

AUSTRALIAN FAIR PAY COMMISSION
Workplace Relations Act 1996

MINIMUM WAGES REVIEW 2006

Submission by the Australian Catholic Council for Employment Relations

28 July 2006

Table of Contents

Introduction	paragraphs 1- 7
ACCER	8-12
Recent Cases in the AIRC	13-16
The Living Wage	17-21
A Contemporary Living Wage	22-26
The Current Legislation	27-31
Some jurisdictional issues	32-37
The wage-setting parameters	38-46
Research on the Needs of Families	47-57
Taxes and Transfer Payments	58-64
The Effective Minimum Wage	65-71
The Poor: employed, under-employed and unemployed	72-76
Conclusion	77-91

Introduction

1. This submission is made by the Australian Catholic Council for Employment Relations (“ACCER”) to the Australian Fair Pay Commission (“the AFPC”) for its inaugural review of minimum wages, including the Federal Minimum Wage.
2. The establishment of the AFPC, and a range of associated provisions, came as part of far-reaching amendments to the *Workplace Relations Act 1996* (“the Act”) by the *Workplace Relations Amendment (WorkChoices) Act 2005* (“the Work Choices amendments”). The Work Choices amendments were the most fundamental changes to Australian employment law since Federation. They apply to employers and workers previously covered by Federal legislation and to many employers and workers who were previously covered by State legislation. Under the Work Choices amendments perhaps 75% to 80% of Australian workers will be covered by the minimum rates set by the AFPC.
3. The Federal Minimum Wage fixed by the AFPC will replace the *pro tem* standard Federal Minimum Wage of \$12.75 per hour that is specified in section 195 of the Act. This hourly rate applied to the full time 38 hour week equates to \$484.50 per week.
4. The vast majority of Australian workers are employed in work classifications which have minimum rates of pay that are higher than the Federal Minimum Wage. The Work Choices amendments provide that the many award classifications and rates of pay previously fixed by Federal and State industrial awards are “preserved” in the Australian Pay and Classification Scale (“the APCS”). The AFPC may adjust those rates (section 216), but its more substantial

- function (section 214) is to establish a new APCS and to adjust those rates from time to time.
5. Section 177 of the Act requires that the AFPC “is to have regard to any relevant recommendations made by the Award Review Taskforce” when considering the adjustment of preserved rates of pay and the introduction of a new APCS. The Taskforce was established by the Minister for Employment and Workplace Relations in 2005 to consider, amongst other matters, the establishment of the APCS. The Taskforce has provided an interim report to the Minister on proposed strategies for the rationalisation of wage and classification structures. The process has not been concluded.
 6. The powers granted to the AFPC are, in broad terms, the kinds of powers that were exercised by the Australian Industrial Relations Commission (“the AIRC”) before the Work Choices amendments came into operation. The arbitration of rates of pay and the necessary determination of work classifications have been a function of the AIRC and its predecessors since shortly after Federation. The Federal Minimum Wage and other pay rates were last adjusted by the AIRC in June 2005. The Federal Minimum Wage was set at \$484.40 per week (this is 10 cents per week less than the full-time value of the hourly Federal Minimum Wage. The discrepancy is caused by “rounding”).
 7. Arbitrated wage rates are a vital part of the protection of Australian workers. Approximately 20% of Australian workers are paid no more than the minimum rates of pay that have been prescribed by the AIRC and State industrial tribunals. They do not have the capacity to bargain for higher rates. They are “award-

dependent”. As we explain later, the great majority of these workers are on arbitrated rates of pay in excess of the Federal Minimum Wage.

ACCER

8. ACCER is an agency of the Australian Catholic Bishops Conference. (In May 2006 the Conference changed ACCER’s name from the Australian Catholic Commission for Employment Relations to the Australian Catholic Council for Employment Relations.) It provides the Conference and Catholic employers with advice, research and advocacy on matters affecting the employment relationship in Australian workplaces. It does this at both the practical and public policy levels.
9. The Catholic Church has an established body of teaching, within Catholic Social Teaching, on work and the employment relationship. The Church’s public advocacy on employment issues is based on that teaching. The teaching is also important in the life of the Church. The Church, through its many agencies, is one of the largest employers in Australia and its agencies are required to manage their activities in accordance with Catholic Social Teaching.
10. Catholic teaching on the spiritual, economic and social aspects of modern industrial societies has its genesis in Pope Leo XIII’s 1891 encyclical *Rerum Novarum*. *Rerum Novarum* “expounds ... the Catholic doctrine on work, the right to property, the principle of collaboration instead of class struggle as the fundamental means for social change, the rights of the weak, the dignity of the poor and the obligations of the rich, the perfecting of justice through charity, on

the right to form professional associations”; Congregation for Catholic Education, *Guidelines for the Study and Teaching of the Church’s Social Doctrine in the Formation of Priests*, 1988, page 24. An overview of Catholic Social Teaching on work and related issues is attached hereto as Attachment A.

11. This submission expounds values that are derived from the doctrines of the Catholic Church. They are also values shared by most Australians: the equality and dignity of men and women; the obligation of society to care for all of its members; the obligation of governments to support the poor and the vulnerable; and the support of the family for the well-being of individuals and society as a whole. They are values that are consistent with the proper promotion of the economic prosperity of the people of Australia and essential for their welfare.
12. Most relevant to the current review of the Federal Minimum Wage is the teaching that wages should be sufficient to support the worker and the worker’s family and that wages should not be solely determined by the market. On the centenary of *Rerum Novarum* the Australian Catholic Bishops issued a Pastoral letter in which they referred to the need for adequate wages:

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

Recent Cases in the AIRC

13. The AIRC and its predecessors (the Conciliation and Arbitration Commission and, earlier, the Commonwealth Court of Conciliation and Arbitration) have fixed wage rates (and other terms and conditions of employment) since the early days of Federation and established a series of precedents in wage cases (and other decisions) that have been followed by the various State industrial tribunals.
14. From 1997 until 2005 the AIRC conducted an annual *Safety Net Review* case to consider and adjust wages. ACCER participated in each case. Its primary concern has been the position of low paid workers, especially those with family responsibilities. It has argued that the lower rates of pay fixed by awards, and the Federal Minimum Wage in particular, have been inadequate to provide for the needs of low paid workers.
15. In each of 2003, 2004 and 2005 ACCER supported the claims by the Australian Council of Trade Unions ("the ACTU") for increases in the Federal Minimum Wage. However, it did not support the ACTU claims for "across the board" increases (applying one amount to all award rates of pay) because it believed that those in greatest need should be given priority. ACCER's position on this aspect was not accepted by the AIRC and across the board increases were awarded in each year.
16. One of the matters that the legislation required the AIRC to take into account was "the needs of the low paid". ACCER has argued that the needs of low paid workers include the needs of their families and that wage rates should take them into account. It has argued that the Federal Minimum Wage, and the rates for

higher classifications, should be sufficient to provide for a family that includes a breadwinner and a parent who works within the home and is not engaged in paid employment. Having regard to the number of children in contemporary families, ACCER has argued that the pay should be sufficient to support two children. The appropriate wage has to take into account the taxes paid by workers and transfer payments received by them and their dependants. In short, ACCER has argued for a family wage.

The Living Wage

17. The family wage has a long history in Australia. From the early days of Federation, following the *Harvester* case (1907) 2 CAR 1, the “Living Wage” became a central feature of employment regulation in Australia and became part of the fabric of Australian life. Its expression was a product of the times: it was fixed by reference to the needs of the male breadwinner, his wife and three children. But its substance was fundamental and enduring. The Living Wage was important because it recognised the need to fix fair and reasonable wages, the need for workers to live in dignity and the need for the worker to be provided with a wage sufficient to support a family.

18. The importance of the family was central to the *Harvester* Living Wage. In an address entitled *The Failure of the Family* delivered on 22 August 2001 Cardinal George Pell DD said:

“The family in Australia once enjoyed a privileged place at law and in social and economic policy. Nothing epitomised this more than...the *Harvester* case.

....

The *Harvester* case is usually referred to as one of the key elements in the development of a raft of benevolent laws and social legislation...in the wake of the economic crash of the 1890s. These laws were intended to minimize social conflict, especially conflict between labour and capital...; to ensure a decent standard of living for workers and their families; and more broadly through the system of tariffs and economic protection, to encourage local industry and to maintain Australia's independence.

....

Harvester placed the welfare of the family at the centre of social and economic policy from the beginnings of Federation. In a new nation concerned to minimise the divisions between rich and poor and to lay a solid basis for social stability this made perfect sense. As I will discuss in a moment, over the last thirty years an enormous amount of empirical work has been done on the relationship between marriage breakdown and family dysfunction, and the rise of the different social pathologies that pose such problems today for all of us, but especially for law enforcement agencies and health and welfare workers. One of the many things this research makes clear is that if you want to preserve social stability or to prevent it being slowly eroded, it makes good sense to buttress the stability of the family." (*The Failure of the Family*, 2001)

19. It is sometimes said that because the family, especially the family with a sole breadwinner, is now a minority household, we must revisit the family-based Living Wage and move to a new basis for wage fixation. This misunderstands the Living Wage. *Harvester* was not based on the *preponderance* of the identified family in society, but on the *importance* of the family to society. The fact that many people who did not have family responsibilities were paid a family wage simply underlined the importance that society attached to the family.
20. The increasing pressure on, and breakdown of, the Australian family in the last decades of the twentieth century is not a reason to move from this position. Rather, it is a reason to reinforce the economic circumstances the family by the

payment of a contemporary Living Wage. The fact that more often both parents find it necessary to work in order to make ends meet is not a reason to depart from the objective of providing a Living Wage that provides “frugal comfort” (in the words of *Harvester*) without the need for a second parent to enter the paid workforce. The income of a second parent is needed for many families to achieve frugal comfort.

21. As recognised a century ago, a Living Wage capable of supporting a family is needed because of the *importance* of the family to society. At the start of the twenty first century Australia should aspire to nothing less for its families than it did at the start of the twentieth century.

A Contemporary Living Wage

22. The *Harvester* formulation of the Living Wage has been overtaken by the events of the last century, in particular the events of the last two decades. The changed role of government and the globalisation of markets have meant that we *cannot* return to the *Harvester* formulation. We must adopt a contemporary Living Wage that recognizes these changes.
23. The budgetary policies of governments have changed. In the early twentieth century the wage packet was required to provide for the *total* support of the employee and the employee’s dependants. It was not supplemented by a welfare system. The relative importance of the wage in the support of the family has declined as government transfers to families have increased, particularly in the last 20 years.

24. The importance of transfer payments to the disposable incomes of families is illustrated by the position of a family of four, where there is one breadwinner on the Federal Minimum Wage, and two children aged 3 and 8. The annual income of \$25,272 would ordinarily attract tax (including the Medicare Levy) of \$2,721, producing a net income of \$22,551. However, when taking into account the annual payments of Family Tax Benefit A (\$4,317 per child) and Family Tax Benefit B (\$3,378), the annual disposable income rises to \$34,563. Other kinds of payments, such as rent assistance are available. Clearly, in the absence of these transfers the minimum wage would have to be substantially higher, a matter that would have economic and social consequences. The balance between the wage packet and the public purse is an important policy issue.
25. The shift from the wage packet to the public purse has accompanied the globalisation of markets. Arguably, it has been required by, and has facilitated, this process. The current situation contrasts with the economic order at the time of *Harvester*. The wages system a century ago was made possible by tariff protection. That mechanism is not available in an era of the globalisation of markets. The taxation and transfer systems provide the means of insulating Australians from the dislocations of globalisation and of adapting our economy to it. They enable the national benefits of globalisation to be distributed for the benefit of all. It is essential that the taxation and transfer systems have sufficient capacity to distribute the benefits of an open economy to all citizens.
26. One of the major functions of government is to maintain a fair and just minimum wage in an open economy. The amount of that wage will depend, in part, on the

income tax paid by the minimum wage worker and on the transfer payments made to the worker and his or her family. They have to be taken into account by the AFPC when setting wage rates.

The Current Legislation

27. The future of the family wage was raised in the Commonwealth Government's announcement of its intention to introduce the Work Choices amendments when it was proposed that the wage to be fixed by the AFPC would be the single adult wage. ACCER was concerned about this proposal because of the inadequacy of transfer payments to support the needs of the worker's dependants.
28. The potential impact of the proposed changes on the family incomes was one of the reasons for the publication by ACCER of *Briefing Paper No 1 on the Commonwealth Government's Proposals to Reform Workplace Relations in Australia*; see paragraphs 112 to 138 on the family wage issue.
29. As it turned out, the amending legislation as introduced into Parliament did not include the proposal to fix wages by reference to the single adult. ACCER took this matter up in its submissions to the Senate Inquiry into the proposed legislation.

