



# Reply Submission to the Annual Wage Review 2024-25

ACTU Submission, 2 May 2025

ACTU D. No 13/2025

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## 1. INTRODUCTION

1. New economic data and analysis released since initial submissions were filed in the 2024-25 Annual Wage Review strengthens the case for the ACTU's claim of a lift in the National Minimum Wage (NMW) and award wages of **4.5 per cent**, as this reply submission outlines.
2. Employer organisations have put forward claims to this Review for award minimum wage rises ranging between 2 and 2.5 per cent. Considering current levels of inflation, many of them would either result in a real pay cut for award-reliant employees or make no meaningful progress in reversing the recent decline in real award wages – a task the Panel has previously acknowledged lies before it. Considering instead inflation forecasts for the year to June 2026 – the rise in prices that will effectively erode the increase set by this Review – all employer claims will cut the pay of award-reliant employees in real terms. As this reply submission outlines, there is no credible argument under the Modern Award Objective or the Minimum Wage Objective for such a harsh outcome, especially for low paid employees.
3. As the Panel stated in last year's decision, "Modern award minimum wages remain, in real terms, lower than they were five years ago"<sup>1</sup>, but that it "did not consider that the current economic circumstances provide a basis for a level of wage increase significantly above the CPI" at the time.<sup>2</sup> New economic data released since initial submissions were due in this Review only strengthens the case that the economic circumstances are now right. Part 2 of this submission firstly considers the March labour force figures which indicate the ongoing strength and resilience in the labour market. Secondly, this labour market performance has been maintained as inflation on both the trimmed mean and headline measures is now within the RBA's target band of between 2 and 3 per cent for the year to March 2025.
4. Part 3 of this submission responds to common issues raised by employer organisations. They nearly all raise concerns around Australia's recent productivity performance, but generally do so only via the aggregate measure of GDP per hour worked. As the ACTU's Initial Submission outlines, this ignores the important sectoral story underpinning productivity trends, especially

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<sup>1</sup> [2024] FWCFB 3500 [8]

<sup>2</sup> [2024] FWCFB 3500 [156]

within the non-commodity market sector, which is highly relevant to this Review. The non-commodity market sector averaged 1.5 per cent annual growth over 2024, slightly above the average year on year growth of 1.1 per cent in the ten years before the pandemic and around the 1.2 per cent trend growth assumed by Treasury, suggesting this segment of the economy is growing around a long run average, if not a little above. As a result, there should be no doubt the economy can certainly support the ACTU's claim.

5. Many parties raised concerns around the Trump administration's trade policy and its possible economic impact on Australia. We submit that this should not have a significant bearing on the Panel's deliberations this year. It is too early to understand exactly where trade policy will settle, and what its impact will be, with both Treasury and the RBA earlier predicting that any impact would likely be "modest". Further, Australia is well positioned to navigate what could be a challenging period, and Award-reliant industries are by and large not large exporters, limiting any direct exposure.
  
6. Employer organisations also raise concerns around declining profits and a range of related indicators. Such concerns are usually expressed without the full context: while profits and related measures have generally moderated recently, they are still elevated, and compare favourably to pre-pandemic levels. More specifically:
  - a. The implied profit margin of 7.3 percent in December 2024 is above the level at December 2019 (7.1 per cent) and the 10 year pre-pandemic average (7.2 per cent);
  - b. The wage to income ratio was 19.3 per cent as of December 2024, below the 20.1 per cent in December 2019.
  
7. Employer organisations also advance various claims around, among others, the risk of a wage-price spiral, weakness in the labour market, the level of insolvencies, collective bargaining, the gender pay gap, and the disemployment effect of wage rises. In each case, little or no new evidenced is advanced in support of what are perennial claims which the Panel has consistently dismissed, ignored or downplayed, and there are no grounds this time for the Panel to change its approach.

8. In Part 4 of this submission the ACTU considers and responds to the more specific claims of employer organisations.
  
9. Finally, in Part 5 of this submission the ACTU provides further reflections on the work to address gender undervaluation, particularly in light of the recent decision in the *Gender-based undervaluation – priority awards review*.<sup>3</sup> While welcoming the findings of the review that gender-based undervaluation has occurred, and the determination and proposed provisional views to address it, we concur with the concerns raised by the ASU in relation to the proposed classification structure to be adopted in the SCHADS Award in its correspondence to the Commission dated 23 April 2025 and support their submissions to address such concerns. Finally, we provide general observations about the implications of the decision, particularly with regard to future proceedings, building on views put in our Initial Submission.

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<sup>3</sup> [\[2025\] FWCFB 74](#)

## 2. NEW DATA

### 2.1 The Labour Market

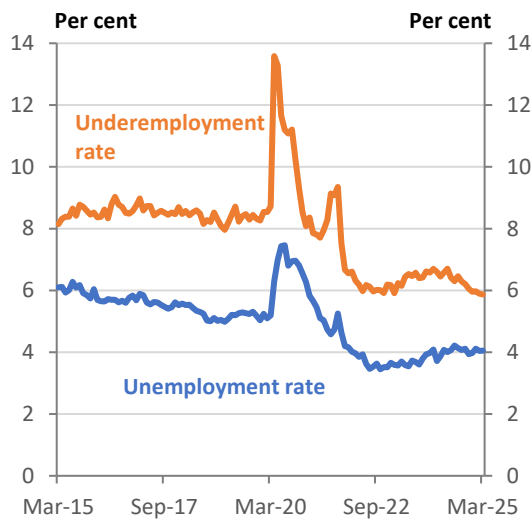
10. The labour market continued to show strength in March 2025, with employment growing, the unemployment and underemployment rates remaining broadly steady and participation picking up.
11. The labour market has held in a stable pattern of continuing employment growth and a steady and low unemployment rate, undisturbed by the tightening of monetary policy, and increases in wages arising from the Panel's Annual Wage Reviews, all while both headline and core inflation have returned steadily to the Reserve Bank of Australia's target band. It is the virtue of patient macroeconomic management and good institutions that Australia has managed these outcomes when peer economies have seen unemployment rates increase while inflation declined.
12. Around 32,200 jobs were added in March 2025, reversing more than half the surprise loss of around 57,500 jobs in February, with 15,000 full-time jobs added in the third month of 2025 and around 17,200 part-time jobs added in March. This saw employment grow by 2.2 per cent over the year to March 2025, a slightly higher annual growth rate than the 20-year pre-pandemic average of 2.0 per cent (according to the ABS).<sup>4</sup> In March the labour force expanded by around 35,300 persons, implying that almost every person who joined the labour force in March was able to secure employment of some sort, indicating ongoing and overall health in the labour market after the wobble in employment in February.
13. The unemployment rate increased by 0.01 percentage points in March, taking it to a rounded 4.1 per cent (or 4.05 per cent at two decimal places), up from 4.0 per cent (or 4.04 per cent at two decimal places) in February. The unemployment rate has held around 4.0 per cent since December 2023, with March marking the sixteenth month of the unemployment rate staying around this level (see Figure 1).

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<sup>4</sup> [Unemployment rate at 4.1% in March | Australian Bureau of Statistics](#)

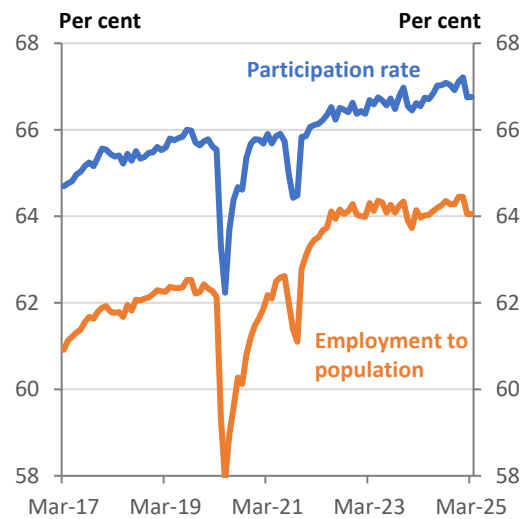
14. The underemployment rate held steady at 5.9 per cent in March, unchanged from February 2025. The underemployment rate is down 0.6 percentage points from the recent peak in August 2024, indicating workers are more able to get the hours they want to work amidst solid labour market conditions.
  
15. That notwithstanding, hours worked declined by 0.3 per cent in March, although were still 0.7 per cent higher when compared to March 2024. The ABS attributed the decline in hours worked to a ‘higher than usual number of people report[ing] working reduced hours this month due to bad weather, coinciding with ex-Tropical Cyclone Alfred and other major weather events in New South Wales and Queensland’. While extreme weather events may be troubling in a general sense, they are not indicative of a deterioration in labour market conditions and should not worry the Panel for the purposes of Review deliberations.
  
16. The participation rate rose to 66.8 per cent in March, up from 66.7 per cent in February and a whisker away from the record high of 67.2 per cent observed in January 2025. The employment to population ratio also remained elevated at 64.1 per cent in March, unchanged from a month earlier (see Figure 2). Within this, the male participation rate rose to 70.9 per cent in March, up from 70.8 per cent in February, while the female participation rate declined slightly to 62.7 per cent, down from 62.8 per cent in February but not much lower than the 63.4 per cent record high seen in January 2025.

Figure 1: Labour underutilisation rates



Source: ABS Labour Force, Australia & ACTU calculations

Figure 2: Measures of labour supply



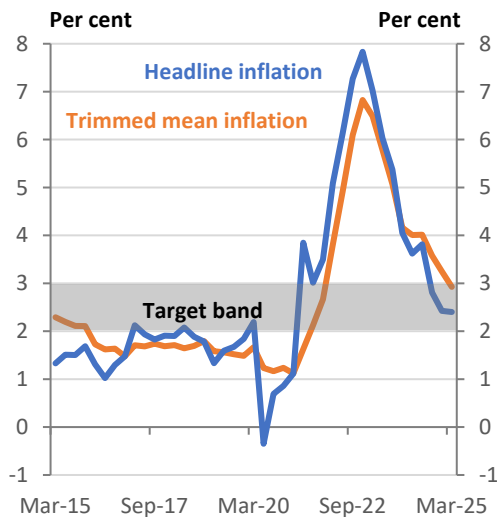
17. The March Labour force figures indicate ongoing strength and resilience in labour market outcomes, despite relatively tight monetary policy and on-going cost of living pressures on households. There is no evidence of dis-employment effects arising from the Panel’s decisions in recent Reviews. Instead, patient macroeconomic management has meant that navigating the narrow path to a soft landing remains in prospect.

## 2.2 Consumer Price Index

18. Headline inflation growth held steady around the mid-point of the RBA’s target band in March 2025, increasing 2.4 per cent over the year, in line with the 2.4 per cent increase seen over the year to December 2024 (although March 2025 saw a slight decline relative to December of 0.02 percentage points at two decimal places).

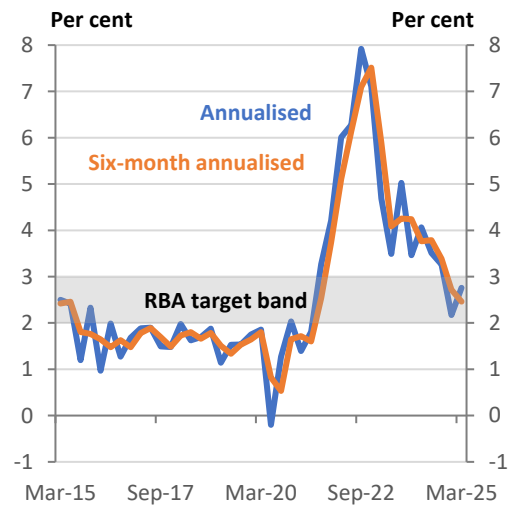
19. Importantly, trimmed mean inflation, an important gauge of underlying inflation momentum, dropped back into the RBA’s target band for the first time since December 2021, rising 2.9 per cent over the year to March 2025 (see Figure 3).

Figure 3: Annual headline and trimmed mean inflation growth



Source: Consumer Price Index, Australia & ACTU calculations

Figure 4: Analytical measures of trimmed mean inflation growth



20. Analytical measures of trimmed mean, which were important in the February 2025 decision to lower interest rates, also indicate the pulse of underlying inflation is well within the RBA’s target

band. On an annualised basis, trimmed mean inflation increased by 2.8 per cent in March 2025, while on a six-month annualised basis, trimmed mean inflation was right in the middle of the RBA's target band, seeing a 2.5 per cent increase in March 2025.

