ACTU Response to Questions for Final Consultations

Annual Wage Review 2017-18

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Response to Question 1.2

“Since the Annual Wage Review 2016–17, there has been one substantial new piece of research for Australia on the impact of increases in minimum wages on employment: Bishop J (2017), The effect of minimum wage increases on wages, hours worked and job loss. The paper is available in the Research reference list for this Review.

In the synopsis, Bishop writes ‘I find that a one per cent rise in award wages leads to a 0.85–0.95 per cent rise in wages for award-reliant jobs. I find no evidence that increases in award wages have an adverse effect on hours worked or the job destruction rate.’

We would appreciate receiving any further comments on the significance of this paper.”

<u>Response:</u>

It is understood that Bishop (2017) makes use of unpublished and highly detailed ABS data and thus it not possible to make any comment in respect of the data. Because of this detailed unpublished data, the paper is able to obtain much finer breakdowns of the number of jobs at small pay intervals. This richer data base allows the paper to make an analysis which takes account of the pay increases not only to jobs paid at the minimum wage rate but also for jobs at higher award rates and intervals. It makes use for estimation (by difference in differences method) purposes of the variation in the percentage increase to the pay in particular jobs at various levels of pay which are granted flat dollar increases. It finds that award changes do not have an adverse impact on hours worked. It indicates that while it looks at the impact of pay for those in work it does not address the impact on the newly employed. It is a substantial addition to the empirical literature for Australia which has always faced the challenge of addressing the impact of increases across the award structure. It is consistent with the overall findings of a wide academic literature on the employment effects of raising the minimum wage.

Response to Question 1.3

"The three industries with the highest proportion of employees paid at the award rate in 2017 are (in order of award reliance) Accommodation and food services (43 per cent), Administrative and support services (42 per cent), and Retail trade (35 per cent). Chart 5.2 in the Statistical Report for this Review shows the growth in the WPI, by industry, over the year to the December quarter 2017. We note that on 1 July 2017, the NMW and all award rates of pay rose by 3.3 per cent.

The WPI grew by 2.0 per cent for Accommodation and food services; 1.8 per cent for Administrative and support services; and 1.6 per cent for Retail trade. Are any parties able to explain why the WPI for the most award-reliant industries rose by an amount that is substantially less than the growth in award rates?"

Response:

There are a number of factors at play in the divergence between the Wage Price Index for Award reliant industries and the increases awarded by the Panel.

There are at least two unremarkable factors.

Firstly, there is the potential for measurement error. The ABS asserts, in relation to the WPI for ordinary time hourly rates of pay excluding bonuses:

> "The effect of rolling ordinary time penalty payments and allowances into hourly rates is excluded from these indexes. However, when overtime penalty payments and non-separable shift allowances are rolled into ordinary time hour rates, the ordinary time indexes will increase accordingly."[1]

Given the WPI is produced by samples from Payroll data[2], there is some potential for error in distinguishing between overtime versus ordinary hours in trying to interpret an "all in rate". Accordingly, it is conceivable that employees who are paid an all in rate in the Retail trade industry and the Accommodation and food services industry might drag the WPI down to the

[1] http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6345.0Explanatory%20Notes1Dec%202017?OpenDocument.
[2] http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/6351.0.55.001Chapter292012.

extent that reduced growth in those all in rates reflected the reduced Sunday penalty rates from 1 July 2017. However, this effect should not impact the WPI for the Administrative and Support Services Industry.

Secondly, the AAWI levels for agreements current 31 December 2017 for the industries concerned were lower than 3.3% awarded by the Panel:

- In the Accommodation and food services industry, AAWI was 2.6%;
- In the Retail trade industry, AAWI was 2.8%; and
- In the Administrative and support services AAWI was 3.0%.[3]

Notwithstanding a high level of Award Reliance, these agreement based increases would have some impact in pulling the industry WPI below the 3.3% awarded by the Panel, but certainly not to the extent actually observed.

The other factor is anything but unremarkable – the sheer extent of non-compliance, or "wage theft" as it has become known, among employers.

