional categories of employees.

4.1 Question to all parties

Is there any response to the propositions advanced by the ACTU that:

• Differences between turnover growth in various retail sub-sectors over the past five years reflects structural change in the pattern of retail spending; and

• The rise in the employment share of Health care and social assistance, and the falling share of Retail trade is caused by structural change in the economy?

Response

The Government considers that rising incomes and structural changes, particularly the ageing of the population and advances in medical care, are driving the rise in the employment share of health care and social assistance in the Australian economy.

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The Government also notes that the Productivity Commission report on the Australian Retail industry emphasized the role of increasing spending on services and a declining share of expenditure on goods as a key factor in the slower growth in Retail trade over recent years.\(^7\)

Consumer preferences evolve over time and can certainly influence turnover growth in sub-sectors, but other factors (including wages and other labour costs) could also affect these outcomes through relative price effects. Disentangling the precise cause of these changes would be difficult, and at a minimum would require careful economic analysis taking into account all the relevant factors.

### 5.1 Question to all parties

Noting the observations of the Panel about the legislative context for the consideration of exceptional circumstances in the Annual Wage Review 2011-12 Decision, how would the supplementary exemption process proposed by the QCI, ARA and others operate in practice given the terms of the Fair Work Act 2009 and the timeframes involved?

**Response**

The Government notes the requests of the QCI, ARA and Business SA for a supplementary exemption process prior to a final decision being made to take into account exceptional circumstances warranting a deferral of an increase or a differential increase/exemption for one or more modern awards. In this regard the Government also notes the observations made by the Panel in the Annual Wage Review 2011-2012 Decision, in particular that:

- the Act does not compel the variation of modern award minimum wages in all modern awards, particularly in circumstances of economic incapacity (at [247 - 262]); and
- the Act empowers the Panel to make a variation determination in respect of one or more modern awards that come into operation on a day later than 1 July, provided it is satisfied that there are exceptional circumstances justifying such a course (at [245]).

The Government notes there is no mechanism within the Act for revisiting a determination varying a modern award after an annual wage review has been completed. However there is no legislative barrier to all parties to be given an adequate opportunity being heard in relation to ‘exceptional circumstances’ or other relevant matters prior to the determination being made.

With respect to the power of the Panel to make a variation determination in respect of one or more modern awards that come into operation on a day later than 1 July, provided it is satisfied that there are exceptional circumstances justifying such a course, the Government reiterates its supplementary material provided to Fair Work Australia’s 2012 Annual Wage Review in response to questions asked on 14 May 2012.

5.2 Question to all parties

Given the number and coverage of those sectors seeking differential outcomes as part of this Review (including in some cases no adjustment), what would be the implications of such an approach for adjustments in other sectors where no particular outcomes have been sought?

Response

The Government notes that there are already significant differentials between award pay rates across Modern Awards.

A strong case would have to be made to justify increasing these differentials, given the equity implications of providing different minimum wage increases across different sectors and the complexity of determining appropriate wage increases at the sectoral level and given that there may be some sectors that have not sought differential outcomes despite having similar claims to such outcomes.

The extent of any differentiation between different sectors and pay rates in the AWR decision is a matter for the panel with regard to paragraph 285(2)(b) in the Fair Work Act 2009.

6.1 Question to all parties (in particular the Australian Government)

In the Safety Net Review Wages April 1998 decision, the AIRC noted the Joint Governments’ estimate that a one percentage point increase in superannuation guarantee contributions would add about 0.4 per cent to the national accounts measure of average earnings.

What impact will a 0.25 percentage point increase in superannuation guarantee contributions from 1 July 2013 have on average earnings?

Response

As noted in the initial Government submission (section 1.4.1), the Government’s view, based on advice from Treasury, is that previous increases in the superannuation guarantee were absorbed into overall wages growth.

Therefore, the increase in the superannuation guarantee (SG) rate from 1 July 2013 is not expected to have a significant impact on employees’ total remuneration. However, it will affect the composition of remuneration, with the share from superannuation increasing.