21. In line with Treasury expectations at the 2025-26 Budget that inflation would be sustainably within the target band by mid-2025, Commonwealth Bank analysis of the Consumer Price Index publication noted that,
  - a. '...the ongoing disinflation in market services and moderation in housing cost inflation in today's report suggest we have seen a sustainable return of inflation to target. With this report, the six-month annualised rate of trimmed mean CPI has dropped to 2.5 [per cent] and is sitting at the mid-point of the RBA's target band'.<sup>5</sup>
  
22. The March quarter inflation outcomes indicate that the disinflationary process is well in train and nearing completion. A separate note published by the Commonwealth Bank alongside the analysis of inflation noted that the 'inflation data today is essentially in line with the RBA's forecasts and therefore the Board will consider the prices side of the economy evolving in line with expectations'.<sup>6</sup>
  
23. The Panel should be reassured that good progress has been made on inflation and there are clear signs the disinflationary process is nearing completion. There is very little reason to suppose that an increase in minimum and award wages of 4.5 per cent will disturb the disinflationary process, especially now core inflation has returned to the target band. The ACTU reiterates that, as highlighted by Jericho, 'even a substantial increase in wages for Award-covered workers would have no significant impact on consumer price inflation, even if the labour costs associated with that increase were fully passed on in higher prices'.<sup>7</sup>

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<sup>5</sup> CBA, [Economic Insights](#) 30 April 2025

<sup>6</sup> CBA "[Underlying inflation supports a 25bp rate cut in May, but it's not a done deal](#)", 30 April 2025

<sup>7</sup> Greg Jericho, 'The continuing irrelevance of minimum wages to future inflation', Centre for Future Work, April 2025

### 3. COMMON ISSUES RAISED IN SUBMISSIONS

#### 3.1 Productivity

24. A range of employer organisations have referred to recent outcomes in aggregate GDP per hour working as a mitigating factor against an adequate increase in minimum and award wages. Ai Group argued that a ‘return to trend productivity...has clearly yet to occur’ and that therefore ‘it would be premature to increase award wages by an amount significantly above inflation’.<sup>8</sup> Similarly, ACCI argued that given ‘the persistent weakness in labour productivity and that the downward trajectory is forecast to continue, a substantial increase in minimum and modern award wages would be unjustified’.<sup>9</sup> ABI & Business NSW argued that ‘the latest productivity level was still...below its peak, making it difficult for employers to justify wage increases’.<sup>10</sup>
25. In taking on faith that GDP per hour worked is the appropriate measure, the representatives of the employers have failed to engage with its conceptual problems. The ACTU canvassed the issues with using a measure that includes the non-market sector in paragraph [127] of our initial submission. In brief, including the non-market sector - which has output subsidised by the Government, does not typically use market prices, and is challenging to measure – in an aggregated measure does not adequately reflect underlying productivity trends in the economy, given these difficulties.
26. Further, a recent research note by Toner and Richardson explores these issues and highlights the difficulties of adding market and non-market sectors together into one summary statistic. noting that:
- ‘Often the value of output [in the non-market sector] is simply measured as the value of the inputs which means productivity over time will appear to have near zero growth. So, for much of the public sector costs is used as a measure of output which inevitably biases productivity growth towards zero.’<sup>11</sup>

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<sup>8</sup> Ai Group, p. 31

<sup>9</sup> ACCI, para. 67, p. 15

<sup>10</sup> Australian Business Industrial and Business NSW, p. 12

<sup>11</sup> Toner, P & D Richardson, Productivity: A short note, Progress in Political Economy, April 2025, p. 11 – [available](#)

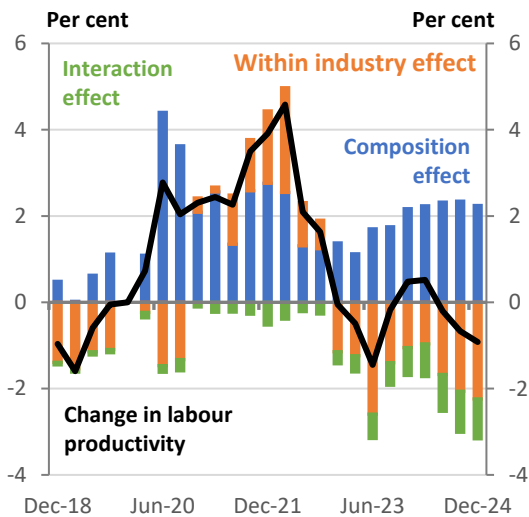
27. Given the conceptual issues of using the GDP per hour summary statistic, it is not enough to cite these figures and declare that a reasonable wage rise is therefore unsustainable.
28. The employers have also failed to engage with the underlying drivers of recent productivity outcomes. The ACTU undertook detailed analysis in paragraphs [110] to [124] of our initial submission, wherein it was highlighted that Mining and Healthcare and social assistance have acted as the main drag on productivity growth, and the more relevant segment of the economy for the Review – the non-commodity market sector – has actually seen modest growth since the pandemic and over the last few years.
29. In support of this position, the ACTU cited analysis by Westpac, which stressed that ‘the non-market and mining sectors continue to weigh on aggregate productivity outcomes’. Westpac went on to note that as ‘we have been saying, cost pressures in these sectors are less important for inflation outcomes – non-market output is highly subsidised, and a large share of mining output is exported.’<sup>12</sup>
30. There is another way of examining underlying movements in productivity. A recent labour market update published by the University of Melbourne’s Professor Jeff Borland decomposed changes in productivity into within-industry effects, composition effects and effects of the interaction between the two using a shift-share approach.<sup>13</sup> The within-industry effect measures productivity changes within individual industries and shows how much productivity growth is due to improvements within industries on net – a positive number indicates industries are on net becoming more efficient and a negative number indicates that industries are on net become less efficient and less productive. The composition effect, or inter-industry effect, captures changes in the relative growth in hours worked between different industries. Here, a positive outcome indicates that on net more productive industries are seeing an increasing share in hours worked, while a negative outcome means less productive industries are seeing an increase in the share of hours worked.

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<sup>12</sup> The ACTU would like to thank Professor Jeff Borland for his generosity in assisting our team with this analysis.

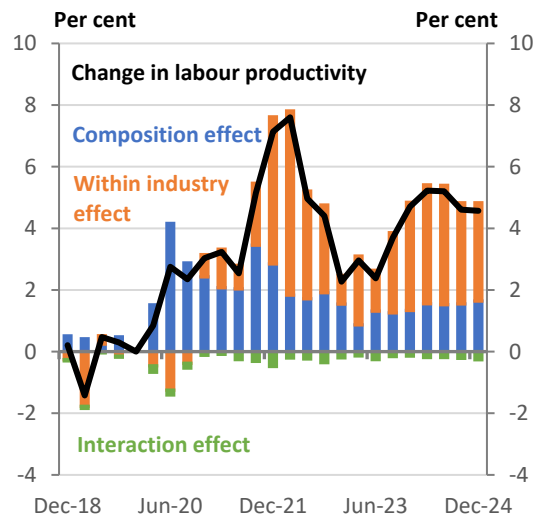
31. The decomposition is reproduced below in Figure 5, with reference to changes since December 2019. Consistent with Borland’s results, the aggregate shows that it is ‘changes in within-industry labour productivity that primarily accounted for the big drop in labour productivity between 2022 and 2023’.<sup>14</sup> Consistent with the ACTU’s analysis in the initial submission, the overwhelming driver of industries becoming less efficient is declining efficiency in the mining sector, with a smaller but still notable contribution from Healthcare and social assistance, though the latter’s contribution is only 18.8 per cent the size of the drag from mining. While the mining industry becoming less efficient – due to high prices incentivising the mining of more challenging deposits, among other reasons – is not ideal from an aggregate point of view, it is not a relevant consideration for the Panel because the Review does not materially affect the mining sector and the sector itself is relatively separate from the rest of the economy, as canvassed in paragraphs [115] and [116] of the ACTU’s initial submission.

Figure 5: Sources of changes in labour productivity, Dec-19 to present



Source: ABS National Accounts: Income, Expenditure and Product, ABS Labour Account, Jeff Borland (2024) & ACTU calculations

Figure 6: Changes in non-commodity market GVA per hour worked, Dec-19 to present



32. A further exploration of the non-commodity market sector using this methodology is shown in Figure 6. The results indicate that within this segment of the economy, in net terms, industries are becoming more efficient and the share of hours worked in more productive industries is

<sup>14</sup> Jeff Borland, Labour market snapshot #106: Our latest productivity puzzle, November 2024 – [available](#)

increasing. This reinforces the conclusions arrived at in the ACTU's Initial Submission that productivity in the sector of the economy most relevant to the Panel's decisions has increased modestly and the benefits from high levels of investment are well in train. It is also worth noting that the non-commodity market sector averaged 1.5 per cent annual growth over 2024, slightly above the average of 1.1 per cent year on year growth in the ten years before the pandemic and around the 1.2 per cent trend growth assumed by Treasury, suggesting this segment of the economy is growing around a long-run average, if not a little above. The analysis should also strengthen the case that caution of the sort expressed in Panel's most recent decision is not required, as this sector of the economy is becoming more efficient, and the more productive industries are seeing increases in hours worked. Coupled with investment remaining at high levels and the capital stock having caught up to employment gains in the market sector, the Panel should be comfortable increasing wages by the amount argued for in the ACTU's initial submission.

### 3.2 Inflation

33. Employer groups made a range of claims about inflation and what relationship it should bear to the increase in wages in this Review. One of the charges raised by employers related to concern around returning inflation to the target band. In its submission, COSBOA asserted that an 'increase outside of the RBA's inflation target range would be wholly unjustified and would in and of itself lead to increased inflationary pressures within the economy'.<sup>15</sup> Relatedly, ACCI's submission claimed an 'increase in minimum and modern award wages above 2.5 per cent will make it very challenging to maintain inflation in the target range'.<sup>16</sup> ARCA's submission conjectures that a '2.0 [per cent] increase avoids excessive wage-driven inflation in certain segments of the economy while ensuring fair compensation'.<sup>17</sup> ARCA goes furthest of the employers by suggesting that the minimum wage 'should not outpace future inflation under any circumstance'.<sup>18</sup>

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<sup>15</sup> COSBOA, para. 3.1.1.(b), p. 2

<sup>16</sup> ACCI, para. 6, p. 3

<sup>17</sup> ARCA, para. 4.5, p. 8

<sup>18</sup> ARCA, para. 4.1, p. 7

34. COSBOA's assertion is inconsistent with recent experience. In each of the 2021-22, 2022-23 and 2023-24 decisions, increases in both the minimum and award wage were above the RBA's target band. During that time, inflation managed to rise to a peak of 7.8 per cent – due to COVID-19 related supply shocks and Russia's invasion of Ukraine, both propagated and amplified by firms engaging in price gouging and wholly unrelated to minimum and award wage increases – and then decline to 2.4 per cent on a headline basis and 2.9 per cent on a trimmed mean basis as of March 2025, both measures falling within the target band. To assert that wage increases outside the target band would of themselves lead to increased inflationary pressures is not a credible claim, given such increases manifestly have not led to that outcome.
35. ARCA's suggested wage increase is less than the RBA's February 2025 *Statement on Monetary Policy* forecast growth rate for headline inflation for June 2025 of 2.4 per cent.<sup>19</sup> At paragraph [148] of the Panel's decision in the 2023-24 Review, the Panel took ACCI to task for not giving sufficient weight to relative living standards and the needs of the low paid or the maintenance of a safety net of fair minimum wages.<sup>20</sup> ARCA's suggestion falls foul of the same issues while also demanding a real wage cut of at least 0.4 percentage points in this Review. ARCA's claim goes further, suggesting that real wages for award and minimum wage workers should not increase 'under any circumstance'. It is absurd to suggest that the real wages of the lowest paid workers should not (or never) increase, and ARCA's claim should not be taken seriously.
36. Relatedly, both ACCI and ARCA's submissions suggest that wage increases of around 2 to 2½ per cent may lead to difficulties with keeping inflation in the target range.
37. In a 2018 speech to the Australian Industry Group, then-Governor of the Reserve Bank of Australia, Philip Lowe, bemoaned that 'if wages were to continue to around its current rate for an extended period, it is unlikely that the rate of inflation would average around the midpoint of the inflation target in the period ahead'.<sup>21</sup>

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<sup>19</sup> [Outlook | Statement on Monetary Policy – February 2025 | RBA](#)

<sup>20</sup> [2024] FWCFB 3500 at [148].

<sup>21</sup> [Productivity, Wages and Prosperity | Speeches | RBA](#)

38. By the end of 2018, wages had grown no more than 2.3 per cent, reaching that figure over the year to September and December 2018, and core inflation had not been within the target band since 2016. Relatedly, the level of productivity over 2016 to 2018 was around where it is currently on a GDP per hour worked basis, although currently the most relevant segment of the economy to domestic price pressures is seeing a modest uptick in output per hour worked. To the extent there could be a difficulty in maintaining inflation with the target band on the basis of a 2 to 2½ per cent wage increase, recent historical experience suggests the difficulty would be lifting inflation back into the band from below it. The risk of wage rises this low pushing inflation above the target band is fanciful and ACCI and ARCA’s concern is misplaced.
39. Other employers again and without reason raised the prospect of a wage-price spiral. ABI New South Wales and Business Industrial indicated in their submission that if ‘real wage growth (i.e., the increase in wages net of inflation) exceeds labour productivity growth, the cost of production becomes higher and businesses are likely to raise prices in response. This would then lead to higher inflation or even the unwelcome wage-price spiral.’<sup>22</sup> Similarly, the Housing Industry Association conjectured that an ‘increase in the minimum wage must be in line with productivity and economic growth’ because the ‘risk of a wage-price spiral similar to the 1970s and 1980s cannot be dismissed.’<sup>23</sup>
40. Employer organisations have repeatedly, and wrongly, raised the prospect or risk of a wage price spiral for several years – in the face of all evidence to contrary. The absurdity of suggesting a wage-price spiral of the style occurring in the 1970s was dealt with at length in the ACTU’s reply submission to the 2023-24 Annual Wage Review, with nothing having changed in the last twelve months (or indeed 50 years) that would change the validity and longevity of that analysis.<sup>24</sup> With inflation having returned to the target band on both a headline and trimmed mean basis as of the March quarter 2025 and looking likely to remain there on a sustained basis, it is high time to leave claims of wage-price spirals in the 1970s.

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<sup>22</sup> Australia Business Industrial and Business NSW, p. 16

<sup>23</sup> HIA, p. 6

<sup>24</sup> ACTU submission in reply to the 2023-24 Annual Wage Review, para. 59 – 67, pp. 17-18 – [available](#)

41. Further, Treasury Secretary Steven Kennedy last mentioned a wage-price spiral in his Opening Statement to the Economics Legislation Committee in February 2024, where he noted that ‘as we outlined some time ago, there has been no evidence of a wage price spiral emerging and no evidence of a change in inflation expectations.’<sup>25</sup>
42. Secretary Kennedy did not comment on wage price spirals in either the November 2024 opening statement or the February 2025 opening statement, an indication that the issue has passed from the minds of credible economic thinkers. The Panel should take signal from the Treasury no longer considering a wage price spiral worthy of mention and not heed the employer group’s worried speculation about a non-issue, especially now inflation has returned to the RBA’s target band on a headline and underlying basis.