“...the proposed section does not refer to the earlier announced single person wage. ACCER welcomes this change, but it has not put the matter beyond doubt. ACCER has several concerns about the provision. First, it contains no explicit basis upon which it could be argued that the wages fixed by the AFPC should have regard to the needs of employees and their families. There should be no ambiguity about this aspect. The needs of families should be recognised in the legislation.

The family wage/single employee wage issue has been before the AIRC. In the 2004 Safety Net Review Case, ACCER argued that the determination of the needs of the low paid should be made on the basis of

the needs of a family of two adults and two children, with only one adult working. In its 2004 decision the AIRC referred to the discussion about the range of “household types” within Australia. It said:

“Whilst a significant proportion of Australian families continue to rely upon a single wage as their sole source of income, the needs of single income families will continue to be relevant in connection with consideration of the needs of the low paid.” (*Safety Net Review-Wages, May 2004*, Print PR002004, paragraph [275])

Our second concern with the proposed section 7J [subsequently enacted as section 23] is that it contains no reference to fairness, as there is in the current legislation. It will be noted that fairness in the current legislation is fairness in the context of economic factors so that the AIRC is to properly balance the various factors when fixing wages. Unless fairness is one of its parameters it may be said that it has no obligation to consider fairness. We see no reason why fairness cannot be an explicit consideration and a guiding principle for the AFPC, especially given that it is named the Australian *Fair Pay Commission*. Fairness would also require the safety net to be fixed “in the context of living standards generally prevailing in the Australian community”, as is presently the case under section 88B(2).”

30. The second concern raised by ACCER arose from the proposed departure from the terms of the then current section 88B(2), which contained the primary criteria for the AIRC’s award-making powers. It provided that the AIRC:

“...must ensure that a safety net of fair minimum wages and conditions of employment is established and maintained, having regard to the following:

- (a) the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community;
- (b) economic factors, including levels of productivity and inflation, and the desirability of attaining a high level of employment;
- (c) when adjusting the safety net, the needs of the low paid.”

31. The new “wage-setting parameters” are now found in section 23:

“The objective of the AFPC in performing its wage-setting function is to promote the economic prosperity of the people of Australia having regard to the following:

- (a) the capacity for the unemployed and low paid to obtain and remain in employment;
- (b) employment and competitiveness across the economy;
- (c) providing a safety net for the low paid;
- (d) providing minimum wages for junior employees, employees to whom training arrangements apply and employees with disabilities that ensure those employees are competitive in the labour market.”

Some jurisdictional issues

32. The legislation was not amended in the ways sought by ACCER. However, it is submitted that, on its proper construction, the safety net to which section 23(c) refers is a safety net that meets the needs of low paid workers, that those needs must include the needs of those workers and their families. Furthermore, the background to the legislation, i.e. the promotion and then the abandonment of the single person test, reinforces this conclusion.

33. ACCER submits that the family wage issue should be considered by the AFPC in its inaugural review of wages. The question of whether the needs of the low paid include the costs of meeting the needs of their dependants is a question raised by section 23(c) and it is a question that goes to the proper exercise of the AFPC’s jurisdiction. It requires the AFPC to form a view about the needs of the low paid in order to enable it to properly consider the balance and outcome of the various factors specified in section 23. The determination of the scope of section 23(c) will also be relevant to the undertaking of research and to the quantification of

future wage increases. The AFPC should make a ruling on this aspect of its jurisdiction; a ruling to the effect that the needs of the low paid include the costs of meeting the needs of their dependants

34. Some other parties may take a different view to ACCER on the family wage issue. It is a matter on which all interested parties should be heard, if they so wish, and appropriate notice should be given. ACCER would also want to have the opportunity of responding to any submissions made in opposition to the AFPC setting a family wage.
35. In regard to the second issue raised by ACCER in the Senate Inquiry, “fairness” in the legislation, again no relevant change was made to the Bill. The Senate debated proposed amendments concerning “fairness”. The amendments were rejected by the Government on the basis that fairness is implicit in the Act; see Hansard, Australian Senate, 2 December 2005, pages 38, 68 and 76. Furthermore, the very name Australian *Fair* Pay Commission indicates that the AFPC should take into account fairness and should be setting fair rates of pay having regard to the specified wage-setting parameters.
36. ACCER notes that the AFPC’s capacity and obligation to take into account fairness when setting wages has been raised in State minimum wage cases during 2006. In particular, the Industrial Relations Commission of New South Wales has found that the section 23(c) does not permit the consideration of fairness; see *State Wage Case 2006 (No. 6)* [2006] NSWIRComm 204, 26 June 2006.
37. The AFPC’s ability or obligation to take into account fairness when setting wage rates is a matter of substantial importance. It relates to the proper exercise of its

jurisdiction. It is a matter on which the AFPC should invite submissions and on which it should make a ruling.

The wage-setting parameters

38. The introductory words of section 23 state that the “objective of the AFPC in performing its wage-setting function is to promote the economic prosperity of the people of Australia”. The words that follow are subsidiary to that objective. Clearly, the economic prosperity of the *people* of Australia is not determined simply by aggregate measures such as the Gross Domestic Product. It must be concerned about the common good in a way that promotes the prosperity of all Australians and all groups of Australians. In particular, this requires the AFPC to consider and promote the economic prosperity of those who are likely to be most affected by its decisions: low paid, award-dependent, workers and those at the margins of the Australian workforce. ACCER submits that this is of fundamental importance to the proper exercise of the AFPC’s wage-setting function.

39. A question arises as to whether there are any other statutory objectives that bear on the AFPC. We referred earlier to the Government’s position in the Senate on the proposal to introduce “fairness” into the legislation and to its view that fairness is implicit in the legislation. The objects of the legislation from which “implicit” considerations flow are stated in section 3 of the Act. It provides that the “principal object of the Act is to provide a framework for cooperative workplace relations which promotes the economic prosperity and welfare of the people of Australia by” various means, as set out in paragraphs. While they are

- objects in themselves, they are the means by which the broader principal objective is to be achieved.
40. We draw attention to paragraph (c) of section 3: “ensuring that, as far as possible, the primary responsibility for determining matters affecting the employment relationship rests with the employer and employees at the workplace or enterprise level”. It is sometimes said that arbitrated wage increases are a disincentive to workplace bargaining. However, this is not a factor in those workplaces where the workers have no bargaining capacity and are award-dependent. To deny these workers a proper increase would discriminate against them for a reason that is beyond their own control.
41. The wage-setting parameters direct the AFPC to particular matters to which it is to have regard. Three of the four matters are relevant to the current review.
42. Section 23(a) requires the AFPC to have regard to “the capacity for the unemployed and low paid to obtain and remain in employment”. This is a proper consideration, among others, in the determination of minimum wages. However, a restrictive wages policy towards the low paid could be a very blunt and ineffective instrument and one that results in wage levels that do not meet the needs of the low paid. The capacity of the unemployed and the low paid to obtain and remain in employment is affected by many factors other than the wages paid to the low paid; for example, in the case of the long-term unemployed, the provision of skills training is more appropriate.
43. Section 23(b) requires the AFPC to have regard to “employment and competitiveness across the economy”. These matters are influenced by a myriad

of factors, many of which are in the hands of governments. Again, a restrictive wages policy toward the low paid, award-dependent, workers could be a very blunt and ineffective instrument for the enhancement of employment and competitiveness.

44. Section 23(c) raises two questions: what is a safety net and who are the low paid?

The essential purpose of a safety net is to provide sufficient protection to the people to whom it applies. In the context of this legislation, this must mean that the safety net will be sufficient to meet their needs and allow workers to live in dignity. A minimum wage that fails to do so cannot be a safety net. In order to comply with this statutory injunction the AFPC must consider their circumstances. It should regard this factor as no less important than the other matters to which it is to have regard. The AFPC should regard research on the financial needs of low paid workers as no less important than areas of research that bear on the other matters to which it must have regard.

45. The second question raised in section 23(c) concerns the meaning of “the low

paid”. The term was used in section 88B prior to the Work Choices amendments. As then, the term is not defined in the Act. It was established under the earlier provision that the term applies to the low paid in employment and does not extend to include the low paid who are not in employment; see *Safety Net Review – Wages June 2005*, Print PR002005, paragraph [331]. The same conclusion should apply to the present provision. ACCER submits that the term low paid would extend to cover, at least, workers on the base general trade rate of \$578.20 per week. That rate is \$93.80 per week above the Federal Minimum Wage.

46. We conclude this section with the observation that the wages that will be set by the AFPC will apply to the most vulnerable, award-dependent, workers. Broad economic considerations have to be taken into account when the AFPC considers its function to promote the economic prosperity and welfare of low paid workers. However, it would be morally wrong to require them to carry the burden of broader macroeconomic objectives and policies. Properly construed and applied, the Act does not require that they do.

Research on the Needs of Families

47. ACCER's advocacy of the family wage has been based on the firm belief that the Federal Minimum Wage and other low paid classifications are insufficient to meet the needs of families. Clearly, the sufficiency of some of those other classifications will be a matter of debate.

48. The ability of the AFPC to commission and undertake research, particularly in regard to the needs of low paid employees and their families, provides an opportunity to develop a better understanding of the circumstances of low paid workers. In this regard there are some background matters to which we wish to refer.

49. In several *Safety Net Review* cases ACCER and other organisations proposed that the AIRC should conduct an investigation or inquiry into the needs of the low paid and establish a benchmark against which the Federal Minimum Wage should be set. In 2003 ACCER pressed for an inquiry through which an appropriate benchmark could be established for the fixing of a fair and equitable Federal Minimum Wage under Federal awards. In the 2003 *Safety Net Review* decision

(*Safety Net Review – Wages May 2003*, PR002003) the AIRC rejected the claims by ACCER and the Australian Council of Social Services (“ACOSS”) for an inquiry to be conducted into these issues, but it indicated its preparedness to consider further material:

“Our rejection of the proposals for an inquiry should not be taken as a rejection of the utility of empirically determined “benchmarks” such as the poverty line. Indeed, it seems to us that the use of such measures is relevant to an assessment of the needs of the low paid ...

There is no impediment to ACOSS and ACCER, or any other party, bringing forward such material in any future safety net review. It is not, however, desirable for the Commission to establish a separate inquiry for that purpose particularly in view of the absence of any support for the proposal from any other party or intervener.” [Paragraph [222)].

50. In 2004 the ACTU relied on very detailed statistical material on the costs of living from the Social Policy Research Centre (“the SPRC”) at the University of NSW. The research was initially commissioned by one of the Commonwealth’s departments. It identified two standards of living. The “Low Cost” budget had been developed as a standard for unemployed families and for social security purposes. The “Modest but Adequate” budget was an attempt to describe the situation of a household whose standard of living falls somewhere around the median standard of living within the Australian community taken as a whole. The SPRC material showed, amongst other things, that a family of four (including a boy aged 14 and a girl aged 6) required a annual disposable income of \$36,980 to meet the “Low Cost” budget and \$45,287 to meet the “Modest but Adequate” budget. Movements in the Consumer Price Index to the September quarter 2003 were included in these figures. Applying the price movements to the June quarter

2006, totaling 9.2%, these figures would increase to \$40,382 and \$49,453, respectively.

51. ACCER supported the ACTU's use of the SPRC material on the basis that it was the best evidence available and that it was sufficient. ACCER said:

“AC CER anticipates criticism of the SPRC material along the lines referred to by Professor Saunders [from the SPRC] in his [witness] statement. This will require debate between the parties and appropriate responses from the Commission. Any party that is opposed to this material should indicate its proposed method of establishing the needs of the low paid. For example, if it is said that the reference to a six-year old girl and a fourteen-year old boy is not representative or appropriate for the identification of the costs in a two-child family, it is incumbent upon the critic to identify more representative or appropriate pairs of siblings.” (ACCER 2004 written submission, paragraph 48.)

52. The SPRC material was criticized by some parties. However, no contribution of the kind suggested by ACCER was forthcoming and the Commission was not provided with the assistance that it could have been.

53. In its 2004 *Safety Net Case* decision (*Safety Net Review – Wages May 2004*, PR002004) the AIRC found there was substance in a number of the criticisms made about the SPRC material. It was not prepared to adopt the “SPRC budget standards as an Australian benchmark... [because, on] the material presently before the Commission, we do not think that we can responsibly attempt to establish such a benchmark” (paragraph [283]). However, the AIRC added:

- “Nevertheless, in our opinion, the SPRC budget standards provide an indication that for certain household types, the federal minimum wage is significantly below the amount which is necessary to provide a modest living standard for those households in the context of living standards generally prevailing in the Australian community” (Paragraph [284]).