For the purposes of another proceeding in the Commission, we reviewed all of the publicly available reports of the Fair Work Ombudsman's compliance campaigns published since July 2014 (but in some cases *undertaken* earlier), where those campaigns targeted payment of wages. That submission is published on the Fair Work Commission's Website at this location: https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201613-sub-actu-200318.pdf

There are a number of different sample sizes, industries and locations involved in the Fair Work Ombudsman's compliance campaigns. However, it is a fair summation that particularly high non-compliance rates are noted in campaign reports for more award dependent industries and among small businesses. Taking mean values, our review showed that 28% of the employers audited in the 30 reports we examined did not pay their employees correctly.

[3] Department of Jobs and Small Business (2018), "Trends in Federal Enterprise Bargaining Report, December Quarter 2017", Table 17: https://docs.jobs.gov.au/documents/trends-federal-enterprise-bargaining-december-2017.

We found no specific reports relating to campaigns in the Administrative and Support Services industry. Moreover, most campaign reports covered more than one industry and we were unable to separate industry data. However, two reports focussed solely on the retail industry, showed there was incorrect payment in:

- 47% of cases for Victorian retail bakeries that were audited in 2013/14; and
- 31% of cases in the Retail industry in SA, WA & NT that were audited in 2013/14

The reports focussed solely on the hospitality industry showed there was incorrect payment in:

- 46% of cases nationally, where the Restaurants industry award applied, that were audited in 2014/15;
- 32% of cases in Launceston and Hobart, that were audited in 2011/12; and
- 47% of cases nationally, where the Fast Food industry award applied, that were audited in 2015/16.

We accept that the above figures are not the most current, and that the picture they provide is far from complete. But taken as a whole as the best data available, its is hard to quarrel with an assertion that somewhere between a quarter and a third of award reliant business (and perhaps even more in the retail and hospitality sector) unlawfully underpay their workers. That is bound to bring down the wage price index, by quite some margin.

For our part, we consider this completely unacceptable. We would urge the Panel to comment on the extent of non-compliance in the strongest terms. Some employers have very little interaction with the Fair Work Commission and the Panel's decision (or perhaps only the summary of it) may be the only material produced by the Commission that is read by them. It is appropriate that the Panel's disapproval of unlawful underpayment is recorded, because quite apart from anything else, unlawful underpayment undermines the very objectives the Panel is tasked to serve.

Response to Question 1.4

"In past Reviews, the Expert Panel has taken into account changes to the tax-transfer system. How and to what extent, if any, should regard be had to the corporate tax rate reductions for 'small business entities' that took effect progressively from 1 July 2015 and for 'base rate entities' which took effect from 1 July 2017, and for the further future progressive reductions in corporate tax rates that have been legislated for?"

Response:

We urge the Panel to take into account changes to the tax arrangements for small businesses entities that have been legislated for. These changes include:

- A 5% unincorporated small business tax offset (capped at $1,000) for the 2015-16 year, for unincorporated small business with a turnover of less than $2 million for that year[4];
- A 8% unincorporated small business tax offset (capped at $1,000) for the 2016-17 year onwards, for unincorporated small business with a turnover of less than $5 million for the year[5];
- A reduction of the company tax rate from 30% to 28.5% for small business in the 2015/16 year[6];
- A further reduction of the company tax rate to 27.5% for small business for the 2016/17 year until the 2024/25 year (thereafter further incremental reductions will apply)[7]; and
- A reduction of the tax rate payable by base rate entities from 30% to 27.5% for the 2017/8 year until the 2024/25 year (thereafter further incremental reductions will apply)[8].

We would urge the Panel to adopt the same general conceptual approach to considering these changes as was explained in paragraphs [355]-[360] of the 2012-13 Decision[9] in respect of changes to the superannuation guarantee charge. Such an approach does not apply a direct, quantifiable or mechanistic adjustment to an increase that the Panel might otherwise flow, but allows for the change to be taken into account.