### 3.3 Tariffs, Trade and Global Uncertainty

43. Both ACCI and AiG raised the issue of economic uncertainty arising from the United States administration imposing tariffs on its trading partners, including Australia. ACCI indicated that the administration’s tariffs ‘are expected to impact directly on some Australian sectors, such as steel and aluminium, and may be expanded to agricultural products, such as beef’, going on to say that ‘tariffs will also impact on our Asian trading partners, particularly China’.<sup>26</sup> Ai Group also raised tariffs and the way they will affect economic performance ‘in complex ways’, suggesting that ‘the balance of these risks is to the downside, with weaker-than-forecast performance possible depending on how trade flows adjust, [and how] global factors are transmitted to the Australian economy’.<sup>27</sup>
44. The issue is particularly salient with the International Monetary Fund’s most recent *World Economic Outlook* highlighting that the announcement of tariffs on 2 April 2025 ‘on its own is a major negative shock to growth’, going on to say that the ‘unpredictability with which these measures have been unfolding also has a negative impact on economic activity and the outlook’.<sup>28</sup>

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<sup>25</sup> [Opening statement to the Economics Legislation Committee | Treasury.gov.au](#)

<sup>26</sup> ACCI, para. 32, p. 8

<sup>27</sup> Ai Group, p. 15

<sup>28</sup> [World Economic Outlook, April 2025: A Critical Juncture amid Policy Shifts](#), executive summary, p. 1

45. The tariff policy has led the IMF to downgrade global growth relative to the IMF's January 2025 update, as well as Australia's growth projections for 2025 and 2026, which went from 2.1 per cent for 2025 in the January edition of the *Outlook* to 1.6 per cent for the same calendar year in the most recent publication; and from 2.2 per cent in the January publication for 2026 to 2.1 per cent for the same calendar year in the April edition of the *Outlook*. It is worth noting, given the discussion to follow, that the IMF's most recent forecasts for 2025 and 2026 are not that dissimilar to the 2024-25 Budget forecasts of 1½ per cent real GDP growth in 2024-25, 2¼ per cent growth for 2025-26 and 2½ per cent growth for 2026-27.
46. While the US administration's actions in respect of trade restrictions do increase uncertainty and are cause for a degree of concern, it is important to avoid an alarmist response. As noted by Governor Bullock:
- 'It's going to take some time to see how all of this plays out. And the added unpredictability means that we need to be patient as we work through how all of this could affect demand and supply globally.'<sup>29</sup>
47. Lending support to the importance of giving time for things to play out, the US administration announced on 9 April 2025 that there would be a 90-day pause on tariffs above 10 per cent for most countries (except China) while countries engage in negotiations over trade.<sup>30</sup> The outcome lends the tariff announcements the veneer of an aggressive negotiation tactic and it cannot yet be ruled out that for trading partners other than China this is the intended outcome.
48. In the 2025-26 Budget, Treasury modelled a stylised scenario on the imposition of a 25 per cent tariff by the US on all imports of durable manufactured goods. Treasury found that the overall total impact – both direct and indirect – on the Australian economy is 'expected to be modest'.<sup>31</sup> However, the situation is complicated by China imposing retaliatory tariffs on the US, escalating the trade war. Nevertheless, Treasury notes in its analysis that Australian firms have also demonstrated that they are very adept at finding alternative markets for Australian exports' and that a depreciation of the exchange rate may offset some of the increased expense of purchasing

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<sup>29</sup> [Transcript of Question & Answer Session on 10 April 2025 | Speeches | RBA](#)

<sup>30</sup> [Full list of Trump's tariffs: a country-by-country look after the 90-day pause | Trump tariffs | The Guardian](#)

<sup>31</sup> [Budget Paper No. 1](#)

Australia's exports. Further, Treasury notes in the Budget that 'the Australian economy is one of the best placed to navigate this period of heightened uncertainty'.

49. Further, a 'model-based scenario' that assumed that global tariffs announced as of 1 April 2025 presented to the Reserve Bank Board indicated that 'the effects on GDP growth and inflation in Australia could be relatively modest'. The Board minutes noted that this 'reflected Australia's limited direct trade exposure to the United States, additional policy support in China and Australia's flexible exchange rate'.<sup>32</sup>
50. In considering the potential impact of tariffs, given the shifting nature of policy; volatility in the decision-making of the current US administration; and uncertainty around forecasting outcomes on that basis, the ACTU encourages the Panel to continue its approach to forecasts and actual data outcomes as stated in the 2012-13 Annual Wage Review that to 'the extent that forecast economic indicators do not ultimately reflect the actual performance of the economy, this forms part of our broad assessment and our consideration of the actual indicators in subsequent Reviews'.<sup>33</sup>
51. The Australian economy is well positioned to navigate what will be a challenging period ahead for the global economy and has in the past demonstrated a good degree of flexibility that will assist in the economy adapting during the current difficult period. It is also worth noting that Award reliant industries are by and large not exporters, with inbound tourism the only notable contributor to income from exports in the Retail, Accommodation and food services and Arts and recreational services industries, itself a small share of exports and total GDP.
52. At a time of increased uncertainty, making rash decisions or retreating into excessive caution is an unhelpful response, itself introducing additional volatility and uncertainty, and the Panel should be mindful of avoiding either of these outcomes in its deliberations and that it does not react in an unhelpful way to the external forces that are currently playing out.

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<sup>32</sup> [1 April 2025 | Minutes of the Monetary Policy Board Meeting | RBA](#)

<sup>33</sup> [2013] FWCFB 4000 at [8]; Reaffirmed in [2022] FWCFB 3500 at [137].

### 3.4 Profits and profitability

53. In its submission, ACCI argues that ‘declining profits are particularly acute in award-reliant industries and the Expert Panel must factor in that wages growth has been outpacing profit growth’.<sup>34</sup>
54. The lack of context around the claim makes it misleading. While profits may have declined in some award-reliant industries, the level of profits is still elevated and well above pre-pandemic levels. As shown in Figures 170 to 174 in the ACTU’s initial submission, in December 2024 the level of profits ticked up in every award-reliant industry except Retail trade. However, these charts also show the volatility of profits quarter to quarter.
55. Another way of distilling business profitability is the implied profit margin, that being business profits as a share of income from sales. In the award-reliant industries, the implied profit margin of 7.3 per cent in December 2024 is slightly above the December 2019 level of 7.1 per cent and slightly above the 10-year pre-pandemic average of 7.2 per cent (see Figure 7). So, despite the easing off in the profit margin over the last year, it still remains around a long-term average, suggesting a return to relative stability and no meaningful disturbance of business financial viability over the last year.
56. Relatedly, ACCI raises profits growing more slowly than wages as an issue of concern. It is unclear precisely the nature of the problem, although perhaps one could infer that ACCI would prefer the profit share to increase indefinitely because they, in turn, would prefer profits to outpace wages indefinitely (or at least, presumably, until it results in economic ruin from a collapse in consumer demand). The salient issue instead is whether wages are growing so rapidly as to put business viability in question. The wage to income ratio in the award-reliant industries has increased since June 2023, up from 18.8 per cent to 19.3 per cent as of December 2024. However, this is still below the 20.1 per cent seen in December 2019 (see Figure 8). The recent increase in the wage to income ratio should instead therefore be viewed as a movement towards a longer-term average, rather than a cause for alarm.

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<sup>34</sup> ACCI, p. 5

Figure 77: Profit to income ratio

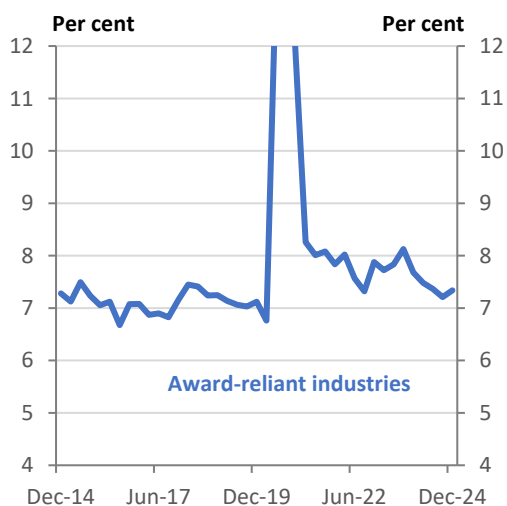
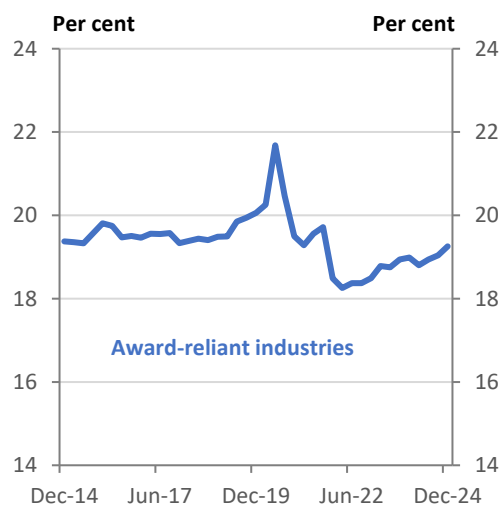


Figure 88: Wage to income ratio



Source: ABS Business Indicators & ACTU calculations

57. Ai Group make a series of related claims in its submission, commenting that ‘wage pressures have remained significant, putting downward pressure on operating margins and profitability’, that growth in wages ‘were significantly above growth in sales income, putting downward pressure on margins and profitability’ and that ‘industries with declines in operating margins should be considered at particular risk of disemployment effects’ because ‘lower margins imply a falling rate of profit, which acts as a disincentive to new investment and thus rates of employment generation’.<sup>35</sup>
58. It is true that the implied profit margin – the ratio of gross operating profit to income – for the non-mining segment of the economy declined from 11.1 per cent at the beginning of 2024 to 10.7 per cent at the end of 2024, just as it is true that the implied profit margin rose from 10.9 per cent in December 2023 to 11.1 per cent in March 2024, and the 10.7 per cent recorded in December 2024 was up from 10.4 per cent in September 2024. That said, the implied profit margin is still slightly above the 10-year pre-pandemic average of 10.3 per cent (see Figure 9 ).<sup>36</sup>

<sup>35</sup> Ai Group, p. 5 & pp. 22-23

<sup>36</sup> Disaggregating further and removing the Finance and insurance industry makes no material change to the implied profit margin, adding at most 0.1 percentage point in the period from 2021 onwards.

Figure 9 9: Implied profit margins

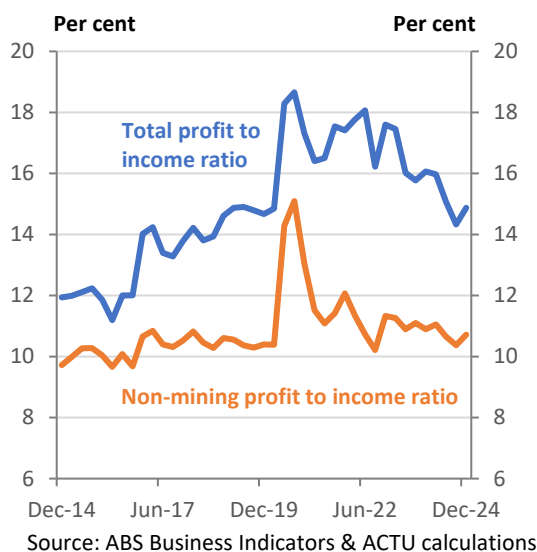
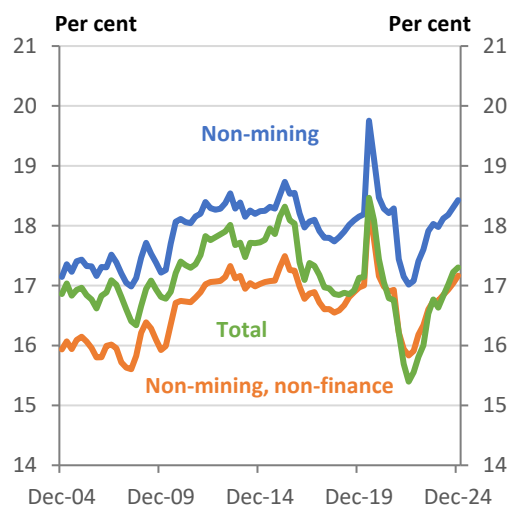


Figure 10 10: Wage to income ratio



59. On the question of wages growing more rapidly than sales income, Ai Group’s claim obscures as much as it reveals. The wage to income ratio in the non-mining sector has risen since the trough in mid-2022, reaching 18.4 per cent as of December 2024. But taking a longer view, the recovery in the wage to income ratio appears more like an adjustment to a longer-term average than excessive pressure in the near-term. During the period from late 2016 through to 2022, the wage-to-income ratio in the non-mining sector averaged around 18.1 per cent, and it was around this time that annual wage growth had bottomed out and held at persistently low levels (reaching 1.9 per cent over the year to September 2019 and holding in the low two per cent range until June 2022). But before this period, when wages were growing at a healthier 2½ to 3½ per cent range, the wage to income ratio averaged around 18.3 per cent – not that different to where it reached in the last quarter of 2024 (see Figure 10 ).
60. Further, in late 2016, when wages growth had slowed down to very low levels, the implied profit margin ticked up to average around 10.5 per cent, having averaged around 10.1 per cent between early 2011 (around the time the lingering uncertainty of the GFC was fading) and mid-2016.
61. Upon taking office, the Albanese Government set about restoring wage growth after a long period of stagnation under the Morrison Government – one that coincided with a trough in the wage to income ratio and an uptick in the implied profit margin. As Treasurer Chalmers put it in the

Ministerial Statement on the Economy, 'Australia's workers now have a government with an economic plan to boost wages, not deliberately undermine them'.<sup>37</sup> The Albanese Government largely achieved this goal, and the shifts in wage to income ratios are the outcome of that deliberate policy choice.

62. In important respects, the slightly faster growth in wages compared to sales income represents a correction following a period of stagnation in wages – and a restoration of the wages to income ratio to a more normal level. Taking that as given, Ai Group's complaint that profit to income ratios have declined slightly to be around a level still above where it was when the wage to income ratio was low because of slow wage growth lacks analytical relevance – especially as the Government set out to get wages moving again so workers could have a fair share of national output.
63. Ai Group's claims around disincentivising investment and employment are also stretching credulity in that, as noted in the ACTU's initial submission, the level of (non-mining) investment is quite elevated and is expected to remain at a high level (see paragraphs [89] to [103] of the ACTU's initial submission) and the labour market has continued to see employment gains and high vacancies in the non-commodity market sector.
64. The Panel should not ignore that public policy has set out to restore wage growth, nor should it ignore that profit margins, though they have declined, are still relatively elevated and in a healthy position relative to pre-pandemic norms. The Panel should be mindful that the labour market remains healthy, labour demand strong and employment growth strong. There is no basis for Ai Group's warnings around the consequences of changes in the implied profit margin, and such speculative warnings should not be heeded.