- Increases in the SG rate were announced on 2 May 2010 and are being phased in slowly — giving employers and employees time to factor the new arrangements into their wage negotiations.

Reflecting this, the 0.25 percentage point increase in the SG rate is not expected to have a significant impact on the National Accounts measure of average earnings.

- Average earnings is a measure of total remuneration, including wages and superannuation.

The Government considers the panel should take account of the increase in the SG rate in its AWR decision.

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8 [1998] 79 IR 37, at 60 [Print Q1998].
This view is consistent with the experience following the increase in the SG from 3 per cent to 9 per cent between 1992 and 2002, and with the Government’s submission to the AIRC in 1998.

- In 1998, it was estimated that a 1 percentage point increase in the SG rate would result in an adjustment to aggregate wages growth equivalent to 0.4 per cent of the National Accounts measure of average earnings in 1998-99, leaving growth in total remuneration broadly unchanged.

Similarly, 0.25 percentage point increase in the SG rate from 1 July 2013 equates to a wages growth adjustment of 0.1 per cent of the National Accounts measure of average earnings.

6.2 Question to all parties (in particular the Australian Government)

From 1 July 2013, the Superannuation Guarantee age limit of 70 will be removed and employers will be obliged to make superannuation contributions for employees 70 years and older.

What is the likely impact of this change and how should it be taken into account in this Review?

Response

The Government believes that it is a matter for the Commission to determine how any impact of the abolition of the superannuation guarantee (SG) age limit from 1 July 2013 should be taken into account in this Review.

The incidence of the abolition of the SG age limit may fall on the employers of award- or federal minimum wage-reliant employees, rather than the employees. The Superannuation Guarantee (Administration) Amendment Act 2012 received Royal Assent on 29 March 2012, however, giving employers and employees a long lead time to adjust to the abolition of the SG age limit. Moreover, the abolition of the SG age limit will bring the superannuation costs to employers of hiring these workers into line with younger workers. It is also worth noting that the number of employees aged 70 years and older is very small in comparison to the number of employees under the age of 70.

DEEWR estimated that as at 2011, there were around 37,000 Australian employees aged 70 years and over. This accounted for about half per cent of all employees aged 21 and over.⁹

7.1 Question to all parties

Submissions from the ACTU, ABI, Business South Australia and the Queensland Government identified specific transitional instruments that should be considered and adjusted. Two new categories of transitional instrument that must be considered by the Panel have not been addressed in submissions, these are:

- The transitional pay equity order deemed to operate from 1 January 2010 under Schedule 3A of the Fair Work (Transitional Provisions & Consequential Amendments) Act 2009. Following modifications to the Fair Work (Transitional Provisions & Consequential Amendments) Act 2009 that took effect in 2012, the Commission is now required to review this instrument under Part 2—~6 of the Act; and

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⁹ Source: DEEWR estimates from the HILDA Wave 11. Employed full-time students were excluded from the estimation.
• **Instruments created under Part 6–3 of the Act following the commencement of the Fair Work (Transfer of Business) Amendment Act 2012 in December last year.**

The Panel invites the parties to comment on how these instruments should be considered in this Review.

**Response**

**Transitional Pay Equity Order**

Item 45 of Schedule 3 and item 30C of Schedule 3A to the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (TPCA Act), inserted by the Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulation 2012 (No 2), provide that if the FWC varies minimum wages in the Social, Community, Home Care and Disability Services Industry Award 2010 (the SACS modern award) as part of an annual wage review for the financial years starting on 1 July 2012 and ending on 30 June 2020, the variation automatically applies to the base rate payable to Queensland social and community services sector employees under two transitional pay equity orders.

The first transitional pay equity order (taken to have been made under item 30A of Schedule 3A to the TPCA Act) applies to employees of employers covered by the SACS modern award who entered the federal system on 1 January 2010 as a result of Queensland’s referral of industrial relations powers over the private sector to the Commonwealth and who were previously covered by the Queensland Community Services and Crisis Assistance Award – State 2009.