[4] Schedule 1 of the *Tax Laws Amendment (Small Business Measures No. 3) Act 2015*.
[5] Subdivision 328-F of Part 3-45 of Chapter 3 of the *Income Tax Assessment Act 1997*.
[6] *Tax Laws Amendment (Small Business Measures No. 1) Act 2015*.
[7] *Treasury Laws Amendment (Enterprise Tax Plan) Act 2017*.
[8] *Treasury Laws Amendment (Enterprise Tax Plan) Act 2017*.
[9] [2013] FWCFB 4000.

Qualitatively, we submit that the impact of the tax changes ought to be that the Panel is less restrained in its awarding of increases than it otherwise would be. Referring to the matters that the Panel did in its 2012-13 Decision:

- We would expect that the “special circumstances” of small and medium sized business, which the broad objects of the Act are designed to accommodate, include the fact that such businesses are over represented among award reliant employers and that they have in recent years been deriving a benefit from this tax relief and will continue to do so to a greater extent over the period until the next review. So there is both a cumulative benefit to consider, as well as a forecast benefit;
- The assessment of the likely impact of the exercise of the Panel’s powers on employment costs ought to contemplate that such employment costs are offset to some extent by a reduction in the tax rate; and
- In terms of business competitiveness and viability, we would say that the changes affect all small businesses equally, but gives them an advantage over larger size businesses. We would not consider it appropriate for the Panel to moderate the global impact of the benefit on the basis that business which do not make a profit receive no benefit from the tax cut. We would argue that the Panel has always assumed that the employers affected by its decisions retain their capacity to make a profit once the wage adjustments decided by the Panel are implemented.

One thing we would not encourage the Panel to do is assume that, because of these tax changes, the benefits will automatically flow to workers without the Panel’s intervention. We recently reviewed OECD data to examine the relationship between corporate tax rates and wage growth. There is no reason whatsoever to believe that a policy of lowering corporate tax rates will result in higher wages. The data on corporate tax rates and wage growth for OECD countries also supports that legislating corporate tax cuts will do nothing to encourage wage growth.

Some statistical analysis of OECD data for 34 countries on corporate income tax rates and wage growth rates from 2003 to 2016 (most recent) does not indicate an association between corporate tax rates and wage growth:

- The association of corporate tax changes to wage rates was weak at best for the 26 OECD countries that could be analysed and clearly other factors are much more important

- For 15 OECD countries a fall in the corporate tax rate is associated with slower wages growth, but the effect is slight and is statistically significant in only 7 cases;
- For the other 13 OECD countries, a negative but close to zero association is shown, and only statistically significant in the case of 4 countries;
- The results are essentially just as likely to be random;
- 6 OECD countries had no change in the corporate tax rate between 2003 and 2016 and so could not be analysed; and
- The findings from this limited statistical analysis must be treated with a lot of caution but nonetheless suggest that more detailed analysis including investigation of causality would not change them dramatically.

Nineteen OECD countries had falls on trend in both tax rates and wage growth between 2003 and 2016, in some cases very small as shown in Table 1.