### **3.5 Level of Insolvencies / Business Exits**

65. Both ACCI and COSBOA in their Initial Submissions have sought to draw the Panel's attention to the level of insolvencies in Australia, in particular that:

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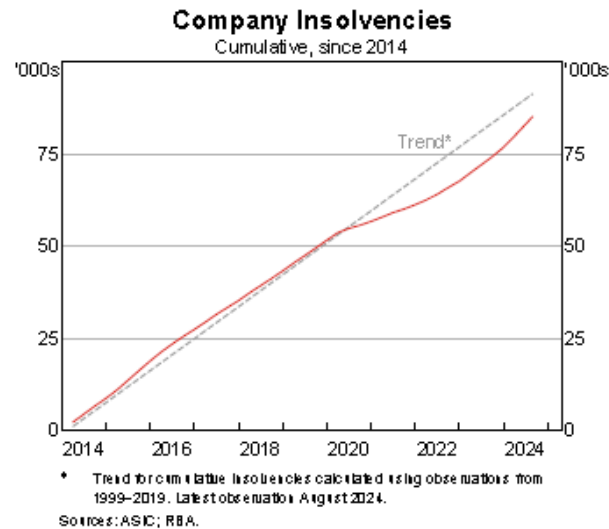
<sup>37</sup> [Ministerial Statement on the Economy | Treasury Ministers](#)

- a. There has been a strong rise in business insolvencies in the past year “with a record 14,670 businesses failing”.<sup>38</sup>
- b. This level of insolvencies is far greater than the pre-COVID 10-year average of 10,713.<sup>39</sup>
- c. Bankruptcies in the small business sector increased by 18% in the 2024 calendar year.<sup>40</sup>

66. The Reserve Bank recently reviewed the rise in company insolvencies in its Financial Stability Review 2025. The RBA’s review usefully contextualises by observing: <sup>41</sup>

- a. While the share of companies entering insolvency has risen sharply over the past couple of years, on a cumulative basis it remains slightly *below* its pre-pandemic trend. The trend is shown in Figure 11 below.<sup>42</sup>

Figure 11 11: Company insolvencies, 2014-2024



- b. Pandemic support measures very significantly reduced the number of insolvencies during the pandemic. Those measures included income support, changes to the insolvency framework, and flexibility of tax payments and lodgements. In short, the measures, most

<sup>38</sup> ACCI, p. 2.

<sup>39</sup> Ibid.

<sup>40</sup> COSBOA, para 3.2.1.

<sup>41</sup> [4.3 Focus Topic: The Recent Increase in Company Insolvencies and its Implications for Financial Stability | Financial Stability Review April 2025 | RBA](#)

<sup>42</sup> Ibid, Chart is taken from page 58.

of which have now been withdrawn, delayed the insolvency of many businesses who, in the usual course, may have been otherwise expected to become insolvent because of underlying issues specific to the businesses. The RBA observes in that context that the age profile of the failing businesses reflects such a delay.

- c. The 2021 small business restructuring reforms introduced a new process for restructuring debts, which may have increased the level of insolvencies. The vast majority of businesses entering small business restructuring agreements continue to trade.
  - d. Company insolvencies should not be confused with company exits. Typically, insolvencies are only a small portion of business exits in a given year.
67. The ACTU does not suggest that company insolvencies are not affected by the prevailing economic conditions, however, the “record numbers” referred to by ACCI are not a representative indicator of the strength or weakness of the economy or the labour market. The 14,670 “businesses failing” should be considered in the context of a net *increase* in the number of businesses in the economy of 73,125 (or 2.8%) to 2,662,998 actively trading businesses in 2023-24.<sup>43</sup> The increase – and the associated trend in rising business entry and falling business exit over the most recently reported 12 months is reflected in Chart 3.5 of the Commission’s Statistical Report (Version 2). Further, the information from the Statistical Report can be supplemented by more recent quarterly figures concerning business entries and exits, referred to in our initial submissions at paragraph [525], that show that entries grew by 9.3 per cent in the 6 months to December 2024, while exits grew at only 8.1 percent in seasonally adjusted terms.
68. Finally, the ACTU wishes to comment on the COSBOA claim, made on page 6 of the COSBOA initial submissions, that ‘[a]nalysis of ABS data indicates that for every percentage point increase in minimum wages above CPI, business exits in award-reliant sectors increase by approximately 0.8% (COSBOA, 2025e)’. The reference ‘COSBOA,2025e’ appears, according to the COSBOA reference list, to be a paper produced by COSBOA called ‘Analysis of ABS Counts of Australian Businesses 2020-2024 in Relation to Wage Determinations’. The analysis and supporting research does not appear to be publicly available. No attempt in the submission is made to explain the claim.

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<sup>43</sup> [Counts of Australian Businesses, including Entries and Exits, July 2020 - June 2024 | Australian Bureau of Statistics](#)

69. The ACTU submits that in the absence of COSBOA providing any demonstration of the suggested correspondence between above CPI award increases and higher rates of business exits, nor any description of the analysis of the significance or relevance of such a suggested correspondence, no weight should be attached to the claim by COSBOA in the Panel's considerations.

### 3.6 Collective Bargaining

70. For this Review various employer groups have again submitted that "significant increases to the minimum wage may serve to neutralise the desire to enter into enterprise-level collective bargaining on the part of employees".<sup>44</sup> ACCI asserts this from a "logical standpoint" but offers no evidence in support of it. AiG goes further by arguing that no evidence is needed: "It is not necessary for Ai Group or any interest arguing for moderation based on this consideration to demonstrate a quantifiable relationship between minimum wage rises and bargaining levels...".<sup>45</sup>

71. On this basis, the ACTU could similarly assert that large gaps between wages in awards and collective agreements are dissuading employers from agreeing to bargain, and that wages should therefore lift substantially, but in the absence of any evidence, none of these are helpful contributions.

72. Rather, there has been a wealth of evidence the Panel has considered on this question over the years which have led it to consistently conclude that there is no evidence of a causal link between its decisions and levels of collective bargaining.<sup>46</sup> As put in our initial submission, there is no case to change this position.<sup>47</sup>

73. Contrary to ACCI's submission there has been a rapid increase in collective bargaining coverage over the past two years at the same time as the minimum and award wages increases have been high relative to increases awarded in the past decade. In the December quarter 2024, around 2.62 million employees were on a registered collective agreement, the highest number since March 2014, when there were 2.63 million employees on a federally registered collective

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<sup>44</sup> ACCI, para 180

<sup>45</sup> Ai Group, p. 45.

<sup>46</sup> [2024]

<sup>47</sup> ACTU paras 498 to 502.

agreement (see Figure 12 ). The December 2024 figure was only 9,800 workers short of the peak in 2014, which makes it very likely the March quarter 2025 will see the highest ever number of workers on a collective agreement in Australia. Further, employees on federally registered collective agreement make up 21.3 per cent of total employees, up from the recent low of 14.8 per cent in March 2023, a handful of months after the *Secure Jobs, Better Pay* legislation was given royal assent (see Figure 13 ).

Figure 12 12: Employees on a collective agreement

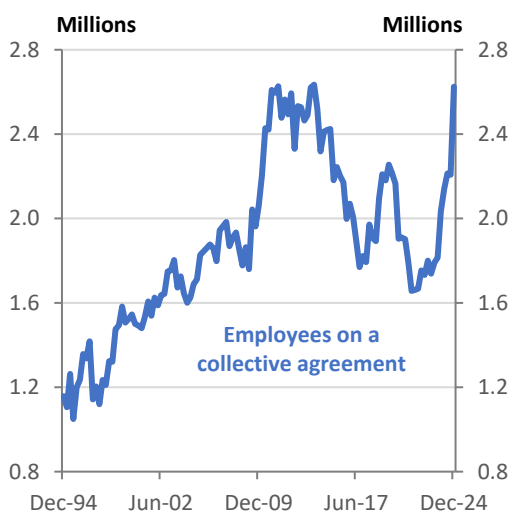
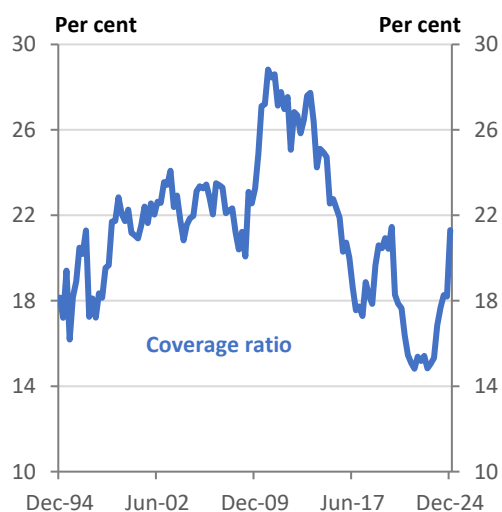


Figure 13 13: Employees on a collective agreement as a share of total employees



Source: Department of Employment and Workplace Relations, ABS Labour Force Detailed, Australia & ACTU calculations

74. To be clear though, the rapid and recent lift in collective bargaining is due to the *Secure Jobs, Better Pay* legislative reforms, and there is no evidence it has been caused by comparatively high recent nominal increases in award minimum wages.

### 3.7 Use of Members Surveys

75. Despite the Expert Panel’s pellucidly clear and repeated cautions about the limited use it is able to make of organisation’s membership surveys absent sufficient details of how the surveys were conducted, several employer groups have again relied upon what are said to be the surveyed views of their members in lieu of independent or verifiable data about the economic conditions of particular geographical areas or industries.

76. The employer organisations have adopted the approach despite that organisations' reliance upon similar surveys, being specifically identified as problematic. For completeness, we extract a number of relevant passages from earlier Panels:

*In the 2021 Annual Wage Review*

[102] The Panel was again provided results from surveys undertaken by employer groups of their members that assess business performance. **ABI submitted results from the Business NSW Business Conditions Survey and Master Grocers Association Limited (MGA) submitted its member survey in respect to this Review. These survey results are of limited utility.** The Panel has previously commented on the representativeness of such surveys. The Business NSW survey is of around 1000 businesses in New South Wales, however no information is provided on the types of businesses that have responded, such as their industry or size. The MGA survey is of only 103 businesses. [bolding added, footnotes omitted]

...

[222] As mentioned earlier, ABI contends that providing different operative dates in respect of clusters of modern awards has introduced administrative complexity and **relies on results from the Business NSW Conditions Survey March 2021 to support that contention.**

[223] **We were not provided with the survey results, the questions put or, as noted at [102], any information about the types of businesses that have responded, such as their industry or size. In these circumstances the submission put is of little assistance and we are left with no persuasive evidence** that different operative dates in respect of different modern awards gives rises to a significant degree of administrative complexity or regulatory burden. [bolding added]

*In the 2020 Annual Wage Review*

[312] The Panel has previously provided guidance on how surveys can be considered to be representative of the broader business community and the deficiencies in the quality of evidence so that it may be improved. Respondents to surveys should be selected on a random basis so they are representative, even for a membership base. While these surveys can provide detail and depth to our understanding, **the Panel has previously suggested that it considers such survey material as a form of anecdotal information as it cannot be confident that the survey results are a reliable representation of those it surveys and of broader economic conditions.** [bolding added, footnotes omitted]

*In the 2017 Annual Wage Review*

[535] ABI and NSWBC submission also contained a survey conducted in December 2016 that asked its members with employees whose wages are affected by changes in the minimum wage to indicate how they would adjust their staffing decisions in response to different specified increases. **ABI and NSWBC acknowledged that the survey results are not representative of the Australian business population and submitted that ‘the survey provides anecdotal evidence, at least at the firm level, as to how businesses may respond to alternative wage increases’.**<sup>481</sup>

[536] We have previously commented on the utility of surveys provided by parties. In the 2012–13 Review, we said:

**‘... if we are to rely on such material, we need to be confident that it is a reliable representation of the issues at hand. There are well-understood rules about the conduct of surveys that need to be followed if the results of a survey of a sample of a particular population are to accurately represent the picture that you would get if you obtained the same information from that entire population. These rules include that the sample size or proportion sampled must be large enough. Most important, the sample for the survey must be selected on a random basis. If a membership list is used as the basis for a survey, then it is essential that those that respond are properly representative of the entire membership base (e.g. by firm size, form of ownership, industry sector, geographic location). Where this is not the case, then the responses become more like case studies or anecdotes—accounts of the situation of those who did respond, but not to be taken as representative of the survey population (e.g. the membership) as a whole. Even where the survey is representative of the membership, it needs additional evidence to show that it is representative of, for example, employers more broadly ....**

[537] ARA has previously presented surveys of its members to Reviews. In the 2015–16 Review, we responded to the surveys by stating:

‘An illustration of why we need to be cautious is provided in the submission of the ARA which reported survey responses of its members seeking the identification of their plans for permanent, part-time and casual employment. The responses in various surveys since 2010 suggest that the ARA’s membership planned to substantially reduce employment, whereas in fact employment in the Retail trade industry rose in almost every year.

[538] **The ARA survey presented in the current Review is a repetition of the previous surveys that were the subject of comment in the above passage. The MGA submission does not disclose anything about the methodology used to obtain its survey results. The NSWBC survey, apart from having the limitations identified in its own submissions, only records opinions about possible future events and does not**

provide information about how businesses have actually responded to NMW and award wage increases.  
[bolding added footnotes omitted]

In the *2016 Annual Wage Review*

[196] Outside the major private surveys that are monitored by the RBA, there are a number of surveys that are conducted by employer associations of their members. **We have been provided with the results of such surveys, on matters such as the economic conditions being faced by particular industries and the impact of minimum wage increases on employment. This material is only useful where there is evidence of good survey practice and a respectable match between past predictions and actual outcomes.** It is only in these circumstances that such surveys provide a reliable representation of the issues at hand. **An illustration of why we need to be cautious is provided in the submission of the ARA which reported survey responses of its members seeking the identification of their plans for permanent, part-time and casual employment. The responses in various surveys since 2010 suggest that the ARA's membership planned to substantially reduce employment, whereas in fact employment in the Retail trade industry rose in almost every year.** [bolding added, footnotes omitted]

In the *2015 Annual Review*

[267] In the 2013–14 and 2102–13 Review decisions **we commented on the information drawn from such surveys, expressing our reservations about the reliability of the data from such surveys for the purpose of providing a representative picture at either an industry or an economy-wide level. Whilst the survey material can add detail and depth to our understanding, unless the surveys have been conducted in accordance with well-established rules for the conduct of surveys, any additional understanding is of an anecdotal nature.** In each of the decisions, we set out expectations of surveys which need to be met in order to provide representative information. [bolding added, footnotes omitted]

In the *2014 Annual Review*

[226] A number of employer associations relied on data derived from surveys of their members in relation to, amongst other things, economic conditions within their industries and, in some cases, the economic conditions confronting small and medium-sized enterprises. **We have expressed our reservations about the reliability of the data from such surveys for the purpose of providing a representative picture at either an industry or an economy-wide level.** In the 2012–13 Review decision, the Panel set out some guidance as to requirements of surveys, reflecting well-established rules for the conduct of surveys if such surveys are to provide a reliable account of the experience of the underlying “populations” from which they are drawn. **None of the employer associations relying on surveys of their members have addressed**

**our concerns or met those requirements. We must therefore see the survey material that they present as a form of anecdotal information. We cannot be confident that the survey results provide a reliable representation of the issues at hand, including economic conditions.** [bolding added, footnotes omitted]

*In the 2013 Annual Review*

[265] As discussed at paragraph [438], **given the methodology of the ACCI surveys, to the extent it is explained, we see the survey material as anecdotal information for those ACCI members who chose to respond to the survey, rather than of evidence representative of employers within the economy generally.** In any case, the information provided by small business members is limited. The results are not disaggregated for award-reliant businesses. [bolding added]

*In the 2012 Annual Review*

[203] The ACCI and other employer surveys indicate that a minimum wage increase has negative employment effects for some employers in some industries. **However, the surveys cannot be relied on for any conclusions about the aggregate effects either from an industry or an economy-wide perspective. The survey respondents are small in number, self-selected and not representative of employers generally.** Further, the survey results are not consistent with research undertaken by the Workplace Research Centre, University of Sydney, based on detailed case studies of 20 enterprises which employed a significant number of employees on minimum wages. [bolding added, footnotes omitted]

77. The ACTU encourages the Panel to continue its approach outlined above when dealing with this sort of material in the current Review. Despite being on notice, none of the submissions relying on employer organisations' membership surveys provide sufficient detail about their methodology and/or representatives to enable the Panel to confidently rely on the results of the surveys.
78. In relation to each of the specific employer submissions relying on membership survey's, the ACTU submits as follows.