- “The Commission will receive and consider evidence directed at establishing an appropriate benchmark for the adequacy of minimum wages in the context of a future safety net review” (Paragraph [286]).
- “The Act makes no reference to a “poverty line” but rather focuses on the issue of the needs of the low paid... However, we do not accept that the Commission could not rely upon a poverty line as a tool to assist it in determining the needs of the low paid if it had probative evidence by which a poverty line could be accurately identified” (Paragraph [287]).

54. Regrettably, no further research was undertaken. Cost was, no doubt, a factor.

Furthermore, an important consideration in the commissioning of this kind of research is whether there is some consensus on the purpose and methodology of the research or, at the least, some indication of the kinds of objections that may be taken to the proposed research. No guidance was given by the AIRC, perhaps because none of the objectors indicated (as ACCER sought) any other method of establishing the needs of the low paid.

55. ACCER maintains its position that the SPRC material is the best evidence available regarding the needs of the low paid. It provides the best starting point for future research on this matter.

56. Knowing how much it costs to raise a family is no less important than having statistics about the economy. In order to properly exercise its jurisdiction, the AFPC should have the relevant data.

57. ACCER’s submissions emphasise the needs of the worker in the “2 plus 2” family (as identified earlier) and research on these families should be of central importance. However, the needs of some other workers should be covered; in particular, the needs of single parent families. The high cost of child care is a particularly important issue and one that is not sufficiently addressed by transfer

payments. The proper support of single parent workers and their children is essential.

Taxes and Transfer Payments

58. The income tax burden (including the Medicare levy) on full time Federal Minimum Wage earners is 10.8% and their marginal tax rate (taking into account the withdrawal of the low income tax offset) is 34%. These are very significant burdens and need to be addressed in any comprehensive review of taxation policy. That is outside the function of the AFPC, but the issue of tax cuts and other budgetary changes may arise in the current review.
59. The availability of the tax cuts and transfer payments has prompted some to promote them as an alternative to wage increases and some to claim that there are better ways to meet the needs of the low paid than giving them a pay increase. In the 2005 *Safety Net Review* case the Commonwealth said that safety net adjustments “are a poor means of addressing the needs of the low paid”. In response, ACCER said:

“An argument used by some of those opposing the claimed wage increase is that there are other and better means of addressing the needs of the low paid. By this they mean tax relief and government transfer payments. As ACCER has demonstrated in its earlier submissions, the needs of low paid workers and their families are, and must continue to be, addressed through both the wage packet and the public purse. The employment impact of taxation on needs-based wages must also be considered. To the extent that there is a connection between wage and employment levels, income tax levied on low paid workers may be seen as a tax on employment. On the other hand, targeted government transfers will enhance employment opportunities. There is, therefore, a strong economic case for supporting low paid workers and their dependants by way of targeted tax reductions and transfer payments. These measures enhance the competitiveness of Australian businesses.

ACCER has stressed, however, that the obligation to pay a just wage, with appropriate recognition of tax and transfer payments, remains with the employer. The Commission in the exercise of its statutory jurisdiction is required to fix fair minimum wages having regard to the matters identified in section 88B(2) of the **Workplace Relations Act 1996**. This cannot be done without regard to the impact of taxation and transfer payments.” (*ACCER Post-Budget Submission*, 17 May 2005, paragraphs 2 and 3)

60. The progressive reduction of the tax burden on low paid workers would *tend* to reduce the costs of employment, stimulate employment and assist Australia in maintaining its international competitiveness. There is an economic argument for increasing government transfers to low income working families in order to reduce their reliance on wages. This has been the basis of the past claims by employers that tax reductions are to be preferred to wage increases. Furthermore, there is also an economic argument for moving towards zero taxation for workers on the Federal Minimum Wage. This might be achieved by tax offsets for low income earners, earned income tax credits, changes to taxation thresholds or by a combination of these and other measures.

61. The imposition of taxation on low paid employees without a proper consideration of their needs runs the risk of taxing them into poverty. A critical requirement for informed and appropriate wages and budgetary policies to support low paid working families is sound research on the financial needs of those families. Better information on this aspect will facilitate discussion on the appropriate balance between the respective contributions of the wage packet and the public purse.
62. This discussion on taxation must also cover the rate of withdrawal of income-related benefits as employment income increases. For many low paid workers, the combination of the withdrawal of benefits and marginal income tax rates produce high effective marginal rates of taxation (“EMTR”). Many benefits should be income-tested. However, in practice they may have unintended effects. High EMTRs are a disincentive to extra work and reduce the reward for work.
63. The relationship between wage levels and employment prospects in an economy is a vexed question amongst economists. As ACCER noted in its 2005 *Post-Budget Submission*, to the extent that there is a connection between wage and employment levels, income tax levied on low paid workers may be seen as a tax on employment. Those who argue that minimum wage levels are too high or that we cannot afford to pay higher wages to unskilled workers should also address the consequences of taxation rates on low paid employees.
64. The impact of taxation on the employment prospects of low paid workers is an issue about which the AFPC should invite submissions and commission research. The appropriate balance between the wage packet and the public purse in meeting

the needs of a low paid worker's dependants is a related issue. It bears on the AFPC's functions and is a matter about which the AFPC should invite submissions and commission research.

The Effective Minimum Wage

65. The AFPC has advised that research is presently being undertaken to determine the numbers of workers in various award classifications who are only being paid the prescribed minimum wage. This research is for the purpose of estimating the number of workers who may be affected by its decisions.
66. There is one aspect of award-dependency that ACCER wishes to draw to the AFPC's attention. It concerns the number of workers who are paid the Federal Minimum Wage and the difference, or gap, between that wage and other minimum rates of pay.
67. The relationship between the Federal Minimum Wage and other award rates has been the subject of submissions before the AIRC. In both 2004 and 2005 the Australian Chamber of Commerce and Industry ("ACCI") sought to establish that the importance given to the Federal Minimum Wage by ACCER and others was overstated because, it submitted, very few workers are employed on the Federal Minimum Wage. ACCI introduced the concept of the Effective Minimum Wage. The relevant parts of its March 2005 submission, at pages 5-39 to 5-49, and its April 2005 submission, at pages R4-18 to R4-23, are attached hereto as Attachment B. The submissions also identified a Transitional Minimum Wage, a wage of limited duration for newly-employed workers.

68. ACCI refers to material that "...show[s], in practical terms, very few employees would ever be employed on the Federal Minimum Wage."; page 5-40. The ACCI material shows that the Effective Minimum Wage is substantially in excess of the Federal Minimum Wage. Importantly for the present case, it said:

"A proper analysis of award rates of pay demonstrates the award dependent employees, while they may be lower paid relative to other groups of employees in the community (e.g. those covered by agreements), are unlikely to be receiving rates of pay such as the Federal Minimum Wage in almost all instances." (Page 5-46.)

69. The ACCI submissions presented an estimate of the gap between the Federal Minimum Wage and the Effective Minimum Wage. At a time when the Federal Minimum Wage was \$467.40 per week, the sample of awards used by ACCI produced an average of \$502.35, an amount 7.48% higher; see page 5-45. Applying that percentage to the current award wage rates, the Effective Minimum Wage would be \$520.06 per week. That weekly figure converts to \$13.69 per hour, 94 cents above the current Federal Minimum Wage.

70. Workers on the Federal Minimum Wage, however small in number, must be considered and have a sufficient wage set for them. Furthermore, because they are a small proportion of the award-dependent workforce, the cost impact of a decision to increase their wages would have a negligible economic impact on the economy.

71. The ACCI material is relevant to the AFPC's proposed review of work classifications and the introduction of new classification structures. ACCER is concerned that the new classifications may not recognize the point made by ACCI, i.e. that the Effective Minimum Wage in Australia is substantially in

excess of the Federal Minimum Wage. There is a risk that the new classification structures may place more workers on the Federal Minimum Wage and reduce the current relativities between the Federal Minimum Wage and the higher classifications in which low paid workers are employed. We will address this matter further if and when relevant proposals are made during the current review.

The Poor: employed, under-employed and unemployed

72. Before concluding this submission, we wish to re-state some views made by ACCER on minimum wages for low paid employees in the 2005 *Safety Net Review* case. That submission and this current submission have been developed in consultation with Catholic Social Services Australia (“CSSA”). CSSA is another agency of the Australian Catholic Bishops Conference and provides public advocacy, advice and program delivery in the community services sector. Catholic agencies constitute a substantial proportion of the community services sector and have practical and policy expertise in relation to low paid working families and the unemployed.

73. Underlying these views is the firm belief that it is not morally acceptable to seek to reduce unemployment by letting wages fall below the level at which workers can sustain a decent standard of living. For reasons we explained earlier, the AFPC’s statutory obligations do not require such a morally unacceptable decision when setting the Federal Minimum Wage.

74. Understanding the human dimension is vital to the determination of fair minimum rates of pay. Catholic agencies, like other agencies in the community services sector, have day-to-day experience of the circumstances of the unemployed, of the

under-employed and of those who are employed in low paid jobs. Many people move among these three categories. The under-employed are those who rely on insufficient and irregular casual or part-time employment. They have little or no job security. The tenuous nature of their employment means that they will live a hand-to-mouth existence. There are also low paid workers in regular and ongoing employment who are unable to make adequate provision for themselves and their families. Furthermore, for many of these low paid workers there is little or no prospect of longer-term increases in pay by improving their skills.

75. The circumstances of the unemployed, the under-employed and those in full time low paid employment are similar in many respects. It would be wrong to treat them as discrete categories of workers with conflicting interests. All of them share a struggle for work, security and decent pay in one of the richest countries in the world.

76. A failure to appreciate the common interests of the unemployed, the under-employed and those in full time employment may result in simplistic and unjust proposals for the fixing of minimum wages, creating jobs and providing rewards and incentives to work. The unemployed and the under-employed must be confident that the employment they seek will provide a fair and just wage and allow them live in dignity. The fair treatment of low paid workers should not be compromised.

Conclusion

77. The Federal Minimum Wage must meet the needs of the worker and his or her family. When account is taken of taxation and transfer payments, that wage must be sufficient to enable a couple with two children to achieve an acceptable standard of living. The current Federal Minimum Wage and some other classifications are insufficient. The setting of an appropriate Federal Minimum Wage cannot be achieved in one year and must be achieved over time, following the undertaking of appropriate research. The current review should be a significant step in achieving this goal.
78. The Federal Minimum Wage (and other classifications) should not be limited to the wage that merely meets the minimally acceptable standard of living. In good economic times award-dependent workers should receive real increases in their wages, consistent with the economic circumstances. For this reason, the AFPC should consider not only the needs of workers and the maintenance of the real value of wages, but it should also consider wage dispersion and equity between award-dependent workers and those who are in the bargaining sectors of the economy.
79. We do not propose to make submissions on the state of the economy, but we make several observations. The Australian economy is one of the strongest economies in the world. Labour productivity has continued to improve, thereby permitting real wage increases. Changes in the Wage Price Index are especially relevant because this index measures the movement in wages across the economy. Increases in the index have been at the rate of approximately 4% per year, a figure

which is within acceptable limits. By the time the AFPC's decision is handed down the increase in the index will be of the order of 5% to 6%. Low paid, award-dependent workers should also share in Australia's economic prosperity. Their entitlement to share in the nation's economic prosperity is found in the AFPC's obligations to promote the economic prosperity and welfare of *all* of the people of Australia and to exercise its powers fairly. To merely maintain the real value of minimum wages in these circumstances is inconsistent with these obligations. To reduce the real value of the wages of low paid employees in these circumstances would be inconsistent with the AFPC's statutory obligations.

80. The maintenance of real wages must take into account all of the movements in the Consumer Price Index since the last wage adjustments in June 2005. To date there have been five quarterly increases in the index, the most recent of which was released on 26 July 2006. They total 4.6% over the five quarters. At the present time this is the increase that is required to maintain the real value of the minimum wages. On 20 July 2006 the AFPC advised that it expects to deliver its first ruling by 30 November 2006. The next quarterly figure will be released on 25 October 2006. If the decision is handed down after this date that figure would need to be included in order to maintain the real value of wages.

81. There are no economic circumstances that would warrant a decrease in the real wages of the 20% of Australian workers who depend on prescribed minimum wages. The mere maintenance of real wages at this time would require, for example, weekly increases of \$22.30 (59 cents per hour) at the Federal Minimum Wage level and \$26.60 (70 cents per hour) at the base trades level.