Table 1: Statutory corporate tax rates and real wage growth trends 2003-2016

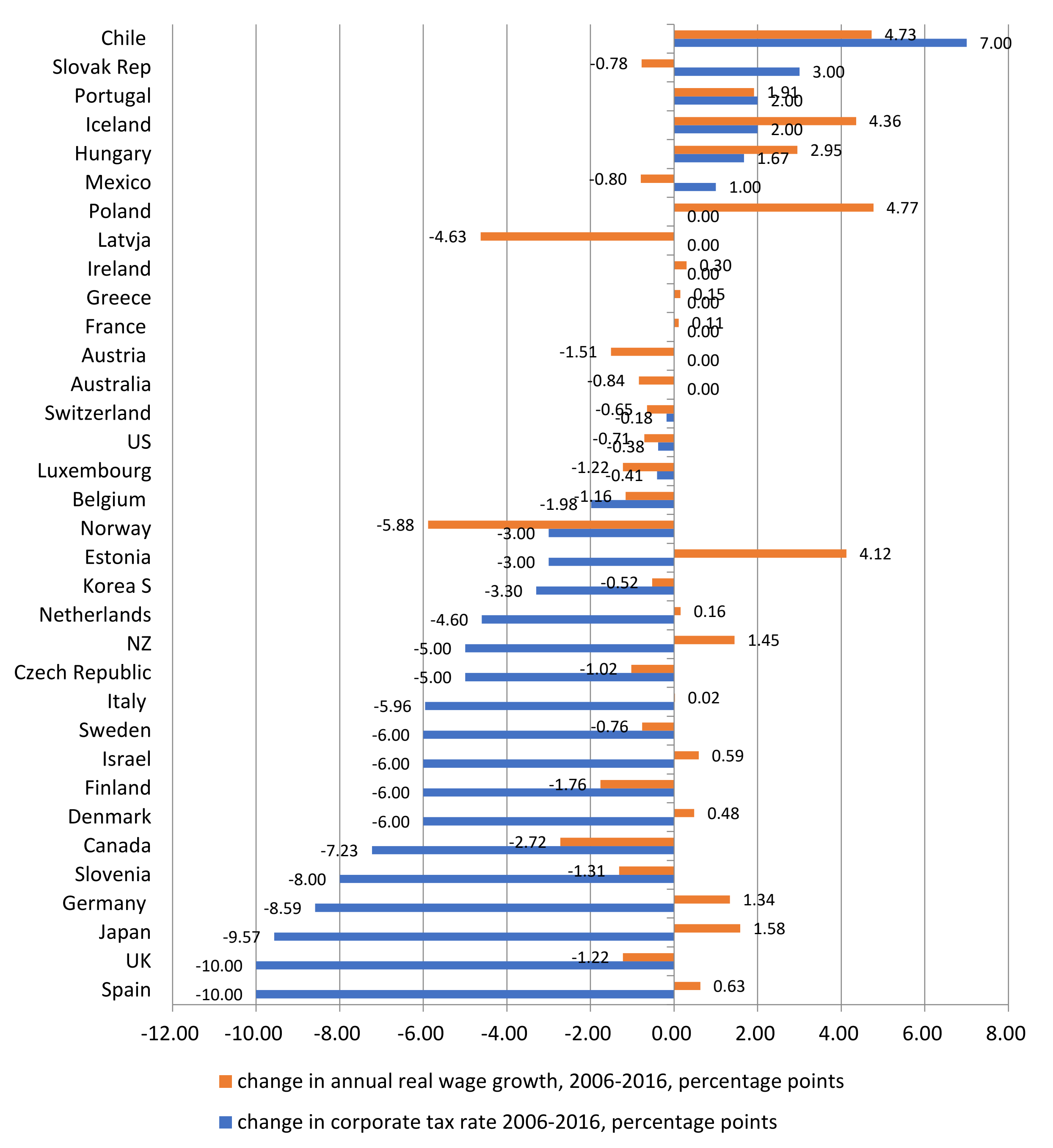
	Corporate tax rate trends	
Wage growth trends	**up**	**down**
up	Iceland,	Belgium (≈0), Germany, Luxembourg (≈0), Poland,
down	Chile, France (≈0), Hungary, Portugal (≈0), Slovak Republic,	Austria, Canada, Czech Republic, Denmark, Estonia, Finland, Italy, Japan, Korea S, Latvia, Mexico (≈0), Netherlands, New Zealand, Norway, Slovenia, Spain, Sweden, Switzerland (≈0), United Kingdom,

Source: OECD and ACTU calculations.
Notes: No change in corporate tax rate: Australia (wage growth down), Ireland (wage growth down)

On trend, bigger percentage point increases in wage growth are also positively associated with bigger increases in corporate tax rates, but again the association is very weak. This association is slightly further weakened when a whole sample estimation is done, which includes the lower income countries.

The following chart indicates the lack of relation between percentage point changes in corporate tax rates and in wage rates.

Chart: Percentage point changes in corporate tax rates, ranked, and in real wage growth, 2006-2016



Source: OECD stats, ACTU calculations.

It is evident that too many factors are far more significant than corporate tax rates in determining wage growth at the macro level, and the state of development of the country in particular. Adjustments to corporate tax rates aren't even a blunt instrument for achieving this. They have been long ago debunked, and should in no way be viewed as a substitute for minimum wage and award increases, which are far more direct and effective.

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