### 3.7.1 ARA / NRA Submission

79. The ARA/NRA submissions report selected outcomes of a membership survey however, do not provide any detail concerning:
- a. The research design or methodology used to conduct the survey.
  - b. The period of time over which the survey was conducted.
  - c. The number of respondents.
  - d. The questions asked.
  - e. How the reported answers compared to previous surveys.
80. In the absence of any attempt to provide this fundamental and necessary information, the reported outcomes should not be afforded any weight beyond that of curated anecdote.

### 3.7.2 Master Grocers Australia Submission

81. The Master Grocers Australia submission refers to percentages of members reporting their response to previous minimum wage outcomes<sup>48</sup> however, otherwise advises that the feedback from its members was collected through “a variety of channels” that include “surveys, industry events and conferences, committees, advisory services and direct feedback on topical matters, amongst others”.<sup>49</sup> The ACTU submits that the apparently haphazard method of gathering feedback, seemingly devoid of any discernible methodological rigour, renders the information presented of no substantive value to the task before the Panel.

### 3.7.3 ABI Industrial and Business NSW

82. The ABI Industrial and Business NSW submissions rely on reported results of the “Business NSW Business Conditions Survey”. The submissions provide little detail concerning the methodology used to conduct the survey, nor the questions asked and is limited to NSW. Insufficient information is provided for the Panel to have confidence that the results are credible or more broadly representative.

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<sup>48</sup> See for example at paragraph [24] and [25] of the MGA Initial Submissions.

<sup>49</sup> Ibid, para 13.

### 3.7.4 AUSVEG

83. The AUSVEG submissions report various results for a survey called the AUSVEG Industry Sentiment Survey and result that are possibly from other AUSVEG vegetable grower surveys.<sup>50</sup> The submissions provide no detail of the methodology used to conduct the survey, the wording or context of the questions asked, the historical changes in the survey, the number of respondents or the sample size as compared to the industry more broadly. In such circumstances, if a consistent approach is taken to the treatment of information provided for the Review, the Panel would, respectfully, struggle to afford significant weight to the reported results.

### 3.8 Rise in Superannuation Guarantee Levy

84. Several Employer and/or Industry Associations refer in their submissions to the scheduled increase in the Superannuation Guarantee contribution rate by 0.5% effective from 1 July 2025. Whilst the emphasis on the impact of the rise varies, the ARA/NRA,<sup>51</sup> the MGA,<sup>52</sup> the SAWIA,<sup>53</sup> the ACCI,<sup>54</sup> the AI Group,<sup>55</sup> the ABI and Business NSW<sup>56</sup> and COSBOA<sup>57</sup> all submit, in varying ways, that the Panel should again consider the increase to superannuation as a moderating factor when determining the extent of any minimum wage increase in this Review.

85. While, unlike in last year's review,<sup>58</sup> no employer organisation appears in this year's review to be urging the Panel to adopt the formulaic approach of setting a certain increase wage increase and then *subtracting* 0.5% for the increase in superannuation guarantee contribution, the ACCI have suggested that the Panel consider "an increase in minimum and modern award wages of no more than 2.5 per cent (plus the legislated 0.5 per cent Superannuation Guarantee increase from 1 July 2026)"<sup>59</sup> The ACCI submission goes on to underscore "the importance of **quantifying** this impact in wage-setting decisions, emphasising that a balanced approach will ensure that wage

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<sup>50</sup> The AusVeg Industry Sentiment Survey is referred to by name on page 1 of the submissions while on page 2 there is a reference to a "grower" survey and an "AusVeg Survey". It is unclear to what extent this is a reference to a different survey.

<sup>51</sup> ARA/NRA, paras 4.42-4.43.

<sup>52</sup> MGA, para 31.

<sup>53</sup> SAWIA, p. 7.

<sup>54</sup> ACCI, paras 109 to 114.

<sup>55</sup> AI Group, p. 26.

<sup>56</sup> ABI/Business NSW, p. 3.

<sup>57</sup> COSBOA, p. 3-4.

<sup>58</sup> See ARA Initial Submissions to the 2023-2024 review on page 2.

<sup>59</sup> ACCI, para 5.

adjustments more accurately reflect both the cost to employers and the overall benefit to workers” [bolding added].<sup>60</sup> COSBOA appear to intend that consideration be framed in a similar manner, suggesting that “[i]t is essential to consider minimum wages and superannuation as components of total employee remuneration” and noting “[f]rom a total remuneration perspective, a 2-2.5% minimum wage increase combined with the 0.5% SG increase delivers a 2.5-3% total remuneration increase.”<sup>61</sup>

86. The ACTU submits that the increase should be appropriately taken into account, as earlier increases have been previously, *without* applying “a direct, quantifiable, discount to the minimum wage increase”.<sup>62</sup> The reason for adopting this approach was most expressly laid out by the Panel in the 2013 Annual Wage Review culminating with the following statement:

**[359]** While we have taken the 0.25 per cent increase in the SG rate into account in determining the level of increase in minimum wages in the Review, we have not applied a direct, quantifiable, discount to the minimum wage increase, as proposed by Ai Group and the NFF. As we have noted, the AIRC decisions following the introduction of the SGC Acts provide no support for such an approach. Nor does the current legislative framework support such an approach. In reviewing modern award minimum wages and the NMW the Act requires us to have regard to a range of considerations. As we note in Chapter 2, there is a degree of overlap between the matters specified in the modern awards objective, the minimum wages objective and the objects of the Act. To the extent that these matters are of direct relevance to the Review, they may be grouped into three broad categories: economic; social; and collective bargaining. The range of considerations we are required to take into account calls for the exercise of broad judgment, rather than a mechanistic approach to minimum wage fixation.

**[360]** The SG rate increase to apply from 1 July 2013 is a moderating factor in considering the adjustment that should be made to minimum wages. As a result, though it would not be appropriate to quantify its effect, the increase in modern award minimum wages and the NMW we have awarded in this Review is lower than it otherwise would have been in the absence of the SG rate increase.<sup>63</sup>

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<sup>60</sup> Ibid at paragraph [114].

<sup>61</sup> COSBOA, p. 4.

<sup>62</sup> [2024] FWFCB 3500 at [159]; [2021] FWCFB 3500 at paragraph [58]; [2013] FWCFB 4000 at [358]–[360]; [2014] FWCFB 3500 at [285].

<sup>63</sup> [2013] FWCFB 4000

87. The ACTU respectfully submits that neither ACCI nor, to the extent it is pressed, COSBOA, has identified a compelling reason for the Panel to depart from the approach it has adopted with respect to every other increase in the superannuation guarantee contribution.

### 3.9 Secure Work

88. From paragraphs [135] to paragraph [157] of its initial submissions, ACCI makes various submissions concerning “secure work”. The ACTU submits that the Panel should treat with caution certain aspects of the interpretative approach urged by ACCI. In particular, the ACTU raises two key assumptions made by the ACCI which potentially distort the construction task.

89. First, ACCI’s submissions appear to advance a reductive meaning of secure work, framing secure work almost entirely as a function of managerial prerogative. This is perhaps most starkly demonstrated by ACCI’s insistence that “the final arbiter of whether work is secure is the employer”<sup>64</sup>. Adopting such a position naturally leads to an almost exclusive focus on the economic position of *employers* and their “capacity” to offer work to employees. ACCI’s employer centric approach risks obscuring the intended purposes of the introduction of the concepts “job security” and “secure work”, which plainly involves a focus on the needs of *employees*. Giving the language of the statute its ordinary meaning, it is an employee who holds a “job” and is most materially concerned with the “security” of that job. Similarly, in s.134(1)(aa) of the Act, it can only be employees’ interests that are addressed by improving “access to secure work across the economy”. If there were any doubt concerning the intention of the legislature, it, respectfully, cannot survive a review of the Minister’s Second Reading Speech to the amending legislation which begins:

“For nearly 10 years, wages were kept low as a deliberate design feature of the previous government's management of the economy.

**Insecure work was encouraged, with no regard to the households crying out for security.”**

90. And continues:

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<sup>64</sup> ACCI, para 158.

Years ago, job security was simply defined across the economy as the difference between being a casual or a permanent employee. Job insecurity now has many faces. We see it in the gig economy, labour hire, new forms of insecurity for part-time employees, and rolling fixed-term contracts which effectively amount to a permanent probation period for employees. We see it where casual loading has not been a sufficient incentive to promote secure jobs.

All legitimate forms of employment have their place. All will continue to exist. But where there is abuse, we must curtail it. Where loopholes have arisen in legislation, we must close them.

91. In short, the legislature recognised that employer “capacity” to provide secure work was not leading to secure work being made available to households. The ACTU therefore respectfully submits that it is important that the “broad dimension” of secure work recognised in the earlier decisions of the Panel is not obscured and that full weight is given to the understanding of “secure work” as a multi-factorial concept that includes not only a consideration of the employers’ capacity to provide work but also, and critically given the clear purpose of the amendments introduced, the terms upon which such work is available to employees. As submitted in the ACTU’s initial submissions, the consideration of job security and secure work in this context, should not, and with respect, cannot, reasonably be divorced from the income security of households, including the level of wages paid to low income employees.
  
92. Second, ACCI’s repeatedly stated position is that it “rejects the notion that certain forms of work are by nature ‘insecure’”.<sup>65</sup> Such a premise sits entirely at odds with the lived experience of workers, the findings of the Fair Work Commission and its predecessors, the Minister’s Second Reading Speech quoted above and the terms of the FW Act. Indeed ACCI’s position appears inherently inconsistent with *any* legitimate role for statutory limitation or regulation of casual employment, maximum term employment, labour hire arrangements, digital platform work, sham contracting and seemingly even the provision of statutory or award entitlements dealing with rostering, minimum engagement, prescribed periods of notice, redundancy entitlements

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<sup>65</sup> ACCI, para 148

and unfair dismissal remedies. The ACTU submits that by doubling down on a rejection of the broadly accepted power imbalances between employers and individual workers, ACCI invites the adoption of a foundation upon which no reasonable statutory construction of the words “job security” or “secure work” could proceed.

93. Given ACCI does not accept the reality that certain forms of work by their nature can be insecure, it is therefore unsurprising that ACCI would be dismissive of any changes in the “so-called forms of insecure work”<sup>66</sup> or perceptions by expressed by employees that their work may be insecure.<sup>67</sup> However, if one were to consider ACCI’s argument on its own terms, that is, that retrenchment rates may be taken as reflecting “actual job insecurity”, and as ACCI points out, that those rates are historically low,<sup>68</sup> the ACTU respectfully submits that low retrenchments rates cannot be taken to be suggestive of a weak capacity of employers to employ workers on a permanent basis.
94. From pages 42 to 43 of Ai Group’s Initial Submissions, Ai Group makes also make submissions concerning “secure work”. Unlike ACCI, Ai Group does not seek to revisit the statutory interpretation of the terms “job security” and “secure work”. The ACTU does however, wish to respond to one matter raised by Ai Group in the context of the organisation’s discussion of secure work. Specifically, Ai Group submits that the increase in fixed-term employment during 2024 is “likely... associated with the slowdown in the private sector labour market identified in Section 4, which has seen businesses make greater use of forms of employment without an ongoing commitment to employ in response to weakening business conditions”. There is simply no evidence that the rise in fixed-term employment has been caused by a weakening in business conditions. In their review of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, Emeritus Professor Mark Bray and Professor Alison Preston, after noting the rise in fixed-term employment despite the new limitations on fixed-term employment, hypothesised in their Draft Report, “These trends may be an unintended consequence, potentially reflecting efforts by employers in exempted sectors to engage employees on fixed-term contracts before the exception period ends. There may be other contributing factors”. Whatever the reason for the rise, the ACTU submits that presently, in the context of the recent changes to the legislation and

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<sup>66</sup> ACCI, para 150.

<sup>67</sup> Ibid, para 151.

<sup>68</sup> Ibid.

in the absence of further research, there is insufficient data for the rise to be attributed to an outcome of weak (or even changing) business conditions. On the contrary, recent positive labour market performance has seen growth in permanent and secure work outpace the proportion of the workforce in secure work, as discussed and outlined in the ACTU's Initial Submission.

### 3.10 Claimed Disemployment Effects of Wage Increases

95. The ACTU notes that in several places in the initial submissions of the employer associations, the employer associations make *unsupported* claims regarding the potential disemployment effects of a wage increase. For example:

- a. The ARCA submit that "A higher increase (e.g. 5% or more) may lead to job reductions".<sup>69</sup>
- b. COSBOA submit that "Economic research consistently shows that excessive increases to minimum wages can negatively impact employment".<sup>70</sup>
- c. ACCI submit that "the ability of substantial wage increases to undermine the capacity of employers to employ" <sup>71</sup> and that "[t]he Panel's decision will not only lead to labour cost increases for employers of minimum wage workers, but may lead to reduced hours and/or opportunities for overtime for both award reliant employees and those not on awards".<sup>72</sup>
- d. The Ai Group submit that "[i]f the labour market resilience is jeopardised by disemployment resulting from a more than moderate increase to minimum wages, it will lead to reduced access to employment that particularly harms vulnerable cohorts".<sup>73</sup>

96. As the Panel would be aware, the Panel in the Award Wage Review 2021-2022 expressed the view that "moderate and regular increases in minimum wages do not result in significant disemployment effects".<sup>74</sup> There has been no change in the economic data since that time for the Panel to form a contrary view. Further, there have been significant advances in the academic research on the issue, including through improved research methods, strengthening the general conclusion that employment effects are negligible, as discussed in the ACTU's Initial

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<sup>69</sup> ARCA, p. 7 at para 4.3.