82. We anticipate that some parties will rely on the Commonwealth's tax changes in the May 2006 Budget to argue for a discounting of minimum wage increases. Such an argument would be misconceived. The taxation reductions were given to all taxpayers and were not targeted to low income earners. They were to compensate for bracket creep, to distribute the wealth dividend from a booming economy and other factors. The Commonwealth Government did not indicate that the tax cuts were in any way intended to reduce arbitrated minimum wages.
83. Furthermore, the dollar value of the Budget's benefits did not favour low income earners. This is demonstrated by the Commonwealth's own table setting out the tax and family benefits provided to various kinds of households and income groups. The table (at *2006-07 Budget Overview Appendix B*) refers to, amongst others, a single income couple with two children, aged 3 and 8. It shows, for example, that the improvements in their annual disposable income for the 2006-07 year will be \$365 where their private income is \$20,000 per year, \$910 (at \$30,000), \$1,648 (over the range \$40,000 to \$50,000), \$2,700 (at \$100,000) and \$6,200 (at \$150,000). These changes heavily favour wealthier families. It would be wrong for the AFPC to effectively reduce the value of the tax cuts for the low paid by relying on them to restrict the increase in the minimum wages.
84. On 26 June 2006 wage increases of \$20.00 per week were awarded by the Industrial Relations Commission of New South Wales and the Western Australian Industrial Relations Commission. On 5 July 2006 the South Australian Industrial Relations Commission awarded increases of \$17.00 per week on rates up to the general trade rate and \$18.00 per week for all other rates. Decisions by the State

tribunals in Queensland and Tasmania are pending. These outcomes and the reasoning that underpins them should weigh heavily in the AFPC's deliberations.

85. There is another matter relevant to the determination of wage increases. In the ordinary course of events under the repealed legislation, the AIRC would have adjusted the rate in June 2006. In the expectation of the time needed for the establishment of the new procedures, the Commonwealth announced in 2005 that it expected that the AFPC would issue its first determination in Spring 2006. On 16 November 2005 it advised the AIRC that it expected that the AFPC would take into account the length of time elapsed since the 2005 *Safety Net Review* decision; AIRC transcript, 161105c2005418, PNs 32-36. This can only be taken to mean that the AFPC should provide some compensation for the delay. Although the AFPC is not bound by the Commonwealth's submission, we can see no reason for the AFPC to depart from it.

86. Accordingly, the AFPC should provide compensation for the delay in the review of wage rates. A delay of, say, three months in a pay increase of \$25.00 per week (66 cents per hour) would be cause a loss of \$325, to be spread over the next nine months. This amounts to \$8.33 per week (22 cents per hour). On the other hand, if the increase awarded by the AFPC is partly based on movements in the Consumer Price Index that were not published at the earlier time then the value of that extra benefit over time will reduce the prospective loss. We do not propose that this aspect be applied in a rigidly arithmetic way, but it demonstrates that a substantial further amount may be required as a result of the particular and unusual circumstances of the AFPC's initial determination.

87. For these reasons, ACCER supports an increase of in minimum wages that will reflect the strength and prosperity of the Australian economy, distribute the benefit of national productivity gains to award-dependent low paid workers, ensure that real wages are not reduced and provide compensation for the delay in those wages. The increase should provide for more than that which is needed to simply maintain the real wages of low paid workers. At the present time the increase should be more than that which is needed to compensate for the 4.6% increase in prices. That figure should increase the longer the delay in handing down a decision.
88. As we have explained, the increases should be in excess of that which is required for the maintenance of real wages. Consistent with its position in past *Safety Net Review* cases, ACCER submits that the lower paid should receive higher monetary amounts. In particular, there should be a substantial increase in the Federal Minimum Wage. As we explained earlier, the relative level of the Effective Minimum Wage means that substantial increases to the Federal Minimum Wage will have an insignificant economic cost.
89. If the AFPC adopts the practice of recent years and awards a flat money increase to the minimum rates, it should be at least that needed to maintain the real wages of the base trades rate, i.e. it should be more than \$26.60 per week and 70 cents per hour. Again, this figure would need to be increased if the AFPC hands down its decision after the release of the September Quarter 2006 Consumer Price Index changes.

90. This submission has been prepared for filing on 28 July 2006, in accordance with the AFPC's directions. At this stage, ACCER does not know what the other parties to this process are intending to put to the AFPC, whether by evidence or by submission (legal or otherwise). Nor does it know of any particular matters that the AFPC would wish to raise with the parties prior to its final determination. We expect that these matters will be evident over the forthcoming weeks so that ACCER and the other parties will have a proper opportunity to consider these matters and make response where appropriate prior to the AFPC's decision. ACCER will prepare supplementary submissions where appropriate. ACCER looks forward to a cooperative, rigorous and transparent process. In particular, ACCER looks forward to public hearings where it and others can speak to their submissions and deal with relevant matters raised by other parties.

91. In part, these submissions have raised moral issues about the treatment of low paid and vulnerable workers. We have sought to explain how these issues can be addressed in a morally acceptable way that is consistent with the legislation under which the AFPC operates. The explanation identifies the critical role played by governmental policies for the support of workers and their families and the obligations that fall on governments. Underpinning our submissions is the belief that the Australian economy is presently capable of protecting the poor and the vulnerable and of providing a decent standard of living to low paid workers and their families. The challenge to those who do not share this belief is to show why the poor and vulnerable and low paid workers should continue to bear the burden that they currently do.

AUSTRALIAN FAIR PAY COMMISSION
Workplace Relations Act 1996

MINIMUM WAGES REVIEW 2006

Submission by the Australian Catholic Council for Employment Relations

Attachment A

Catholic Social Teaching on Work

(Extracted from ACCER *Briefing Paper No 1 on the Commonwealth Government's
Proposals to Reform Workplace Relations in Australia*)

CATHOLIC SOCIAL TEACHING

ON WORK

The Nature And Purpose Of Work

1. Catholic Social Teaching is based on Christian beliefs and values and aims to bring about a good and fair society for the common good. These are unifying forces within the Christian community. Similar values are also found in other religions, including Judaism and Islam. These shared values provide a further opportunity for the discussion of, and actions on, various social and economic issues.
2. Our starting point is Catholic Social Teaching on work. Catholic teaching on the spiritual, economic and social aspects of work in modern industrial societies has its genesis in Pope Leo XIII's 1891 encyclical *Rerum Novarum*. *Rerum Novarum* "expounds ... the Catholic doctrine on work, the right to property, the principle of collaboration instead of class struggle as the fundamental means for social change, the rights of the weak, the dignity of the poor and the obligations of the rich, the perfecting of justice through charity, on the right to form professional associations"; *Guidelines for the Study and Teaching of the Church's Social Doctrine in the Formation of Priests*, Congregation for Catholic Education, 1988,

page 24. As the Australian Catholic Bishops have noted in their Pastoral Letter of 1991, *Rerum Novarum* “became in effect the charter of the Catholic social movement during the past 100 years” (*A Century of Catholic Social Teaching*).

3. On the centenary of *Rerum Novarum*, Pope John Paul II wrote the encyclical *Centesimus Annus*, to commemorate *Rerum Novarum* and to reflect on Catholic Social Teaching in a contemporary setting. He sought to "discover anew the richness of the fundamental principles which it formulated for dealing with the question of the condition of workers" and to re-read the earlier encyclical in the context of new and emerging circumstances (*Centesimus Annus*, 3).
4. The significance of *Rerum Novarum* and the centrality of its teaching in the Church’s social doctrine are affirmed in *Centesimus Annus*:

“Today, at a distance of a hundred years, the validity of this approach [in *Rerum Novarum*] affords me the opportunity to contribute to the development of Christian social doctrine. The “new evangelisation”, which the modern world urgently needs and which I have emphasised many times, must include among its essential elements a proclamation of the Church’s social doctrine. As in the days of Pope Leo XIII, this doctrine is still suitable for indicating the right way to respond to the great challenges of today, when ideologies are being increasingly discredited.” (*Centesimus Annus*, 5)

5. In the concluding chapter of *Centesimus Annus* Pope John Paul II re-affirmed the basis of the Church’s social teaching, with a particular reference to “the working class”:

“The Encyclical *Rerum Novarum* can be read as a valid contribution to socio-economic analysis at the end of the nineteenth century, but its specific value derives from the fact that it is a document of the Magisterium and is fully a part of the Church's evangelizing mission, together with many other

documents of this nature. Thus the Church's *social teaching* is itself a valid *instrument of evangelization*. As such, it proclaims God and his mystery of salvation in Christ to every human being, and for that very reason reveals man to himself. In this light, and only in this light, does it concern itself with everything else: the human rights of the individual, and in particular of the "working class", the family and education, the duties of the State, the ordering of national and international society, economic life, culture, war and peace, and respect for life from the moment of conception until death." (*Centesimus Annus*, 54)

6. Catholic Social Teaching on work starts from the nature and dignity of humanity and work and the role of workers in the continuing process of creation. Economic systems and economic philosophies are not the starting point.
7. It is because of the nature and purpose of work that workers cannot be treated like other parts of an economic process, with their value assessed only in economic terms. Workers cannot be treated as commodities, nor can their labour be treated in purely economic terms. Their work has to be understood as part of God's plan. Their work is also vital to their relations with others. It is through work that men and women co-operate and support each other and achieve social progress. In particular, and at its most fundamental level, it is the means by which families are formed and nurtured.
8. On the ninetieth anniversary of *Rerum Novarum*, Pope John Paul II, writing in the encyclical *Laborem Exercens*, summarized these matters in the following way:

“Man must work, both because the Creator has commanded it and because of his own humanity, which requires work in order to be maintained and developed. Man must work out of regard for others, especially his own family, but also for the society he belongs to, the country of which he is a child, and the whole human family of which he is a member, since he is the heir to the work of generations and at the same time a sharer in building the future of those who will come after him in the succession of history. All this constitutes the moral obligation of work, understood in its wide sense.” (*Laborem Exercens*, 16)

Labour And Capital

9. The importance of work in Catholic Social Teaching is recognised in the principle of the priority of labour over capital, a principle that has always been taught by the Church (*Laborem Exercens*, 12).

10. In *Industrial Relations - The Guiding Principles*, the Australian Catholic Bishops’ Committee for Industrial Affairs summarised Church teaching on the nature of work:

“Work is a principal means by which human kind seek their personal fulfilment and make their contribution to the common good. Thus there is a natural priority of labour over capital. Simply expressed, work exists for the person, not the person for the work. It follows that human work cannot be treated as a resource or as a commodity to be traded in like any other commodity... Every family has the right to sufficient income through work. Workers have the right to just minimum wages and to just and safe working conditions.” (*Industrial Relations - The Guiding Principles*, 1993, p.2).

11. These kinds of views are found in the writings of other Episcopal bodies. In 1996 the Catholic Bishops’ Conference of England and Wales wrote the following in *The Common Good and the Catholic Church’s Social Teaching*:

“Workers have rights which Catholic teaching has consistently maintained are superior to the rights of capital. These include the right to decent work, to just wages, to security of employment, to adequate rest and holidays, to limitation of hours of work, to health and safety protection, to non-discrimination, to form and join trade unions, and, as a last resort, to go on strike. The Catholic Church has always deplored the treatment of employment as nothing more than a form of commercial contract. This leads to a sense of alienation between a worker and his or her labour. Instead, forms of employment should stress the integration of work and worker, and encourage the application of creative skills.”
(The Common Good and the Catholic Church’s Social Teaching, 91)

12. The Church’s teachings require that the importance of work to society and the dignity of the worker should lie at the heart of the regulation of workplace relations and employment law.

13. The Church's teachings on the priority of labour over capital have implications for the rights of those who own capital. The Church supports the principle of private property rights. However, the ownership of the means of production carries obligations. In referring to the right of private property as it relates to work, Pope John Paul II wrote:

"Christian tradition has never upheld this right as absolute and untouchable. On the contrary, it has always understood this right within the broader context of the right common to all to use the goods of the whole of creation: *the right to private property is subordinated to the right to common use, to the fact that the goods are meant for everyone.*" (*Laborem Exercens*, 14)

14. The owners of capital are, therefore, not free to exercise their property rights without proper regard for the rights of their workers. The rights of workers, when not respected by employers, must be of concern to governments. We will return to the role of governments.