The second transitional pay equity (taken to have been made under item 43 of Schedule 3 to the TPCA Act) order applies to employees of employers covered by the SACS modern award who received funding from the Queensland Government in relation to the source pay equity order, an in respect of whom one of two federal ‘transitional awards’ applied (the Social and Community Services (Queensland) Award 2001 [Transitional], and the Crisis Assistance Supported Housing Queensland) Award 1999 [Transitional]).

Item 30D of Schedule 3A of the TPCA Act provides for FWC discretion to vary the minimum wages payable under the first transitional pay equity order to the extent that the transitional pay equity order preserves wage increases determined by the Queensland Industrial Relations Commission for disability support workers, dental assistants and employees engaged in the provision of children’s services.

Subitem 30D(2) provides that in considering whether to vary the minimum wages payable for disability support workers, dental assistants and children’s services workers in Queensland, Division 3 of Part 2-6 of the FW Act (other than section 292) applies to the transitional pay equity order as if the transitional pay equity order were a modern award.

**Instruments created under Part 6–3 of the Act following commencement of the Fair Work (Transfer of Business) Amendment Act 2012**

Item 20 of Schedule 9 of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 applies to Copied State Awards created under Part 6–3 of the FW Act following the commencement of the Fair Work (Transfer of Business) Amendment Act 2012, due to the operation of s.768BY of the Fair Work (Transfer of Business) Amendment Act 2012. Item 20 provides that the FWC may make a determination varying the terms of Copied State Awards relating to wages and, for that purpose, Division 3 of Part 2-6 of the
FW Act (other than section 292) applies to the Copied State Award relating to wages in the same way as it applies to a modern award. This means that Copied State Awards are able to be varied in an annual wage review in the same way as Division 2B State awards.

7.2 Question to all parties

Few submissions directly addressed the variation of piece rates, though the ACTU supported a flow on of any minimum wage increase awarded as part of this Review to piece rates. The Panel invites the parties to consider and comment on how piece rates should be considered in this Review.

Response

The Government notes that piece rates are a feature of a small number of Modern Awards, including the Pastoral Award 2010, the Horticulture Award 2010, the Building and Construction General On-site Award 2010 and the Wool Storage, Sampling and Testing Award 2010.

The Government agrees with the ACTU proposition that piece rates should be adjusted in line with any increase in the National Minimum Wage.

8.1 Question to all parties

All parties are invited to consider, and comment upon, the following documents:


Response

The Mission Australia Youth Survey 2012 was completed by 15,351 young Australians aged 15-19 years. In relation to paid employment, only 0.6% of respondents were employed full-time. Given many respondents were in full-time education, this is not surprising. Almost 40% of respondents though reported part-time employment.

In capturing young people’s attitudes to contemporary Australia, the survey found that the almost one third indicated that the ‘economy and financial matters’ were important issues – ranking first ahead of population issues (second) and alcohol and drugs (third).

The survey reinforces the position of the Australian Government in its 2013 AWR submission, that young people can be disadvantaged in the labour market, and are especially vulnerable in periods of labour market softness.

The Low Pay Commission Report places a strong emphasis on changes in the UK’s economic performance – including levels of wage growth and inflation, and the state of the labour market. This approach is broadly reflective of the Australian Government’s AWR position that “Any increase in the NMW in 2013 should take account of changes in living costs and the economic environment since the 2012 AWR...”.
However, there are important differences between Australia and the UK. First, Australia’s economy has been stronger than the UK economy over recent years. Secondly, the Australian minimum wage, in terms of the minimum wage bite, is significantly higher than that in the UK. Further, the criteria used by the UK Low Pay Commission is different to the Minimum Wages Objective. In its 2013 Report, the Low Pay Commission was asked to take into account “the state of the economy; employment and unemployment levels; and the wider policy context including pensions reform, universal credit, raising of the personal tax allowance and the proposed abolition of the Agricultural Wages Board for England and Wage”.

8.2 Question to all parties

It has been customary to measure the participation rate as the proportion of people aged 15+ who are in the workforce. Many parties do so in their submissions to this Annual Wage Review.