<sup>70</sup> COSBOA, p. 6.

<sup>71</sup> ACCI, p. 6. See also paras 120 and 170.

<sup>72</sup> Ibid, para 100.

<sup>73</sup> Ai Group, p. 5. See also pages 26 and 27.

<sup>74</sup> [2022] FWCFB 3500 at [65].

Submission.<sup>75</sup> As also noted in the our Initial Submission, unemployment and underemployment has remained low despite the slowdown in growth over calendar year 2024 in parallel with robust increases in minimum and award wages in the previous few Annual Wage Reviews.<sup>76</sup>

97. The ACTU has provided extensive information regarding the evidence concerning wage increases and employment levels in Chapter 9 of our Initial Submission. The ACTU continues to rely upon that information. The ACTU submits that there is no evidence before the Panel that the increase sought by the ACTU would in any way have a significant disemployment effect.

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<sup>75</sup> ACTU, paras 533 to 539.

<sup>76</sup> See the ACTU, para 174 and, in relation to award reliant industries, paragraph 208.

## 4. SPECIFIC ISSUES RAISED IN SUBMISSIONS

### 4.1 Australian Industry Group

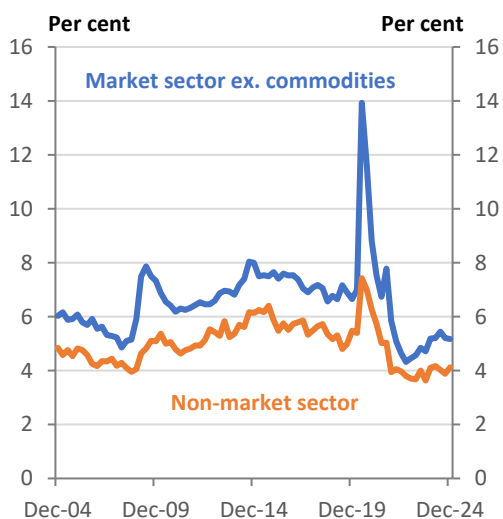
98. Ai Group's discussion of the labour market conjectures that 'the resilience in headline indicators obscures mounting levels of weakness in the private sector labour market', speculating that when employment indicators are disaggregated 'evidence emerges that surging employment in the government-supported sectors has hidden a material weakening in the private sector labour market'.<sup>77</sup>
99. Ai Group's discussion is substantially one-sided, examining only employment growth and hours worked, but not commenting on job vacancies or underutilisation rates. The analysis also does not entertain the idea that weaker private sector employment growth is in part due to a lack of labour availability, rather than just its preferred explanation of economic weakness.
100. Ai Group attempts to make this point by referring to what it calls 'labour utilisation', presenting a simple index of hours worked, which shows that hours worked in the non-market sector have risen more than hours worked in the market sector. The measure does not do the heavy lifting of capturing labour utilisation, as the hours worked are devoid of context. A more precise measure is the hours-based underutilisation rate, which takes hours sought but not worked as a share of available hours of labour supply. This measure gets more precisely at the question Ai Group is trying to answer.
101. In both the non-commodity market sector and the non-market sector, the hours-based underutilisation rate remains at low levels, despite a gentle increase in the non-commodity market sector from the recent trough of 4.3 per cent in September 2022, when the economy was in the process of rebounding from COVID-related lockdowns. The hours-based underutilisation rate of 5.2 per cent in December 2024 is still notably below the 10-year pre-pandemic average of 7.0 per cent, suggesting that in the market sector that is not exposed to fluctuations in the terms of trade, labour is being reasonably well utilised. It is also arguably being more utilised than in the non-market sector: the December quarter underutilisation rate is 1.8 percentage points

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<sup>77</sup> Ai Group, pp. 17-18

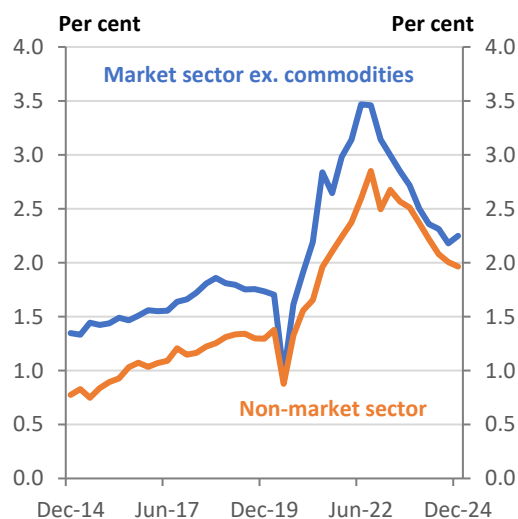
below the pre-pandemic average, whereas in the non-market sector, the 4.1 per cent underutilisation rate recorded in December 2024 is only 1.3 percentage points below the 10-year pre-pandemic average of 5.4 per cent (see Figure 14).

Figure 14: Hours-based underutilisation rate



Source: ABS Labour Account & ACTU calculations

Figure 15: Vacancy rate



102. While it is beyond dispute that hours worked in the non-market sector have risen more than hours worked in the market sector, it is not right to suggest that private sector utilisation has materially weakened.

103. Ai Group’s discussion also leaves out the vacancy component of labour demand. The vacancy rate – vacancies as a share of the labour force – in the non-commodity market sector ticked up in December 2024, rising ever so slightly to 2.25 per cent, up from 2.18 per cent in September 2024 (although each round to 2.2 per cent) (see Figure 15). While well down on the peak of 3.5 per cent reached in June 2022, the vacancy rate in the non-commodity market sector is still 0.5 percentage points above the level prevailing in December 2019 of 1.7 per cent.<sup>78</sup>

104. In contrast, in December 2024, the non-market sector vacancy rate declined very slightly to 1.96 per cent, down from 2.01 per cent in September (again, both round to 2.0 per cent). The

<sup>78</sup> This analysis is subject to the same challenges elaborated in paragraph 205 of the ACTU’s initial submission, although substantially less so as the figures have been aggregated up from fourteen industries.

vacancy rate for the non-market sector is slightly higher than the 1.3 per cent seen in December 2019, but there is still a substantial way to go in rebuilding the health sector and public service after the decade of neglect and cuts under the Coalition.

105. In any case, what Ai Group's discussion conceals is that labour underutilisation in the non-commodity market sector is still quite low and vacancies (i.e., labour demand) is still quite high in this part of the economy. It is not enough to take hours worked and changes in employment out of context as it obscures what is still quite rude health in the level of the non-commodity market sector's labour demand.

106. The weakening in employment growth in the market sector begs for a richer explanation than just macroeconomic challenges – which is not to say this has not contributed to slightly subdued employment growth in some industries, it is just not clear that it is the main factor. Instead, slowing employment in parts of the market sector can also be explained by the flow of employment into Healthcare and social assistance (and presumably other non-market industries).

107. As the ACTU noted in paragraph [493] of the initial submission, RBA analysis indicates that strong demand for labour in the healthcare industry has drawn workers from other industries (and some who were not previously employed) to address vacancies. The top industries with the largest average flows into health care employed included all five-award reliant industries (plus education).

108. A similar point was observed by ACCI, which noted in its submission that:

'As both the market and non-market sectors compete for the same labour pool, the strong growth in care employment has tightened broader labour market conditions, drawing workers away from other industries and putting upward pressure on wages as shortage[s] of skilled labour continue to loom, exacerbating hiring challenges.'<sup>79</sup>

109. ARA and the NRA also made a similar observation in their joint submission, highlighting that:

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<sup>79</sup> ACCI, para 85.

‘Retailers are facing considerable challenges in filling vacancies, particularly with the post-pandemic shift towards hybrid working models in other sectors’.<sup>80</sup>

110. Notwithstanding that ACCI are mistaken about pressure on wages and are hyperbolic about hiring challenges, the fact that several employer groups were able to notice that employers are drawing from one broad pool of labour makes it remarkable that Ai Group’s analysis entirely left out this dimension. Ai Group further mis-specifying hours-based utilisation and ignoring labour demand as expressed through vacancies undermines the overall conclusion the organisation attempted to draw about the labour market.

111. While there is no doubt that cost of living pressure is posing challenges to consumer-facing industries, which is weakening output growth somewhat – as the ACTU and Ai Group both noted in their initial submissions – there is a degree to which Ai Group is overstating this difficulty.

112. To the extent that output is a function of employment in the short-run – the capital stock being largely fixed in the short period – a situation where employers are unable to fill vacancies because of large flows of labour into health care will necessarily mean that those employers looking for workers cannot produce more output in the short-term. This outcome should not be taken as a sign of demand-side weakness in the economy so much as output being cramped by (labour) supply issues.

113. While it is unclear to what extent this specific phenomenon is acting as a brake on output in award-reliant industries, Ai Group is clearly overemphasising the extent of weakness in the economy based on a poor analysis of labour market outcomes. In considering the current state of the economy and labour market outcomes, the Panel would be better served looking elsewhere than the analysis provided by Ai Group.

114. In its submission, Ai Group also argues that ‘it is not sustainable for AWR increases to track above broader wages growth for an extended period. This will have the effect of compressing the relatively between NMW and award employees and other employees, at the margin creating a

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<sup>80</sup> ARA & NRA, para 4.23, p. 8

relative disincentive for demand for labour in award roles’, going on to say that in ‘2024 employment contracted in two award reliant industries...and was weak in another two.’<sup>81</sup>

115. The earlier analysis in this section of the non-commodity market and non-market sector labour market outcomes refutes the latter part of the claim above. The Ai Group have clearly misread the labour market by failing to take account of demand-side indicators and labour market flows between award-reliant industries.

116. As for the former claim - that AWR increases above broader wages growth will have disemployment effects – this suffers from two problems. Firstly, the minimum wage has been broadly stable as a share of median wages since around 2013, despite some volatility during the pandemic period and the two most recent catch-up periods (see Figure 16).

Figure 16: National minimum wage as a share of median earnings



Source: ABS Employee Earnings, Fair Work Commission decisions (various years) & ACTU calculations

<sup>81</sup> Ai Group, pp. 25-26

117. Further, supposing the Panel were to grant a 4.5 per cent increase, as argued for in the ACTU’s initial submissions, and taking the RBA’s June quarter forecast for wages in the February 2025 *Statement on Monetary Policy* as the benchmark for broader wage growth, the difference would be around 1.1 percentage points, less than the difference between WPI growth and the decision in the 2017-18 Review, around the same as difference in the 2018-19 Review, and only slightly above the difference in the 2019-20 Review, as shown in Chart 19 of Ai Group’s initial submission. In so acting, the Panel would not be out of step with previous differences – previous differences that were consistent with stability in the median wage-minimum wage ratio.

118. Secondly, even if that ratio were to improve, there is no evidence to suggest the “disincentive” Ai Group is concerned about would eventuate. We again direct the Panel’s attention to our consideration of the relationship between wage increases and disemployment effects in Part 3 of this Reply Submission.

#### 4.2 Australian Chamber of Commerce and Industry

119. In its initial submission, the Australian Chamber of Commerce and Industry (ACCI) claims that over “the past three years, the Annual Wage Review decisions have delivered real wage growth to minimum and modern award wage earners”.<sup>82</sup> Further, that these “substantial, successive increases... provide significant weight to the needs of employers on this particular occasion”.<sup>83</sup> However award reliant workers have not had real wage growth over the past three years, as outlined in the ACTU’s Initial Submission<sup>84</sup>, reflected in the Statistical Report for this Review<sup>85</sup>, noted by other parties including the Ai Group<sup>86</sup>, and as pointed out in each of those three years by the Panel itself.<sup>87</sup>

120. Instead, the central question, which the Panel itself put last year is whether or not economic circumstances are right to enable an increase to help these workers “catch up” on previous losses. That is where one of the key debates for this Review should be.

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<sup>82</sup> ACCI, para 9

<sup>83</sup> ACCI, para 24.

<sup>84</sup> ACTU Initial Submission, paras 273 to 280.

<sup>85</sup> FWC Statistical Report Charts 9.1 and 9.3.

<sup>86</sup> Ai Group, p.5

<sup>87</sup> [2022] FWCFB 3500 [196]; [2023] FWCFB 3500 [100]; [2024] FWCFB 3500 [8].

121. ACCI's views on such economic circumstances and other issues that are common to other parties are addressed in Part 3 of this Reply submission. This section instead focusses on ACCI's submissions with regard to the needs of the low paid and relative living standards more specifically. Overall, ACCI make a number of questionable claims – many either without evidence, or selectively citing evidence that is often out of date. Disappointingly many of these claims are made year after year with the same failings. To demonstrate this general point we highlight seven of them below.

122. *Firstly*, ACCI states that “minimum wage fixation is not an effective way of addressing the needs of lower income households”, and that “the tax and transfer system are [sic] better targeted to address the actual circumstances of lower income households”.<sup>88</sup> It provides no evidence for these claims. We do know that in 2020, Wilkins and Zilio estimated that 16 per cent of low paid award reliant workers were in receipt of government welfare benefits, with a further 9 percent receiving either Newstart or Youth allowance, implying that 75 per cent of this group are not and are relying solely or predominantly on their wages for their income.<sup>89</sup>

123. *Secondly*, ACCI states that “it cannot be assumed that lower paid employees necessarily belong to lower-income households”.<sup>90</sup> No one is making such assumptions, and they can instead consider the evidence. The research by van Netten and Lipp commissioned for this Review found that 76 per cent of low paid award reliant workers are in the bottom half of household income distribution and 51 percent of them are in the bottom quartile.<sup>91</sup> Yet again, ACCI offer no new analysis to refute the Panel's long held views that low-paid workers, whose wages are likely to be affected by the NMW of modern award minimum wages, are disproportionately located in the lower deciles of equivalised household income distribution.<sup>92</sup>

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<sup>88</sup> ACCI, para 115.

<sup>89</sup> Wilkins R & Zilio F (2020), *Prevalence and persistence of low-paid award-reliant employment*, Melbourne Institute of Applied Economic and Social Research, Fair Work Commission Research Report 1/2020 February, at table 9.

<sup>90</sup> ACCI para 116.

<sup>91</sup> van Netten J and Lipp J, *Award-reliant employees in the household income distribution of employees: an update*, Fair Work Commission Research Report 2/2025, February 2025, p. 25.

<sup>92</sup> [2018] FWCFB 3500 at [272]-[276].