The Role Of The Market And Enterprises

15. The “free market economy” is of value because it can serve the needs of society as a whole and workers in particular. But this is not always the case. In *Centesimus Annus*, Pope John Paul II, who was writing soon after the collapse of communism, wrote:

“It would appear that, on the level of individual nations and of international relations, the *free market* is the most efficient instrument for utilizing resources and effectively responding to needs. But this is true only for those needs which are "solvent", insofar as they are endowed with purchasing power, and for those resources which are "marketable", insofar as they are capable of obtaining a satisfactory price. But there are many human needs which find no place on the market. It is a strict duty of justice and truth not to allow fundamental human needs to remain unsatisfied, and not to allow those burdened by such needs to perish. It is also necessary to help these needy people to acquire expertise, to enter the circle of exchange, and to develop their skills in order to make the best use of their capacities and resources. Even prior to the logic of a fair exchange of goods and the forms of justice appropriate to it, there exists *something which is due to man because he is man*, by reason of his lofty dignity. Inseparable from that required "something" is the possibility to survive and, at the same time, to make an active contribution to the common good of humanity.” (*Centesimus Annus*, 34)

16. One of the points made in this passage is that some workers come to the job market disadvantaged. Their dignity requires appropriate intervention and protection.
17. Later in *Centesimus Annus* Pope John Paul II referred to the goal of *a society of free work, of enterprise and of participation*:

"Such a society [*a society of free work, of enterprise and of participation*] is not directed against the market, but demands that the market be appropriately controlled by the forces of society and by the State, so as to guarantee that the basic needs of the whole of society are satisfied." (*Centesimus Annus*, 35)

18. Pope John Paul II acknowledged the importance of profit to the operation of enterprises and added:

"In fact, the purpose of a business firm is not simply to make a profit, but is to be found in its very existence as a *community of persons* who in various ways are endeavouring to satisfy their basic needs, and who form a particular group at the service of the whole of society. Profit is a regulator of the life of a business, but it is not the only one; *other human and moral factors* must also be considered which, in the long term, are at least equally important for the life of a business." (*Centesimus Annus*, 35)

19. Pope John Paul II returned to the subject of capitalism and the market in the chapter entitled "Private Property and the Universal Destination of Goods":

"Returning now to the initial question: can it perhaps be said that, after the failure of Communism, capitalism is the victorious social system, and that capitalism should be the goal of the countries now making efforts to rebuild their economy and society? Is this the model which ought to be proposed to the countries of the Third World which are searching for the path to true economic and civil progress?"

The answer is obviously complex. If by "capitalism" is meant an economic system which recognizes the fundamental and positive role of business, the market, private property and the resulting responsibility for the means of production, as well as free human creativity in the economic sector, then the answer is certainly in the affirmative, even though it would perhaps be more appropriate to speak of a "business economy", "market economy" or simply "free economy". But if by "capitalism" is meant a system in which freedom in the economic sector is not circumscribed within a strong juridical framework which places it at the service of human freedom in its totality, and which sees it as a particular aspect of that freedom, the core of which is ethical and religious, then the reply is certainly negative." (*Centesimus Annus*, 42)

The Special Position Of The Poor And The Vulnerable

20. A major concern of Catholic Social Teaching is with the position of the poor and the vulnerable. There is a *preferential option for the poor*. In *Laborem Exercens* Pope John Paul II wrote:

“In order to achieve social justice in the various parts of the world, in the various countries, and in the relationships between them, there is a need for ever new *movements of solidarity of the workers and with the workers*. This solidarity must be present whenever it is called for by the social degrading of the subject of work, by exploitation of the workers, and by the growing areas of poverty and even hunger. The Church is firmly committed to this cause, for she considers it her mission, her service, a proof of her fidelity to Christ, so that she can truly be the "Church of the poor". And the "poor" appear under various forms; they appear in various places and at various times; in many cases they appear as a *result of the violation of the dignity of human work*: either because the opportunities for human work are limited as a result of the scourge of unemployment, or because a low value is put on work and the rights that flow from it, especially the right to a just wage and to the personal security of the worker and his or her family.”
(*Laborem Exercens*, 8)

21. The poor in our society include the unemployed, the under-employed and low paid workers, especially those with family responsibilities. The unemployed and the under-employed are most likely to be employed in low paid jobs if they become employed. The proper protection of these low paid employees has to be given high priority. Policies that might be benign or of assistance to some workers may cause injustice to others, especially the low paid and those who find it difficult to obtain secure employment. While it is the position of the low paid workers that requires greatest attention, the Church has the obligation to speak on the circumstances of workers more generally. The fundamental principles apply to all workers.

The Broader Context

22. In recent decades Catholic Social Teaching has given increasing emphasis to a wider range of elements and principles of human life and society. The Australian Catholic Bishops have described this in the following terms:

“In reviewing the teaching of the Church’s magisterium on social issues in the post-war years, we see that concern for the worker’s right to a living wage was still evident and that the central importance of human work for human well-being and development continued to be recognised. At the same time, papal attention and that of the Fathers of the Second Vatican Council were directed increasingly to other related and important elements and principles of human life and human society as a whole.

These included: the obligation of human self-development in the image of God; the right to life from the moment of conception; the right to freedom of religion and religious practice; the right to freedom from discrimination on racial grounds; the rights of youth; the role and rights of women in society; the role and rights of the family; the right of citizens to take an appropriate part in political decision-making; the right to take refuge from political or other forms of political persecution; the right to migrate, to have adequate education, to choose the way to earn a living, to be able to live in peace, and so on” (*A Century of Catholic Social Teaching*).

23. Part of Catholic Social Teaching is concerned with a framework for economic life. Our discussion of work and workers has covered a number of themes within that framework. The United States Conference of Catholic Bishops has identified ten themes of Catholic Social Teaching that bear on economic issues. In summary, they are:

- “1. The economy exists for the person, not the person for the economy.
2. All economic life should be shaped by moral principles. Economic choices and institutions must be judged by how they protect or undermine the life and dignity of the human person, support the family, and serve the common good.

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

(A Place at the Table: A Catholic Recommitment to Overcome Poverty and to Respect the Dignity of All God’s Children, United States Conference of Catholic Bishops, pages 27 - 28.)

The Rights Of The Worker

24. Catholic Social Teaching has identified a number of rights and responsibilities of workers, employers and the State.

25. In introducing his chapter "Rights of Workers" in *Laborem Exercens*, Pope John Paul II referred to the "context of human rights" and the "*human rights that flow from work*":

"While work, in all its many senses, is an obligation, that is to say a duty, it is also a source of rights on the part of the *worker*. These rights must be examined in the broad *context of human rights as a whole*, which are connatural with man, and many of which are proclaimed by various international organisations and increasingly guaranteed by the individual States for their citizens. Respect for this broad range of human rights constitutes the fundamental condition for peace in the modern world: peace both within individual countries and societies and in international relations, as the Church's Magisterium has several times noted, especially since the encyclical *Pacem in Terris*. The *human rights that flow from work* are part of the broader context of those fundamental rights of the person." (*Laborem Exercens*, 16)

26. The roots of human rights are to be found in the dignity that belongs to each human being. The movement towards the identification and proclamation of human rights is one of the most significant attempts to respond effectively to the inescapable demands of human dignity; *Compendium of the Social Doctrine of the Church*, paragraphs 152 and 153. In emphasising the importance of human rights Pope John Paul II said:

"These rights apply to every stage of life and to every political, social, economic and cultural situation. Together they form a single whole, directed unambiguously towards the promotion of every aspect of the good of both the person and society...The integral promotion of every category of human rights is the true guarantee of full respect for each individual right" (*Message for the 1999 World Day of Peace*, 3)

The Right To Just Wages And Support For The Family

27. The principal right of the worker is the right to a just wage. In his 1961 encyclical, *Mater et Magistra*, Pope John XXIII, reflecting on *Rerum Novarum*, wrote:

“We consider it our duty to reaffirm that the remuneration of work is not something that can be left to the laws of the marketplace; nor should it be a decision left to the will of the more powerful. It must be determined in accordance with justice and equity; which means that workers must be paid a wage that allows them to live a truly human life and to fulfil their family obligations in a worthy manner. Other factors too enter into the assessment of a just wage: namely, the effective contribution which each individual makes to the economic effort, the financial state of the company for which he works, the requirements of the general good of the particular country ... and finally the requirements of the common good of the universal family of nations ...” (*Mater et Magistra*, 71)

28. In *Laborem Exercens*, Pope John Paul II referred to the various rights formed within the employment relationship:

“The key problem of social ethics in this case is that of *just remuneration* for work done. In the context of the present there is no more important way for securing a just relationship between the worker and the employer than that constituted by remuneration for work....

It should also be noted that the justice of a socio-economic system and, in each case, its just functioning, deserve in the final analysis to be evaluated by the way in which man’s work is properly remunerated in the system... Hence, in every case, a just wage is the concrete means of *verifying the justice* of the whole socio-economic system and, in any case, of checking that it is functioning justly. It is not the only means of checking, but it is a particularly important one and, in a sense, the key means.

This means of checking concerns above all the family. Just remuneration for the work of an adult who is responsible for a family means remuneration that will suffice for establishing and properly maintaining a family and for providing security for its future. Such remuneration can be given either through what is called a *family wage* - that is, a single salary given to the head of

the family for his work, sufficient for the needs of the family without the other spouse having to take up gainful employment outside the home - or through *other social measures* such as family allowances or grants to mothers devoting themselves exclusively to their families. These grants should correspond to the actual needs, that is, to the number of dependents for as long as they are not in a position to assume proper responsibility for their own lives.” (*Laborem Exercens*, 19)

29. On the centenary of *Rerum Novarum*, the Australian Catholic Bishops referred to the need for adequate wages and other entitlements:

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

30. As the Australian Catholic Bishops have said, a full-time unskilled worker should be paid a wage that is sufficient to provide the benefits of survival, security and modest comfort and to allow the worker to provide for the future and acquire the personal property for the support of a family. This standard of living is the basis upon which a legal minimum wage should be fixed. This required minimum wage may be described as a “Living Wage”. Importantly, it is a “family wage” because it enables one of the parents to work in the home and not undertake paid employment.
31. A just wage for a particular worker may be in excess of the Living Wage. A just wage will be based on a number of additional factors related to skills, work environment and the like.

32. In an earlier quotation from *Laborem Exercens* reference was made to social measures that may be available to meet the needs of the worker's dependants. In Australia, government transfers constitute a significant part of the income of many families, especially those dependent upon the income of a low paid breadwinner. The receipt of such payments does not transfer the obligation to pay an appropriate wage from the employer to the government.
33. A Living Wage is a needs-based wage. As well as the costs of living, it must take into account the tax paid by the worker and government benefits paid to the worker and to the worker's dependants.
34. Government taxation bears upon the obligation to pay an appropriate wage. Taxation raises important moral issues for governments. In their 1986 Pastoral Letter *Economic Justice for All*, the Catholic Bishops of the United States said:
- “The tax system should be continually evaluated in terms of its impact on the poor. This evaluation should be guided by three principles. First, the tax system should raise adequate revenues to pay for the public needs of society, especially to meet the basic needs of the poor. Secondly, the tax system should be structured according to the principle of progressivity, so that those with relatively greater financial resources pay a higher rate of taxation. The inclusion of such a principle in tax policies is an important means of reducing the severe inequalities of income and wealth in the nation. Action should be taken to reduce or offset a disproportionate burden on those with lower incomes. Thirdly, families below the official poverty line should not be required to pay income taxes. Such families are, by definition, without sufficient resources to purchase basic necessities of life. They should not be forced to bear the additional burden of paying income taxes.” (*Economic Justice for All*, 202, footnote omitted)
35. The third matter raised by the U.S. Bishops is an important moral point. It is wrong to impose an income tax on working families who live in poverty, that is,

on those who are unable to achieve the minimally acceptable standard of living. The principle applies equally to those who are in poverty, but who are without family responsibilities.

36. Because the amount fixed for a minimum wage will take into account the income tax paid and transfers payments received, the cost of employing minimum wage employees and other low paid employees will be especially affected by government policy. Reductions in income tax and increases in transfer payments may increase employment because the cost of employing labour is less than it would otherwise have been. We say “may” because the relationship between wage levels and employment opportunities and the potential employment effect of wage increases are matters about which there is substantial discussion. To the extent that there is a relationship between wages and employment, government policies on taxes and transfer payments will be factors in increasing or decreasing employment opportunities. The amount of taxation required to be paid by low paid workers is, therefore, both an economic and a moral issue.

Security Of Employment

37. In *Laborem Exercens*, as we saw earlier, Pope John Paul II identified circumstances that can cause workers to be poor:

“And the “poor” appear under various forms; they appear in various places and at various time; in many cases they appear as a *result of the violation of the dignity of human work*: either because the opportunities for human work are limited as a result of the scourge of unemployment, or because a low value is put on work and the rights that flow from it, especially the right to a just wage and to the personal security of the worker and his or her family.” (*Laborem Exercens*, 8).