The ageing of the workforce and the movement of the large ‘baby boom’ cohort into the traditional retirement age bracket has caused a divergence between movements in the participation rate based on the entire population aged 15+ and that based on the population of traditional working age—either 15–64 (used, for example, in the ACTU submission¹⁰) or 20–64 (used as one of the measures in the Statistical Report prepared for this Annual Wage Review¹¹).

The ACTU in its initial submission provides an illustration of the divergence.¹² For the age group 20-64 used in the Statistical report the participation rate was higher in March 2013 (at 79.2) than in December 2011 (78.9), and unchanged from 2012. This contrasts with the decline in the participation rate when calculated on the population aged 15+, which has declined since 2011.

The Panel would appreciate the views of all parties on which is the best way, or ways, to measure the participation rate for the purpose of understanding the state of the labour market.

Response

The Australia Government considers that both age ranges - both 15 years and older and 15-64 years - for the Labour Force Participation Rate (LFPR) are useful for understanding the state of the labour market. We are less supportive of using the age range of 20-64 years, particularly with using data in original (i.e. non-seasonally adjusted) terms for this age range. The age range of ‘15 years and older’ is useful as a headline figure. It is relevant to wage considerations as people of all ages from 15 and above can be full-time wage earners. It will become increasingly important as the Age Pension age is raised from 65 years to 67 years from 2017 onwards. The Government notes that the Commission also included the LFPR for this age range in its Statistical Report—Annual Wage Review 2012–13 (in Chart 6.2 on page 15).

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¹⁰ ACTU submission in reply at p. 6, Figure 1.
¹² ACTU submission at p. 71, Figure 75.
The age range of ‘15-64 years’ is useful as an estimate of the underlying LFPR, as it is less subject to the effects of the ageing of the adult population. In addition to the ACTU pointing this out in their reply submission, this point has also been made in each Intergenerational Report released by the Australian Government.

If these two age ranges are used for these purposes, there is less need to use the age range of 20-64 years, particularly when data in original terms are used for this age range. The Australian Government notes that the Commission does not provide a justification for the use of this age range in its Statistical Report—Annual Wage Review 2012–13.

Further, the use of data in original terms can lead to misleading comparisons being made when different months of the year are compared. While the authors of the Statistical Report—Annual Wage Review 2012–13 were careful to compare changes over a year in Tables 6.8 through 6.11, the Panel has compared the level of the LFPR for 20-64 year-olds in original terms between December 2012 and March 2013 in its question 8.2. It has stated that the participation rate for 20-64 year-olds was higher in March 2013 (79.2 per cent) than in December 2012 (78.9 per cent). However, since both of these figures are in original terms and different months of the year are compared, this comparison can be misleading, since there are different seasonal patterns in December and March.

It is possible to estimate seasonally adjusted figures for 20-64 year-olds, by subtracting seasonally adjusted data for 15-19 year olds (from Spreadsheet 14) from seasonally adjusted data for 15-64 year-olds (from Spreadsheet 18) from ABS (2013), Labour Force, Australia, April 2013 (Cat. No. 6202.0). When these calculated seasonally adjusted figures are used, the participation rate for 20-64 year-olds was the same in March 2013 as in December 2012 (both at 78.9 per cent).

There is a way to address the impacts of changes in population structure in general, and population ageing in particular, on the LFPR. As the overall LFPR is the weighted sum of the age specific LFPRs and the weights are the proportions of population in each age group. The impacts of population ageing can be removed by calculating a counterfactual LFPR that uses the weights fixed at a certain base year while allowing the age specific LFPRs to change.

The Chart below provides an example of such analysis, where the population structure is fixed at March 2008 for the counterfactual LFPRs. The chart suggests that when the impacts of population structure is removed, the LFPRs show a trend of increase—particularly among those aged 55 and over— which is in contrast to the actual LFPRs.

We noticed that the ACTU did a similar analysis and reached a similar conclusion in their reply submission (paragraph 18 and Figure 2 on pages 6-6), although they used a different reference period.
Actual and counterfactual LFPRs: March 2008 to March 2013

Counterfactual LFPR

Actual LFPR