124. *Thirdly*, ACCI argue that “living standards have improved over time” by pointing to a smaller percentage of workers who are both low paid and award reliant in 2018, as compared to 2009 (5.9 percent vs 7.5 per cent respectively).<sup>93</sup> If ACCI had examined data commissioned for this Review it would have found that, of the 20.7 percent of employees that are reliant on modern awards<sup>94</sup>, 43.5 percent of them are low paid.<sup>95</sup> So 9.0 percent of all employees are both low paid and award reliant based on the latest data, a worsening of living standards on ACCI’s questionable logic.

125. *Fourthly*, ACCI argue that “there is no clear explanation given or research referenced, as to why two-thirds of median earnings is any more representative of the low-paid than any other number”.<sup>96</sup> On the contrary, the Fair Work Commission has used this broadly accepted benchmark since its establishment under the *Fair Work Act*<sup>97</sup> and it is frequently used internationally.<sup>98</sup> Further, as advanced in the ACTU’s initial submission, the budget standards research has also set a Minimum Income for Health Living (MIHL) level that is remarkably close to this two-thirds benchmark as well, for a single earner working full time, additionally giving it a basis in recent evidence too.<sup>99</sup>

126. *Fifthly*, ACCI criticises the budget standards, commissioned by the FWC in 2023, for “representing the budget requirements of the highest percentile of households, not the average minimum wage earner”.<sup>100</sup> It does not advance persuasive arguments to support this extreme proposition. It firstly criticises researchers for assuming that low paid workers are between the age of 35-40, when most are younger than this and have “different expenditure and budget requirements”. However, this age was presumably chosen because many of the 16 family and household types that budgets were constructed for had children within them. The budgetary requirements of

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<sup>93</sup> ACCI, para 118.

<sup>94</sup> Strong J, Rozenbes D & Tomlinson J, *A profile of employee characteristics across modern awards – 2023*, Fair Work Commission Research report 1/2025, February 2025, p.17 &

<sup>95</sup> Van Netten J & Lipp J, p. 19

<sup>96</sup> ACCI, para 121

<sup>97</sup> See [2010] FWAFB 4000 at para 237. Its predecessor bodies may have also used this measure.

<sup>98</sup> See for example, OECD 2021 [Incidence of low and high pay](#), accessed on 28 April 2025.

<sup>99</sup> ACTU, para 271.

<sup>100</sup> ACCI, para 127.

parents with young children are therefore an important requirement. In any event, focus groups conducted for the research had many participants under the age of thirty.<sup>101</sup>

127. ACCI then criticise a range of assumptions the researchers made about the discretionary budgets proposed, which the researchers describe as “deliberately austere”.<sup>102</sup> This includes an allowance of just \$19.70 per week to buy lunch at work once a week, or once a fortnight if working part time, and then saving \$22.10 per week towards the travel component of an overseas trip, but not the accommodation. Hardly the spending patterns of “the highest percentile” as ACCI claim. ACCI also appear untroubled by all of the items the researchers did not include in the discretionary budgets which include private health insurance, gym membership and domestic holidays, but which they thought could be included in future research.<sup>103</sup>

128. Finally, ACCI criticise the selection of the 40<sup>th</sup> percentile of Sydney rents as the appropriate benchmark for housing costs, and claims that the researchers concede that this is “unrepresentative of low-paid workers’ housing choices”.<sup>104</sup> The researchers made no such point. It should go without saying that low paid workers live in Sydney, and that the task of the Panel is to set minimum wages that do not discriminate on the basis of geography. Choosing a lower rent percentile, say of 30 percent, would make only a marginal and almost immaterial difference to housing costs facing minimum wage earners. It should also be noted that the researchers have not included mortgage costs which would be much higher, and which a significant block of low-income households incur.<sup>105</sup>

129. *Sixthly*, ACCI selectively quote the Melbourne Institute’s Pulse of the Nation 2024 report to claim that household financial pressures are improving. While there are some improvements across the surveyed cohorts on the issue of “food challenges” in the year to February 2024, for all other challenges (including housing, utility bills and medical needs), “the number of individuals reporting these types of challenges is higher compared to 2023”.<sup>106</sup>

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<sup>101</sup> Bedford, M, Bradbury B and Naidoo Y, (2023), *Budget Standards for Low-Paid Families, Report prepared for the Fair Work Commission*, p. 13

<sup>102</sup> *Ibid*, p. 39

<sup>103</sup> *Ibid*, p. 40

<sup>104</sup> ACCI, para 129(b)

<sup>105</sup> See ABS Census 2021, Housing data summary, table 6.

<sup>106</sup> Melbourne Institute, [Taking the pulse of the Nation](#), June 2024

130. ACCI argue that all minimum-wage reliant household types experienced an increase in household disposable income that exceeded the rise in CPI over the year to June.<sup>107</sup> This would primarily be the case because of the re-benchmarking of the NMW to the C13 rate, causing a jump in incomes which would not at all be representative of the journey the real wages of award reliant workers had actually taken. A clearer comparison would be examining nominal disposable income of households that relied on the C13 rate throughout this period.

### 4.3 Australian Restaurant and Cafes Association (ARCA)

131. The Australian Restaurant and Cafes Association note in their submission that ‘minimum wage workers tend to spend a growing portion of their earnings on essential goods and services’ highlighting that ‘a moderate increase [in minimum wages] supports consumer demand, which is vital for economic growth’. ARCA goes on to suggest that ‘modest wage increases have multiplier effects, boosting local economies without significantly impacting inflation’.<sup>108</sup>

132. Yet ARCA then goes on to recommend a 2.0 per cent increase to minimum and award wages. As Treasury currently expects inflation to be 2.5 per cent over the year to June 2025 and 3.0 per cent over the year to June 2026, whether regarded as a backward-looking catch-up or forward looking compensatory increase, ARCA’s claim will result in a real wage decrease for minimum and award wage workers.

133. Such a position contradicts its earlier comments around minimum wage workers supporting consumer demand and this being vital for economic growth. By arguing for a real wage cut, ARCA appears to want to support neither consumer demand nor economic growth.

134. ARCA further asserts that there may be a link between higher minimum wages and lower productivity growth. As ARCA do not adequately source the analysis, it is unclear what productivity growth data is used. Attempts to replicate the results using annual (or even quarterly) growth in productivity for either the June, September or the December quarter of a

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<sup>107</sup> ACCI, para 123

<sup>108</sup> ARCA, 4.2, p. 7

given year do not produce the same outcome, nor does using year-average productivity growth data from the financial year national accounts. On this basis the assertion should carry no weight.

135. ARCA argues that higher wage increases may be linked to slower productivity growth, ‘potentially due to increased labour costs without proportional efficiency gains’.<sup>109</sup> The claim that an increase in minimum wages, which (usually) commences on the first day of a financial year, affects productivity growth in a financial year – which is the closest approximation to sense that can be derived from ARCA’s analysis – is graphed below.

Figure 17 17: Correlation between productivity growth and minimum wage increases with outlier

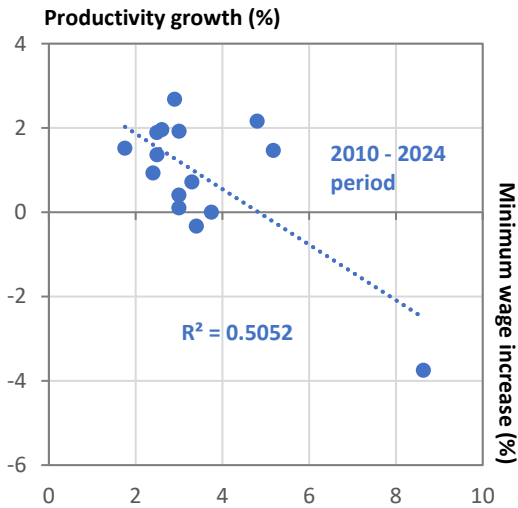
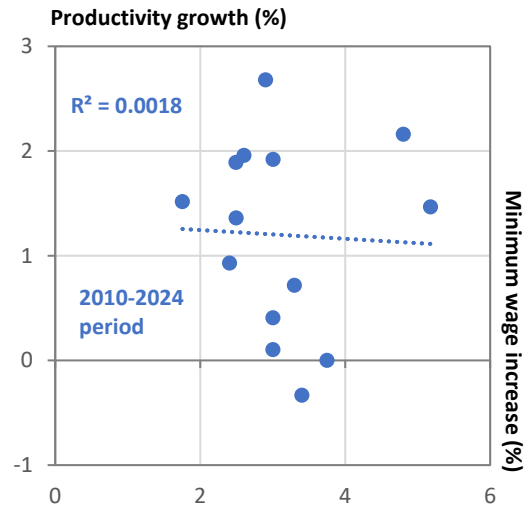


Figure 18 18: Correlation between productivity growth and minimum wage increases without outlier



Source: ABS Australian System of National Accounts, 2023-24 financial year, Fair Work Commission decisions (various years) & ACTU calculations

136. If one includes the very obvious outlier of 2023, where the minimum wage was benchmarked up to the C13 rate and the productivity bubble arising from COVID-19 lockdowns was bursting (a process wholly and entirely unrelated to minimum wage increases), then simple regression analysis testing the alternative hypothesis that there is a negative association between productivity growth and minimum wage increases yields a statistically significant (p-value of 0.002) strong negative relationship (with a correlation coefficient of -0.71). When one excludes

<sup>109</sup> ARCA, p. 6

this very obvious outlier, then simple regression analysis eliminates the statistical significance (p-value of 0.886) and the correlation disappears (with a correlation coefficient of -0.04).

137. Visual inspection of ARCA's scatter plot should also indicate that the years skewing the trend line are outliers, coinciding as they do with the unwinding of the productivity bubble and a resettling of GDP per hour worked at pre-pandemic trends – which as argued in the ACTU's initial submission is not the best measure of productivity growth. Every indication from ARCA's scatter plot is that the data points in the top left quadrant are trendless and there is evidently no relationship between minimum wages and productivity. ARCA's analysis cannot even prove correlation, let alone causation, and should be dismissed.

#### 4.4 Restaurant and Catering Association (RCA)

138. The Restaurant and Catering Association raised in its submission that output per hour worked declined by 2.1 per cent in the December 2024 quarter in the Accommodation and food services sector.<sup>110</sup> While that is true, the single outcome is not representative of implied aggregate productivity in the sector. Output per hour worked rose 0.5 per cent over the year to December 2024, after having risen 10.8 per cent over the year to March 2024, 10.3 per cent over the year to June 2024 and 12.1 per cent over the year to September 2024. Further, the level of output per hour worked in the industry is 16.2 per cent above December 2019 levels and has risen 9.8 per cent since the recent trough in September 2023. While individual industries' output per hour worked indicators are volatile, there does appear to have been a level shift up in Accommodation and food services since the economy started to re-open from early 2022. In any case, while quarterly growth rates can be instructive, taking a single point out of context is not a helpful approach to generating meaningful insight and the quarterly growth rate in December 2024 should not be taken by the Panel as representative of productivity in the sector as a whole.

139. RCA further claim that company gross operating profits fell by 2.2 per cent to December 2023, while wages grew by 0.5 per cent.<sup>111</sup> Again, RCA are selectively quoting just one quarter of data, and not even the latest quarter. Taking the latest quarter, company gross operating profits rose

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<sup>110</sup> RCA, para. 18, p. 6

<sup>111</sup> RCA, p. 6

by 9.7 per cent, but again, taking quarterly measures of fairly volatile indicators is not helpful for discerning underlying industry trends.<sup>112</sup> Instead, examining a longer time horizon shows that the profit to income ratio in Accommodation and food services continues to be within the 8 to 10 percent range that prevailed in prior to the pandemic (see Figure 19). The wage-to-income ratio has also headed back towards pre-pandemic levels (see Figure 20). In the context of a general squeeze on consumer spending, these are encouraging results, even more so given the recent reduction in interest rates.

Figure 19: Profit to income ratio, Accommodation and food services

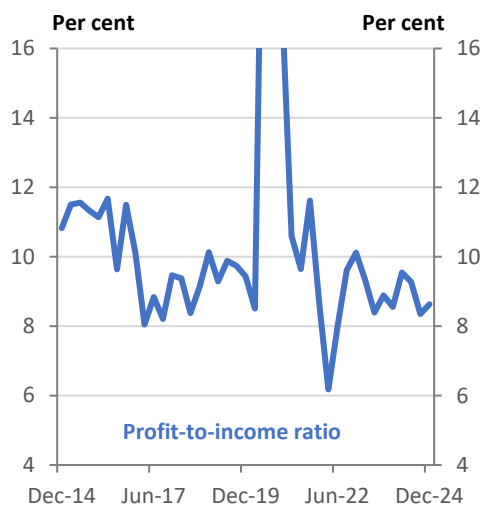
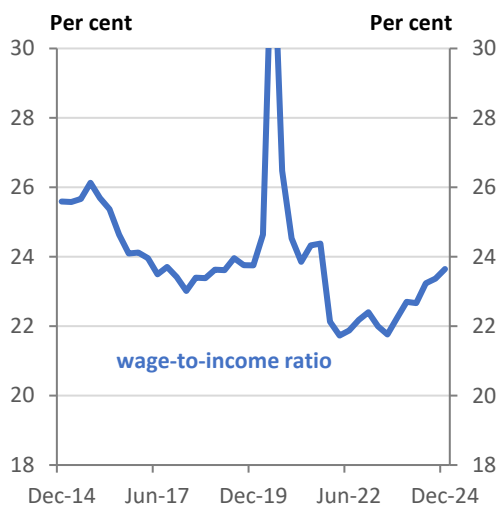


Figure 20: Wage to income ratio, Accommodation and food services



Source: ABS Business Indicators & ACTU calculations

#### 4.5 COSBOA

140. Submissions made by the Council of Small Business Organisations of Australia (COSBOA) covering issues also raised by other parties are covered in Part 2 of this Reply Submission. This section instead focusses on key claims made by COSBOA about the particular situation facing small businesses and the impact of award wages increases on them. It finds little evidence to suggest that small businesses are faring significantly differently than any other businesses in the current economic climate.

<sup>112</sup> ABS Business Indicators, December 2024.

141. COSBOA state that small business profit margins have declined by an average of 2.1 percentage points since 2023, quoting a “Small Business Profitability” report from the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) in 2025.<sup>113</sup> Unfortunately there is no publicly available version of this report, or even evidence of it. The most recent data on profitability by business size is contained in the ABS Australian Industry series and quoted in the FWC’s Statistical Report. It shows that small businesses have had an average annual profit margin of 18.8 percent in the five year to 2022-23, compared to the all business average of 13.8 percent.<sup>114</sup> It would be reasonable to assume that small business profit margins have eased off slightly since then, in line with broader trends, but there is nothing to indicate that the superior performance of small business over the all business average would have changed.