38. This precariousness of employment is inconsistent with the worker’s dignity. The observation in the last part of the passage cannot be doubted: the plight of low paid workers is compounded when they have no security in their employment. The Bishops of England and Wales have said that the rights of workers “include the right... to security of employment” (*The Common Good and the Catholic Church’s Social Teaching*, 91).
39. The Church’s teachings do not prescribe the way in which security of employment is to be promoted. Security of employment would involve laws to remedy certain kinds of dismissals. The Church’s teaching on the role of work in the ongoing process of creation, the dignity of workers, the importance of work for workers and their families, the priority of labour over capital and the need to protect the vulnerable implicitly rejects arbitrary and unwarranted dismissals. An unconscionable dismissal, for example, would infringe the worker’s dignity and would be unwarranted.
40. It follows that the Church’s teaching requires that a worker should have substantial security of employment. This is not to say that an employer is required to employ a worker for whom there is no work, or no suitable work, or that a worker should not be dismissed if his or her conduct or work performance

justify it. Nor is it to say that a worker should not be subject to a reasonable probationary period before qualifying for security of employment.

41. It also follows that governments are obliged to make laws that provide appropriate procedures and remedies for those whose employment security is violated. The way in which governments fulfil their obligation to protect employees from arbitrary and unwarranted dismissals will vary.

Family Responsibilities And Work

42. Catholic Social Teaching deals with rights that relate to what is sometimes called the *work/life balance*. The principal aspects of this balance are the right to adequate rest and the proper recognition of the worker's family responsibilities.

43. Every worker has the right to adequate rest and protection against onerous working hours. In *Industrial Relations-The Guiding Principles* the Bishops' Committee for Industrial Affairs said:

“Respect for human dignity requires that working conditions, including the length of shifts and the length of a week's work, be such as to protect the health and well-being of workers and to recognise their obligations to their family and the wider community.” (*Industrial Relations -The Guiding Principles*, page 2)

44. Central to Catholic Social Teaching on the family is the view that the family is to be supported and encouraged, for the benefit of the family and for the benefit of the broader community. It is the basic unit of society.

“The rights of the person, even though they are expressed as rights of the individual, have a fundamental social dimension which finds an innate and vital expression in the family;...the family constitutes, much more than a mere juridical, social and economic unit, a community of love and solidarity, which is uniquely suited to teach and transmit cultural, ethical, social, spiritual and religious values, essential for the development and well-being of its own members and of society.” (*Charter of the Rights of the Family*, Holy See, 1983.)

45. In the opening of his 1981 Apostolic Exhortation, *Familiaris Consortio*, Pope John Paul II made the observation that the family in the modern world, as much and perhaps more than any other institution, has been beset by the many profound and rapid changes that have affected society and culture. The future prosperity and stability of society depends upon the strength of the family unit. The strength of the family will depend to a large extent on the employment relationship and the policies of governments.
46. There are many influences on the family outside those that come through the demands and pressures on the parents who are engaged in paid employment. But their work may have a substantial effect on the family. Clearly, poor wages, excessive hours, irregular work and job insecurity will affect the ability of the family to function as a family, meet day-to-day needs and provide for the future. Governments are obliged to implement policies that will remove or alleviate these potential threats to the well-being of families.

The Right To Form And Belong To Unions

47. Catholic Social Teaching recognises the rights and obligations of workers to co-operate to participate in their own employment and to advance their own

interests. Under the heading “Importance of unions”, Pope John Paul II wrote in *Laborem Exercens*:

“All these rights, together with the need for the workers themselves to secure them, give rise to yet another right: the *right of association*, that is to form associations for the purpose of defending the vital interest of those employed in the various professions....

Catholic social teaching does not hold that unions are no more than a reflection of the “class” structure of society and that they are a mouthpiece for a class struggle, which inevitably governs social life. They are indeed *a mouthpiece for the struggle for social justice*, for the rights of working people in accordance with their individual professions.” (*Laborem Exercens*, 20)

48. The role of unions is also referred to in *Centesimus Annus*. We have already quoted a passage in the encyclical (at 15) in which reference is made to “negotiating minimum salaries and working conditions” and the role of unions as places “where workers can express themselves”. Pope John Paul II returned to the role of unions in the context of a discussion of economic systems:

“A business cannot be considered only as a "society of capital goods"; it is also a "society of persons" in which people participate in different ways and with specific responsibilities, whether they supply the necessary capital for the company's activities or take part in such activities through their labour. To achieve these goals there is still need for a broad associated workers' movement, directed towards the liberation and promotion of the whole person.” (*Centesimus Annus*, 43).

49. It can be seen from these passages that the Church emphasises the importance of unions because of the role that they can play in advancing the interests of workers. They are *encouraged* for that reason. One of the obligations of the State is to provide a legal structure in which workers can co-operate through unions to advance their common interests. It would be wrong for the State to enact laws

that impede or frustrate unions in carrying out their lawful representative activities. The State should also ensure that workers are not coerced either to join or not to join unions: they are entitled to exercise their right of freedom of association.

50. The rights of unions are derived from the rights of the workers in an enterprise. It would be contrary to the rights of those workers for their employers to refuse to deal with their union, when acting on their behalf in relation to wages and working conditions. Because unions “serve the development of an authentic culture of work and help workers to share in a fully human way in the life of their place of employment” (*Centesimus Annus*, 15), unions and employers must be fair, honest and just in their dealings with each other. As the Bishops Committee for Industrial Affairs has said, unions must be subject to law and it would be a misuse of their power for it “to be used for purposes other than those for which they were created, and for which members freely joined them.” (*Industrial Relations - The Guiding Principles*, page 3).

The Right To Strike And The Resolution Of Disputes

51. Catholic teaching affirms the right to strike, but it is a right that comes with limitations. It is summarised in *Laborem Exercens*.

“...*One method* used by unions in pursuing the just rights of their members is *the strike* or work stoppage, as a kind of ultimatum to the competent bodies, especially the employers. This method is recognized by Catholic social teaching as legitimate in the proper conditions and within just limits. In this connection workers should be assured the *right to strike*, without being subjected to personal penal sanctions for taking part in a strike. While

admitting that it is a legitimate means, we must at the same time emphasize that a strike remains, in a sense, an extreme means. It *must not be abused*; it must not be abused especially for "political" purposes. Furthermore it must never be forgotten that, when essential community services are in question, they must in every case be ensured, if necessary by means of appropriate legislation. Abuse of the strike weapon can lead to the paralysis of the whole of socio-economic life, and this is contrary to the requirements of the common good of society, which also corresponds to the properly understood nature of work itself." (*Laborem Exercens*, 20)

52. In *Centesimus Annus* (at 15) reference is made to the need for "careful controls and adequate legislative measures to block shameful forms of exploitation". Unions have a role, but there is a need for action by the State. The Church's teachings do not identify the kind of remedial action to be taken by the State. There are various ways by which the State can protect employees. It may enact laws that override private agreements that do not meet minimum standards and it may provide a dispute resolution process for employees who are aggrieved by an agreement or the implementation of the agreement.

53. The value of the Australian system of dispute resolution was recognized by Pope John Paul II in a speech made on his visit to Australia in 1986:

"Australia has a long and proud history of settling industrial disputes and promoting co-operation by its almost unique system of arbitration and conciliation. Over the years this system has helped to defend the rights of workers and promote their well being, while at the same time taking into account the needs and the future of the whole community." (Address to workers at the Transfield factory, Parramatta, 26 November 1986)

54. The Bishops Committee for Industrial Affairs made the following observation on that passage:

“Whatever changes need to be made to the mechanics of the conciliation and arbitration system, it should be ensured that these principles are preserved.” (*Industrial Relations - The Guiding Principles*, p.5)

Mutual Responsibilities

55. A feature of Catholic Social Teaching is its identification of mutual rights and duties that link and unite individuals, society and the State. These rights and duties are necessary for the promotion of the common good.

The Role Of Governments

56. The encouragement of employment is one of the most fundamental obligations of the State. In *Laborem Exercens* a distinction is drawn between the “direct employer” and the “indirect employer”. The use of the term indirect employer arises from the fact that the employment relationship (between the direct employer and the worker) is affected by institutions and persons other than the immediate parties to the contract of employment. The indirect employer includes, especially, the State. The encyclical identifies various obligations that fall to the State:

“When we consider the rights of workers in relation to the “indirect employer”, that is to say, all the agents at the national and international level that are responsible for the whole orientation of labour policy, we must first direct our attention to *a fundamental issue*: the question of finding work, or, in other words, the issue of *suitable employment for all who are capable of it.*” (*Laborem Exercens*, 18)

The use of the term “suitable employment” is to be expected, given the importance and essential dignity of work and the need for a worker to properly support his or her family.

57. In a chapter entitled “State and Culture” in *Centesimus Annus*, Pope John Paul II referred to the role of the State in regard to “the exercise of human rights in the economic sector”:

“Another task of the State is that of overseeing and directing the exercise of human rights in the economic sector. However, primary responsibility in this area belongs not to the State but to individuals and to the various groups and associations which make up society. The State could not directly ensure the right to work for all its citizens unless it controlled every aspect of economic life and restricted the free initiative of individuals. This does not mean, however, that the State has no competence in this domain, as was claimed by those who argued against any rules in the economic sphere. Rather, the State has a duty to sustain business activities by creating conditions which will ensure job opportunities, by stimulating those activities where they are lacking or by supporting them in moments of crisis...”
(*Centesimus Annus*, 48)

58. The State is not only obliged to promote economic activity. It is obliged to protect the weak against the strong. In *Centesimus Annus* Pope John Paul II referred to the proper role and obligations of the State:

“There is certainly a legitimate sphere of autonomy in economic life which the State should not enter. The State, however, has the task of determining the juridical framework within which economic affairs are to be conducted, and thus of safeguarding the prerequisites of a free economy, which presumes a certain equality between the parties, such that one party would not be so powerful as practically to reduce the other to subservience.

In this regard, *Rerum Novarum* points the way to just reforms which can restore dignity to work as the free activity of man. These reforms imply that society and the State will both assume responsibility, especially for protecting the worker from the nightmare of unemployment. Historically, this has happened in two converging ways: either through economic policies aimed at ensuring balanced growth and full employment, or through unemployment insurance and retraining programs capable of ensuring a smooth transfer of workers from crisis sectors to those in expansion.

Furthermore, society and the State must ensure wage levels adequate for the maintenance of the worker and his family, including a certain amount for savings. This requires a continuous effort to improve workers' training and capability so that their work will be more skilled and productive, as well as careful controls and adequate legislative measures to block shameful forms of exploitation, especially to the disadvantage of the most vulnerable workers, of immigrants and of those on the margins of society. The role of trade unions in negotiating minimum salaries and working conditions is decisive in this area.

Finally, "humane" working hours and adequate free-time need to be guaranteed, as well as the right to express one's own personality at the work-place without suffering any affront to one's conscience or personal dignity. This is the place to mention once more the role of trade unions, not only in negotiating contracts, but also as "places" where workers can express themselves. They serve the development of an authentic culture of work and help workers to share in a fully human way in the life of their place of employment.

The State must contribute to the achievement of these goals both directly and indirectly. Indirectly and according to the *principle of subsidiarity*, by creating favourable conditions for the free exercise of economic activity, which will lead to abundant opportunities for employment and sources of wealth. Directly and according to the *principle of solidarity*, by defending the weakest, by placing certain limits on the autonomy of the parties who determine working conditions, and by ensuring in every case the necessary minimum support for the unemployed worker." (*Centesimus Annus*, 15, footnotes omitted.)

59. The middle part of this passage emphasises the need for the creation of jobs that provide "wage levels adequate for the maintenance of the worker and his family, including a certain amount of savings". The last part of this passage refers to the

need for government to promote employment and to regulate aspects of the relations between employers and workers. In part, it raises the issue of the interaction between wage rates and employment opportunities. It is an issue over which there is substantial discussion. But it is necessary to ensure the basic rights of low paid workers and to avoid imposing on them the burden of macroeconomic policy. The Australian Bishops Committee for Industrial Affairs has said:

“Every family has the right to sufficient income through work. Workers have the right to just minimum wages and to just and safe working conditions.

....

The provision of more work opportunities does not, however, by itself justify reducing below a just level, the wages of those already in jobs.” (*Industrial Relations – The Guiding Principles*, 2)

60. The Catholic Bishops of England and Wales addressed this matter in *The Common Good and the Catholic Church’s Social Teaching*:

“Employers, meanwhile, have a duty to pay a just wage, the level of which should take account of the needs of the individual and not just his or her value on the so-called labour market. If employers do not do this voluntarily, Catholic Social Teaching would allow the State to make them do so by means of a statutory minimum wage, either nationally or in some sectors. It is not morally acceptable to seek to reduce unemployment by letting wages fall below the level at which employees can sustain a decent standard of living.” (*The Common Good and the Catholic Church’s Social Teaching*, paragraph 97)

61. Catholic Social Teaching calls on governments to establish a framework that promotes fairness and remedies unfairness. How they do so will vary. The principle of subsidiarity applies to the way in which that obligation is to be discharged. Subsidiarity is a principle that emphasizes the devolution of decision-making and the importance of participation at the most appropriate level.

Participation and agreement-making at the workplace can be, and are, valuable. But the principle does not require the exposure of the weak to improper practices at these levels.

62. Catholic Social Teaching, therefore, identifies interlocking obligations. There is an obligation on individuals to perform work where, and to the extent, they are able to do so. The obligation to work co-exists with the entitlement to receive a just wage. It is the duty of the State to ensure the payment of wages that are at least sufficient to meet the basic needs of the worker and the worker's family. The obligations of the State go further than ensuring the payment of minimum wages. The State also has a critical role to play in finding suitable employment that pays a wage sufficient to meet the basic needs of the worker and the worker's family.

Employment And Globalization

63. The State's economic obligations to its citizens are affected by the globalisation of markets. Employment has to be created and maintained in economies and markets that are increasingly globalized and where many, but not all, vulnerable workers are in low paid employment in trade-exposed sectors. The impact of economic globalization on Australian workers and firms has largely resulted from the dramatic reduction in tariff levels and other forms of industry protection over the last two decades. In more recent times free trade agreements have been negotiated. What is required to meet these challenges is a matter of some contention. Who should bear the costs of the necessary adjustments is an unresolved issue.

64. Catholic Social Teaching has addressed international trade and globalization and the impact that they have on the lives of workers and families. It has done so with an appreciation of the diversity of countries affected by these issues. It is especially concerned with the position of the poor in the developing world and the capacity of trade to improve their circumstances.
65. The issues and consequences of globalization and work were addressed by Cardinal Theodore E. McCarrick in the *Labor Day Statement* of 6 September 2004 issued on behalf of the United States Conference of Catholic Bishops:

“Pope John Paul II has called for the “globalization of solidarity,” inviting us to resist a zero-sum game that separates our brothers and sisters in the U.S. into winners and losers.” (*Ecclesia in America*, Jan.22, 1999, #55.)...

As a global Church, we believe in building bridges and crossing boundaries in order to share both our needs and our gifts. Arguments that focus simply and exclusively on the likely domestic impact of trade are far too narrow. At the same time, U.S. workers and their families must be able to earn a decent living and, when necessary, adjust to the requirements of job changes and dislocation. As Pope John Paul II reminds us: “All must work so that the economic system in which we live does not upset the fundamental order of the priority of work over capital, of the common good over private interest.” (*Jubilee of Workers*, May 1, 2000).

Effective steps should be taken to minimize serious negative impacts on workers affected by trade and development. No one at home or abroad should be forced to sacrifice their right to work, their ability to raise a family or their authentic cultural expressions because of the demands of the market. By ignoring these values, trade policies can fall short of their true potential and, as the Pope has said, “the weakest, the most powerless and the poorest appear to have so little hope!” (*Ecclesia de Eucharistia*, April 17, 2003, #20). We must always remember that trade agreements and economic policies are not pre-ordained laws of nature, but are created by people and governments. Their goal must be to promote the dignity of work and the rights of workers.” (www.usccb.org/sdwp/national/ld04.htm)

66. The argument for globalizing markets, reducing tariffs and entering into free trade agreements is based on their consequential increases in national wealth. One of the costs to industrialised nations is the increased exposure to low-wage competition and to competition from other high-wage nations. In both cases wages and employment prospects will come under pressure in some industries. Free trade agreements are created by people and governments. Their adverse consequences must be addressed by governments.
67. Globalization also confronts Australia and other advanced industrial economies with a fundamental question: how do governments ensure the payment of a Living Wage in an increasingly globalized world? The answer to this question includes a matter to which we have already referred: the level of taxes and transfer payments applicable to workers and their families. Because of their impact on labour costs, a reduction in taxation for low paid workers and an increase in transfer payments, especially for low paid working families, are two of the means by which the nation is able to use part of its increased wealth to meet the competitive challenges from other countries while maintaining living standards for the low paid.

The Church In The Modern World

68. Catholic Social Teaching on work has to be seen in the broader context of the Church's other social teachings and its active engagement in the world. The social doctrine of the Church guides Catholics to take positions on a variety of issues. "The immediate purpose of the Church's social doctrine is to propose the

principles and values that can sustain a society worthy of the human person”;
Compendium of the Social Doctrine of the Church; paragraph 580. In his 1987
encyclical *Sollicitudo Rei Socialis (On Social Concern)* Pope John Paul II wrote:

“...the Church does not propose economic and political systems or programs, nor does she show preference for one or the other, provided that human dignity is properly respected and promoted, and provided she herself is allowed the room she needs to exercise her ministry in the world.

....

The Church’s social doctrine *is not* a “third way” between *liberal capitalism* and *Marxist collectivism*, nor even a possible alternative to other solutions less radically opposed to one another: rather, it constitutes a *category of its own*. Nor is it an *ideology*, but rather the *accurate formulation* of the results of a careful reflection on the complex realities of human existence, in society and in the international order, in the light of faith and of the Church’s traditions. Its main aim is to *interpret* these realities, determining their conformity with or divergence from the lines of the Gospel teaching on man and his vocation, a vocation which is at once earthly and transcendent; its aim is thus *to guide* Christian behaviour. It therefore belongs to the field, not of *ideology*, but of *theology* and particularly of moral theology.

The teaching and spreading of her social doctrine are part of the Church’s evangelizing mission. And since it is a doctrine aimed at guiding *people’s behaviour*, it consequently gives rise to a “commitment to justice,” according to each individual’s role, vocation and circumstances.” (*Sollicitudo Rei Socialis, 41*)

69. This passage enlightens one’s understanding of the Church’s social doctrine and the basis on which the Church and individual Catholics advocate issues in society. As we have seen in the teachings on work and workers, there are matters upon which the Church and Catholics must take a position. They are called to live in accordance with those teaching. Advocacy of those teachings is both a right and a duty. This advocacy may give rise to unfounded criticism of the Church to the effect that it is intruding into matters of politics. That aspect was discussed in

Common Wealth and Common Good, a statement on wealth distribution from the Catholic Bishops of Australia, published in 1991. Under the heading “Dualism rejected”, it said:

“Ours is not the only Church taking part in the national discussion on wealth and poverty. We acknowledge gratefully the contributions made through research and publications by agencies of the other Churches, as well as their willingness to co-operate with our own consultation.

A few critics wish to exclude the Churches from the discussion on these issues, on the grounds that their attention should be given exclusively to spiritual and other-worldly (or “eschatological”) matters. We reject the dualism implicit in such criticisms, reaffirming the right and duty of the Church at every level to include social justice in its agenda as it prepares for the coming of God’s Kingdom. At the same time, we also reaffirm the vital importance of the traditional Catholic and Gospel teaching, that faith and holiness lead to everlasting life. The Kingdom of God includes human efforts to build a just society, but cannot be reduced to this.

....

Although Church leaders have no wish or intention to “play politics” when dealing with these issues, we recognise that they have an important political dimension. Our perspective when making comments or criticisms is religious, pastoral and ethical, not political or economic. When Bishops speak, however, it is necessary to distinguish between the presentation of doctrinal principles, where teaching authority is invoked, and the offering of contingent judgments on real-life situations, where the possibility of differences in viewpoint among believers exists.” (*Common Wealth and Common Good*, pages 9-10.)

AUSTRALIAN FAIR PAY COMMISSION
Workplace Relations Act 1996

MINIMUM WAGES REVIEW 2006

Submission by the Australian Catholic Council for Employment Relations

Attachment B

Extracts from Submissions made by the Australian Chamber of Commerce and Industry
to the *Safety Net Review Case 2005*.

Pages 5-39 to 5-49 (March 2005) and pages R4-18 to R4-23 (April 2005).

5.9 WHAT'S THE MINIMUM WAGE & WHO DOES IT APPLY TO?

[5.114] Consideration of the low paid and poverty inevitably asks the question: what award wages are people on? The answer in Australia is not entirely clear, but it may be that there has been an assumption in these cases that many more employees are on low award rates of pay than is probable, given an analysis of our award wage system.

[5.115] Discussions of the level of minimum wages in Australia and comparative work which compares our minimum wage with those of other countries, usually focus on the Federal Minimum Wage - \$467.40.

[5.116] For example, the OECD has noted that Australia has the second highest minimum wage in the world⁸⁵; however if the comparison is made with the C12 classification level of the Metals Award, then Australia overtakes France and has the highest minimum wage of OECD nations.

[5.117] There is a sense, then, in international comparisons, that like is not compared with like. Most other developed nations do not have the Australian system which contains a matrix of wages minima dependent on skill, experience and industry. For example, in New Zealand there is one minimum wage for all adult employees, which is currently \$9 per hour⁸⁶. An employer is at large to offer a wage of \$9 per hour to any employee, regardless of their level of skill or experience. Likewise, any wage increase based on the attainment of additional skills or experience is negotiated between the employer and employee; there is no statutory mechanism to compel an increase.

⁸⁵ OECD Country Note 2005 for further information (Attachment 6.4)

⁸⁶ New Zealand dollars

- [5.118] Award wages do not work like this – an employer is not simply ‘at large’ to select a rate from the award and apply to an employee, but is required at law to have regard to the classification structure of the award and apply the correct rate. Likewise s.88B(3)(a) requires the Commission in its award maintenance function to have regard to the need for alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which work is performed. Skill-based career paths remain an allowable matter in awards.
- [5.119] Any discussion of the needs of the low paid, in a consideration of award-based employment (meaning employees not covered by formal agreements), must therefore have regard to rates of pay that award employees will find themselves on.
- [5.120] Given this, there has perhaps been undue focus on the Federal Minimum Wage in recent cases. Although it is clearly relevant to the Commission’s considerations, it is equally relevant to examine how award classification structures operate to provide for significantly higher rates of pay. As the analysis below will show, in practical terms, very few employees would ever be employed on the Federal Minimum Wage. In most awards, it appears that the ‘minimum wage’ is effectively higher.
- [5.121] Furthermore, it would appear that in many awards lower classification levels are ‘transitional’ rates – applying only for a period of time, or until the employee has acquired a relevant competency. Employees then move up the classification scale and their wages increase.
- [5.122] There are therefore effectively three types of ‘minimum wages’ in awards:
- a. The Federal Minimum Wage (FMW);
 - b. The Transitional Minimum Wage (TMW);
 - c. The Effective Minimum Wage (EMW).

[5.123] The Federal Minimum Wage is well understood – however, as we shall demonstrate, it does not do much ‘work’ in many awards - it does not feature in many award classification structures.

[5.124] The “Transitional Minimum Wage” refers to the lowest award rate that an employee can be engaged on for a limited temporal basis. Sometimes the Transitional Minimum Wage is the same dollar amount as the Federal Minimum Wage – however this is not the case in (it would appear) most awards. People start on wage rates higher than the Federal Minimum Wage, and they go up from there.

[5.125] Finally, we refer to an “Effective Minimum Wage”. By this we mean the lowest award classification level that an employee can be engaged on an ongoing basis.

[5.126] This should be an important factor in determining the needs of the low paid; to the extent, for example, that the ACTU asserts that employees on or around the level of the Federal Minimum Wage experience financial difficulties, it is appropriate to ask, as a question of law, whether employees can be engaged on that rate for any extended period of time, or whether the rate functions merely to provide entry to a particular job, and the employee then becomes entitled to higher rates of pay under their award. The answer in nearly all awards is that they cannot be engaged on the Federal Minimum Wage for anything more than a very brief period.

[5.127] ACCI provided information on the operation of award classification structures in the 2004 Safety Net Review Case⁸⁷, in the context of examining budget standards research which had been relied upon by the ACTU for the purpose of establishing the inadequacy of award wages to meet needs. In Chapter 7 of its submission in this year’s case, the ACTU again seek to rely on this

⁸⁷ ACCI primary submission to the 2004 Safety Net Review Case (ACCI 2), Chapter 13

budget standards research, and it once again suffers from the same limitations. Elsewhere in this chapter we provide a sustained critique of budget standards; however even if they are accepted, many award rates of pay meet the modest but adequate budget standard level.

5.10 ANALYSIS OF AWARD RATES OF PAY

[5.128] Examining the 20 vehicle awards in this case:

- a. Only 8 have a classification level corresponding to the Federal Minimum Wage. In all others, the lowest award classification level is higher than the Federal Minimum Wage.
- b. In only one award (as explained below) can an employee be indefinitely employed on the level of the Federal Minimum Wage, and even then, their employment at that rate is unlikely (see our explanation of the *Graphic Arts – General – Award 2000* – below). In all other cases, an employee can only be employed on the Federal Minimum Wage for a limited period of time.
- c. On the basis of this sample, the minimum wage in most awards is in excess of the Federal Minimum Wage, and by up to \$58.40 per week.

[5.129] It also appears that in nearly all awards, the Federal Minimum Wage functions as an introductory rate only – for new employees who are gaining skills and experience. Almost always, there is a requirement that an employee is undergoing training or induction and the duration of such an induction is strictly limited.

5.11 WHAT IS THE EFFECTIVE MINIMUM WAGE?

[5.130] Rates of pay that employees may find themselves on indefinitely are generally much higher than the Federal Minimum Wage. For example – the rate of pay for a shop

assistant under the *Retail and Wholesale Industry - Shop Employees - Australian Capital Territory*

Award 2000 is \$525.80. No full time employee working in the retail sector in Canberra, covered by this award, earns less than this figure. Therefore any concerns about the adequacy of award wages below that figure are simply irrelevant for this group of employees.

[5.131] The following is our analysis of what the “Effective Minimum Wage” and the “Transitional Minimum Wage” is in the vehicle awards. Not all awards have a ‘transitional wage’ however, and simply apply classifications based on the occupation of the employee.

Table 5.8: Transitional and Effective Minimum Wages – Awards in this Case

Award	Transitional Minimum Wage (TMW)	Effective Minimum Wage (EMW)
Commercial Sales	\$513.30	\$573.30
Health ATSI Services	\$496.60	\$546.70
Clerical and Admin (Vic)	\$516.10	\$526.40
ACT Shops	N/A	\$525.80
Storage Services	\$506.60	\$521.60
Vic Local Authorities	\$483.30	\$511.00
Building Services	N/A	\$506.40
Transport	N/A	\$501.20
Laundry Industry	\$475.60	\$496.20
Child Care (ACT)	\$474.60	\$495.10
Horse Training	\$470.60	\$486.70
Hospitality	\$467.40	\$484.10
Vehicle Industry	\$467.40	\$484.10
Vehicle RSR	\$467.40	\$484.10
Metals	\$467.40	\$484.10
Graphic Arts	N/A ⁸⁸	\$484.10
Grocery Products	\$475.80	\$484.10
Clothing Trades	\$467.40	\$484.10
Timber and Allied	\$467.40	\$484.00

Rubber, Plastic, Cable
Mfg

\$467.40

\$484.00

⁸⁸ The Federal Minimum Wage does function in the award as the rate of pay for employees not otherwise classified – however it will not apply to the full range of mainstream occupations covered by the award.

[5.132] This sample of awards, while we freely admit is not scientifically constructed, cannot be unrepresentative. It contains many major industry awards, and in particular awards from the award-dependent industries.

[5.133] Aggregating the results from these awards yields an average Transitional Minimum Wage of \$480.26 (from a sample of 18 awards) and an average Effective Minimum Wage of \$502.35 (from a sample of 20 awards).

[5.134] Therefore:

- a. The average Transitional Minimum Wage is already \$12.86/2.75% per week higher than the Federal Minimum Wage;
- b. The average Effective Minimum Wage is already \$34.95/7.48% per week higher than the Federal Minimum Wage.

[5.135] We have attached a more detailed analysis of the function of award classification systems in the vehicle awards (Attachment 5.14).

[5.136] Any consideration of the adequacy of award wages, in the context of the needs of the low paid, needs to take this analysis into account. An approach that overemphasises the Federal Minimum Wage or lower award classifications, rather than looking at a reasonable spread of the lower award rates actually payable will fail to properly consider what the actual rates of pay in awards are.

[5.137] We note that at paragraph 3.22 of their submission the ACTU presents a table purporting to show that 53% of adult award only employees earn less than \$500 per month. This result is, to say the least, difficult to reconcile with our research on award classification structures. It is not however clear what is being measured here, and the comments made by the ACTU in para.

3.17 of their submission suggests the figure may include part-time and casual employees:

“Award only employees are more likely to work part-time than employees who have their pay established by other forms. This is in part responsible for the significantly lower average weekly ordinary time earnings of award-only employees.”⁸⁹

[5.138] Any such hourly rate analysis, to be at all valid, must exclude: junior employees, casual employees, part-time employees and, arguably, adult trainees and apprentices. It is not that the wages of these categories of employees are irrelevant, but they must be measured separately or the picture will be compromised.

[5.139] A proper analysis of award rates of pay demonstrates that award dependent employees, while they may be lower paid relative to other groups of employees in the community (e.g. those covered by agreements), are unlikely to be receiving rates of pay such as the Federal Minimum Wage in almost all instances.

[5.140] Award rates are intended to operate as a safety net, and it should be to some extent axiomatic that award wage rates would be less than those of employees covered by formal agreements. However the notion that award rates are so low that significant numbers of employees could be working full-time and be in poverty is highly questionable to say the least.

5.11 CONCLUSION

[5.141] The ACTU concludes at 7.106 that:

This chapter has shown that award wage earners are finding difficulty meeting their weekly needs, and that granting the ACTU claim of \$26.60 will make a difference to the lives of the low paid. This chapter has also shown that the Commission can have confidence that a Safety

Net Adjustment is not substantially eroded by the effects of the tax and transfer systems.

⁸⁹ ACTU Primary Submission, para. 3.17, p.52

[R4.58] If the ACTU has problems with ACCI's analysis, it should have even more problems with its own analysis.

[R4.59] ACCI recognises that there are problems with using productivity haphazardly. We raised some of these concerns in our first submission (4.32 to 4.43). Dr Peter Brain³⁰ (ACTU tag R5) also raises some concerns with productivity measures.

[R4.60] If the ACTU has concerns about productivity, it is unclear why it places a reliance on the productivity growth in the award dependent sectors (Figure 6.7 and paragraph R2.199 and following).

[R4.61] Either the ACTU must acknowledge that its own arguments on productivity by industry are flawed, or accept the arguments by ACCI and others.

R4.6 APPLICATION OF MINIMUM WAGES

[R4.62] Section 5.9 of ACCI's initial reply submission in this matter³¹ again sought to correct the misunderstanding of the application of the minimum wage which pervades the ACTU analysis, and its claims regarding needs and working poverty in particular.

[R4.63] The ACTU now replies to this at R5.29 and R5.31 - R5.36.

[R4.64] At R5.29 the ACTU state the following regarding award minimum wages:

“At section 5.9 of their submission ACCI meanders through a largely irrelevant discussion concerning what the minimum wage is and how many workers are on the minimum. ACCI's discussion misses the point. There is no single minima. There are a variety of minimum wages the lowest of which is \$467.40.”

³⁰

Who is Executive Director of the National Institute of Economic and Industry Research. The ACTU omitted this important piece of information.

³¹

ACCI 1st Written Reply, 11 March 2004, [5.114] to [5.140]

[R4.65] This is in some ways a breathtaking submission. The ACTU are effectively saying that the actual level of minimum wages are irrelevant to the Commission's determination of the present case, and to the adequacy of the incomes provided by award wages.

[R4.66] That said, the ACTU effectively concede our point, without fully understanding it. What ACCI undertook was an analysis of how pervasive the Federal Minimum Wage level was within award classification structures (the answer – not many) and how award classification systems operate in most awards to ensure that employees progress from lower classification levels to higher levels with the gaining of skills and experience.

[R4.67] Award wage rates on which employees can be indefinitely engaged are in most cases well in excess of the Federal Minimum Wage. In many cases these rates – which we have described as the Effective Minimum Wage – are in excess of \$500 per week (in our analysis at Table 5.8 of our primary submission we identified Effective Minimum Wages as high as \$573.30).

[R4.68] When the Commission is considering the adequacy of award wages as a source of income for the lower paid, this is a directly relevant consideration.

[R4.69] As a matter of legal fact, there cannot be many award dependent employees engaged indefinitely at or near the level of the Federal Minimum Wage.

[R4.70] The ACTU's comments are R5.32 of their reply submission are difficult to comprehend to say the least:

“... The minimum is a minimum, ACCI should recognise this. ACCI should also recognise, unlike many other awards, there is no mobility beyond this rate until supervisory functions are undertaken and even then the movement is not significant. The result is that most workers soon move to and remain at this rate in this industry.”

[R4.71] Which award?

[R4.72] Which industry?

[R4.73] We are at a loss to know what the ACTU is referring to here.

A cursory glance at the award analysis table provided at Tag 5.14 of ACCI Attachments Folder 2 (attached to our primary submission) would have demonstrated that exercising supervisory skills is not a precondition for moving to any of the Effective Minimum Wages identified by ACCI. The following are some examples:

- a. The *Commercial Sales (Victoria) Award 1999* – EMW of **\$573.70**. Conditions: over three months service with the employer, and over twelve months experience as a commercial traveller.
- b. The *Clerical and Administrative Employees (Victoria) Award 1999* – EMW of **\$526.40**. Conditions: 12 months experience at the level of a Grade 1 Clerical Assistant (the lowest classification in the award).
- c. The *Storage Services – General Award 1999* – EMW of **\$521.60**. Conditions: having worked twelve months as a Grade 1 Storkeworker.

[R4.74] These EMW's are well in excess of either the Federal Minimum Wage or \$500 per week.

[R4.75] In fact, were you to exercise supervisory responsibilities, you would be in receipt of even higher award rates of pay than these.

[R4.76] At paragraph 5.33 the ACTU state "*At paragraph 5.130 the ACCI argues that the minimum rate of pay for an ACT shop Assistant is \$525.80.*"

[R4.77] With respect, there is nothing to argue about - it is. Any cursory glance at the award will establish that.

[R4.78] The point of course is that, in any consideration of the adequacy of award wages for retail employees in the ACT, the Federal Minimum Wage of \$467.40 is entirely irrelevant. This (\$525.80) is the minimum wage for this cohort of workers.

[R4.79] The ACTU further state that:

“The ACTU does not select the vehicle awards for the Safety Net Review with the actual minimum payable in mind. The ACTU could have utilised very different awards this, which would have provided a different result.”

[R4.80] These comments simply ignore what we have already stated in our first submission. At paragraph 5.132 of our first submission we stated the following:

“This sample of awards, while we freely admit is not scientifically constructed, cannot be unrepresentative. It contains many major industry awards, and in particular awards from the award-dependent industries.”

[R4.81] We further reject the unsubstantiated assertion that a different set of awards would yield very different results. In ACCI’s submission, unless you went ‘award shopping’ and, if you used a combination of mainstream industry awards, you would find a similar range of award minimum rates. In any case, it was open to the ACTU to produce a counter-analysis and it has failed to do so. Our research is sound and directly relevant to the Commission’s determination of this matter.

[R4.82] The ACTU again return in paragraph R5.35 to Tables 3.6 and 3.7 of their original submission (p. 52, ACCI first submission). These tables demonstrate that award-only employees earn less than employees whose are paid according to individual/collective agreements.

[R4.83] There is a sense in which this is axiomatic. Awards are the minima. An employee can’t receive less than an award. Of course award-dependent employees will receive less than average weekly earnings or employees covered by agreements. This however in and of itself demonstrates nothing about the adequacy of award wage settings.

[R4.84] Table 3.6 of the ACTU's first submission states that the average weekly earnings of award-only employees is \$636.30 per week. This is \$168.90 in excess of the Federal Minimum Wage and well in excess of the poverty or budget standards benchmarks employed by the ACTU. It reinforces ACCI's submission on this matter.

[R4.85] It is not clear that this figure excludes apprentices and trainees who receive discounted wages. If it does include these employees, they will have a significant dampening effect on the overall wage level reported. The comments of the ACTU, responding to the submission of the Commonwealth, make this a particularly important issue to be resolved:

“At paragraph 5.34 the Commonwealth estimate that 10 per cent of full time adult workers are earning below the Federal Minimum Wage and suggests that these workers may not benefit from Safety Net Adjustments. A number of these adult workers are likely to be adult apprentices and adult trainees. Numbers of adult apprentices and trainees reported in the report Skills at Work approximate the Commonwealth estimate of 10 per cent. Many, possibly most, apprentices and trainees are covered by awards and will benefit from the Safety Net Adjustment awarded in this matter.”

Very few employees will be employed on a wage level at or near the FMW

[R4.86] Essentially, the conclusions reached by ACCI in our first submission regarding award minimum wages remain unchallenged. The ACTU's argument in their reply appears to simply ignore the implications that flow from the propositions we have established. Full-time, adult award-dependent employees are likely to commence employment with an employer at a wage level above the Federal Minimum Wage and go upwards from there. Award classification structures ensure that the majority of lower award classification structures operate in a transitional manner. In many awards, the lowest rate that an employee can be employed on indefinitely will be well in excess of \$500 per week.

[R4.87] These are directly relevant considerations to the Commission's determination of the adequacy of award wages in providing incomes to award-dependent employees.