142. COSBOA also claim that small business insolvencies increased by 18 per cent in 2024, quoting the January 2025 Insolvencies Report from ASIC. However the data publicly available in this report does not break data down by business size. The ASBFEO does state in its latest “Small Business Pulse” report that for small businesses that “economic activity, including insolvencies, have returned to trend levels”,<sup>115</sup> a conclusion shared by the RBA, demonstrated in our Initial Submission and touched on in Part 3 of this Reply Submission. The report measures the general economic health of small business and finding that “the small business operating environment levelling off since sharply declining after Covid”.<sup>116</sup>

143. COSBOA claim that the past four increases in national minimum and award wages is “significantly outpacing both inflation and productivity growth during this period.”<sup>117</sup> This is a confusing and arguably incorrect claim. Considering just inflation alone at the time the AWR decisions came into effect over this period, CPI has grown by 19.7 per cent, outpacing award wage growth of 17.2 per cent. If COSBOA are also then adding productivity growth over this period, it would be measuring the decline from near the height of the artificial productivity bubble largely triggered by Covid-19 lockdowns.

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<sup>113</sup> COSBOA, para 3.2.1 (c).

<sup>114</sup> FWC Statistical Report, 2025, table 3.5

<sup>115</sup> See ASBFEO Small Business Pulse, [ASBFEO Small Business Pulse February 2025.pdf](#), p 2.

<sup>116</sup> Ibid, p. 1.

<sup>117</sup> COSBOA, para 6.2.2.

144. COSBOA's initial submission contains a range of references to members surveys. For example, at one point they claim that: "For every increase in wage costs above 2.5 per cent, approximately 8 per cent of small businesses report they would need to reduce staff".<sup>118</sup> We again direct the Panel to the likely methodological errors such claims are tainted with as discussed in Part 3 and encourage it to place little or no weight on such findings.

145. Similarly, COSBOA make a number of claims about the impact of wages increases above either CPI or its recommendation of 2 per cent to 2.5 per cent. They are:

- a. "...for every percentage point increase in minimum wages above CPI, business exits in award reliant sectors increase by approximately 0.8 per cent";<sup>119</sup>
- b. "...regional small business would be disproportionately impacted... with potential closure at twice the rate of metropolitan businesses";<sup>120</sup> and
- c. "Every 1 per cent increase in wage costs above our recommended range would result in an estimate reduction of 3.2 per cent in total employment hours in the independent retail sector."<sup>121</sup>

146. The ACTU encourages the Panel to place no weight on these claims on the following grounds:

- a. They either reference in-house analysis that is not publicly available, or reference nothing at all in the case of 59(b) above;
- b. It therefore not possible to examine what data has been used, or what method has been applied to arrive at such conclusions;
- c. Such conclusions are likely the result of misinterpreting fairly crude regression analyses, with the caveat that without access to the underlying analysis it is impossible to know for sure; and
- d. Finally, the conclusions plainly contradict a rich body of academic, peer-reviewed and publicly available research, which shows that reasonable increase in minimum wages do not have the impacts claimed above, the latest of which the ACTU outlines in some detail in its Chapter 9 of our Initial Submission.

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<sup>118</sup> COSBOA, para 6.1.2(a)

<sup>119</sup> COSBOA, para 7.2.1(a)

<sup>120</sup> COSBOA, para 7.3.2

<sup>121</sup> COSBOA, para 8.1.1(c)

## 4.6 AUSVEG

147. AUSVEG highlights concerns about rising input costs including wages, and – despite an increase in vegetable production volumes in 2023-24 – a fall in total farmgate value resulting in an 8 per cent decline in average returns to growers. AUSVEG argues that the inability of growers to pass on these costs is threatening the viability of the vegetable industry, with many farmers looking to leave the sector. However, AUSVEG also mentions “poor retail pricing” and the position of growers as “price takers” due to the nature of the supply chain and the dominance of the retail sector, as factors contributing to the inability of growers to increase their product sale price to cover input costs including labour.<sup>122</sup> In the ACTU’s view, AUSVEG incorrectly points to increasing wage costs as a key source of the concerns of growers and understates the real problem: the pricing power of the major supermarkets. This is a key finding of the ACCC’s recent inquiry into Supermarkets which found that the stronger bargaining position or monopsony power of Coles and Woolworths was leading to lower wholesale prices particularly for fresh produce suppliers.<sup>123</sup> We note that in other submissions, AUSVEG has called for reforms to “address the margin squeeze [caused by supply chain power imbalances] threatening the viability of the vegetable, potato and onion growing businesses it represents”. In addition to farmgate price, AUSVEG has drawn attention to growers’ consistent concerns about “the power imbalance that allows for poor or unconscionable behaviour and tactics by retailers as an even bigger issue” including “lack of certainty in arrangements with retailers in relation to price and volume, disproportionate risk and compliance burden, a lack of negotiating power, asymmetrical information flow and concerns over various behaviours that could be in breach of the [Food and Grocery Code of Conduct]”.<sup>124</sup> In positive news for AUSVEG and its members, both major political parties are committed to reforms to support suppliers to major supermarkets.<sup>125</sup>

148. AUSVEG also contends that Australia’s national minimum wage and the pay rate at Level 1 in the Horticulture Award are “already the highest” compared to other OECD countries including Singapore, the UK, Canada, the USA and New Zealand. However, the latest OECD data show that increases in both nominal and real minimum wages in Australia over the period January 2021 to

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<sup>122</sup> AUSVEG, pp. 1-2.

<sup>123</sup> ACCC, *Supermarkets Inquiry, Final Report*, February 2025, p. 21

<sup>124</sup> See [AUSVEG proposes solutions to grower-retailer power imbalance | AUSVEG](#) (21 February 2024); and [AUSVEG response to ACCC supermarkets report | AUSVEG](#) (21 March 2025).

<sup>125</sup> See e.g. [“Labor will ban supermarket price gouging in another move on cost of living”](#), 30 March 2025

January 2025 have been lower than the OECD average, and lower than the increases seen in Belgium, Great Britain, Ireland, Greece, Japan and The Netherlands (among many other countries).<sup>126</sup> In addition, we reiterate the point made in our initial submission that Australia's minimum wage "bite" lagged behind the OECD average as at 2023, at the conclusion of a 23-year period in which Australia remained fairly stable on this measure compared with a clear upward trajectory across the OECD.<sup>127</sup>

149. Additionally, AUSVEG submits that: "Wages are a significant factor in most vegetable farm input costs due to the heavy reliance on labour to harvest crops. Based on the latest AUSVEG survey, wages make up an average of 41 per cent of total production costs, with the top 10 percentile of farms reporting wage costs as high as 72 per cent."<sup>128</sup> However this needs to be considered in the context of the falling share of production going to wages in the wider agricultural sector, as shown in Figure 21. Within the Agriculture, forestry and fishing industry, the wage share of total nominal gross value added has been declining for the last two decades. In December 2024, compensation of employees made up 20.3 per cent of total gross value added in the industry, down from 21.9 per cent in December 2014 and 25.7 per cent in December 2004. The wage share of gross value added in the Agriculture, forestry and fishing industry has been largely unchanged since December 2023, suggesting broad stability in wages.

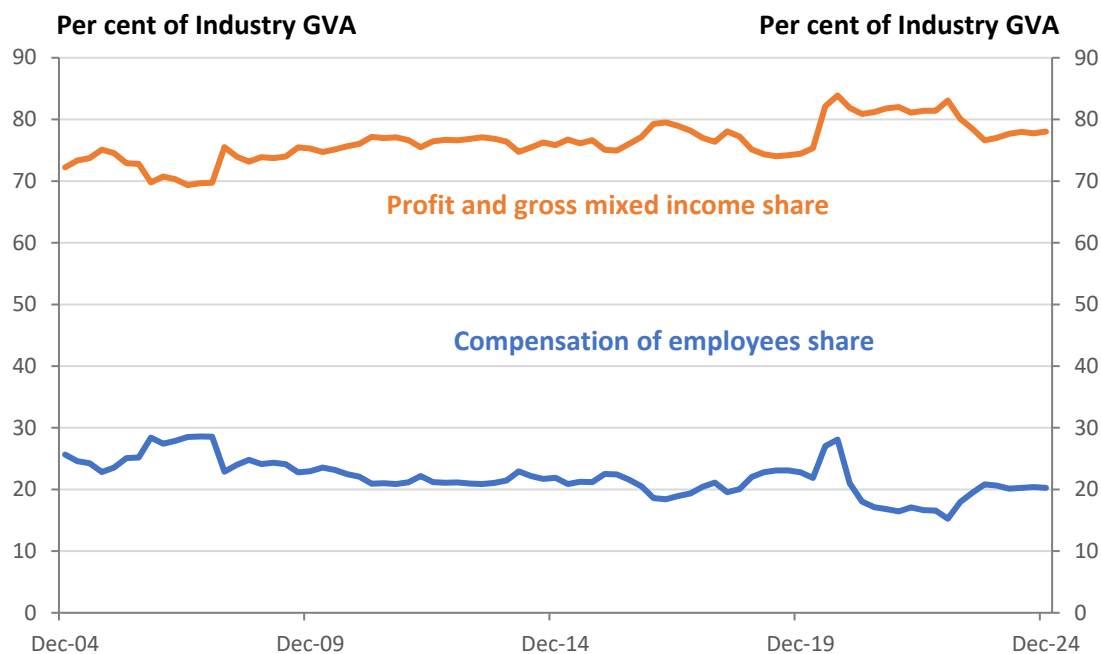
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<sup>126</sup> OECD, *Real Wages Continue to Recover: The OECD Wage Bulletin*, 2025, Figure 5, p. 8, at: [https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/03/real-wages-continue-to-recover\\_3a8a464b/8f8ec0e4-en.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/03/real-wages-continue-to-recover_3a8a464b/8f8ec0e4-en.pdf).

<sup>127</sup> ACTU, paras 336-337.

<sup>128</sup> AUSVEG, p. 2.

Figure 21: Profit and wage share of Agricultural, forestry and fishing



Source: ABS National Accounts: Income, Expenditure and Product & ACTU calculations

#### 4.7 National Farmers' Federation

150. The NFF argues that with workforce costs representing a significant proportion of business costs, many farmers fear that higher Australian labour costs than in international exporting counterparts will make their exports uncompetitive in international markets.<sup>129</sup> We reiterate here our response to the AUSVEG submission above, dispelling the notion that Australia's real minimum wage levels are inordinately high compared with OECD countries. Further, a recent ABARES industry snapshot highlights the strong performance of Australian agricultural exports over the last 20 years:

'In real terms the value of agricultural, fisheries and forestry exports has fluctuated between \$45.8 billion and \$86.1 billion since 2004–05... . In 2023–24 Australia agricultural, fisheries and forestry exports were valued at \$75.6 billion. Grains, oilseeds and pulses have been the fastest-growing export segment, growing at an average annual rate of 9 per cent in real value terms between 2004–

<sup>129</sup> NFF, p. 5.

05 and 2023–24, followed by other horticulture (excludes fruit and vegetables) (4 per cent), and meat and live animals (4 per cent).'<sup>130</sup>

151. The NFF urges the Panel to adopt a cautious approach to wage-setting, especially for export-reliant sectors like agriculture where producers are price takers not price setters with limited capacity to pass on costs. In this context, the NFF asks the Panel to be guided primarily by the object in s.3 of the FW Act relating to the special circumstances of small-medium businesses and the consideration in s.284(1)(a) of the performance and competitiveness of the national economy.<sup>131</sup> It also requests the Panel to consider the highly award-reliant nature of the agricultural sector and the effects of a minimum wage increase on employment growth, business viability and productivity.<sup>132</sup> However, the minimum wages objective and the modern awards objective require the Panel to consider and balance the much wider range of factors set out in ss. 134(1) and 284(1) including relative living standards and the needs of the low paid. The importance of these latter considerations is detailed in Chapter 3 of the ACTU's initial submission, telling against the argument for caution urged upon the Panel by the NFF. While the NFF's assertion as to the export-reliant nature of agriculture is accurate, with around 70 per cent of the total value of Australian agricultural, fishing and forestry production exported in the 3 years to 2023-24,<sup>133</sup> the Panel should be aware of factors other than wages which impact on returns to farmers. These include climate variability and strategies which producers are compelled to implement to manage climate risks, as recently highlighted by ABARES.<sup>134</sup> Finally, the *Horticultural* and *Pastoral Awards* only directly cover about 30,000 employees, in a total industry workforce of about 295,000.<sup>135</sup>

152. The NFF contends that a recent “decline in agricultural production value comes after three years of strong production and returns for farmers” and that the “forecasted 7 per cent decrease in prices received for agricultural production in 2023–24 is concerning”.<sup>136</sup> This stands in contrast to

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<sup>130</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *ABARES Insights: Snapshots of Australian Agriculture 2025*, Issue 1, February 2025, p. 5.

<sup>131</sup> NFF, pp. 6, 8.

<sup>132</sup> NFF, p. 10.

<sup>133</sup> See e.g. Australian Bureau of Agricultural and Resource Economics and Sciences, *ABARES Insights: Snapshots of Australian Agriculture 2025*, Issue 1, February 2025, p. 5.

<sup>134</sup> *Ibid*, pp. 8-9.

<sup>135</sup> See Table A3 in Strong et al and ABS Labour Force Detailed, March 2025,

<sup>136</sup> NFF, pp. 8-9.

the recent ABARES industry snapshot showing that: ‘Average farm cash incomes for broadacre and dairy farms over the 3 years to 2023–24 were well above the averages for the previous 10 years, although there were differences across the industries.’ For example, the 3-year average farm cash income to 2023-24 for cropping farms was around 55 per cent higher than the average for the previous 10 years in real terms; for dairy farms, it was around 130 per cent higher; and for specialist beef farms, around 15 per cent higher (with only specialist sheep farms’ income falling).<sup>137</sup> And in its March 2025 Agricultural Commodities Report, ABARES states that: ‘Average broadacre farm cash profit is forecast to increase by \$77,000 to \$110,000 in 2025–26 driven by higher commodity prices and decreases in fuel, fodder and interest costs’.<sup>138</sup>

153. The remainder of the NFF submission dealing with specific industry perspectives (e.g. dairy, horticulture, meat and livestock) consists of many unsubstantiated and/or speculative claims including as to the apprehension among growers about minimum wage increases, the deterrent effects of such increases on hiring, and their potential impact in “undermining resilience and strategies to navigate challenging times”.<sup>139</sup> Similarly, the NFF argues that: “Without a subsequent increase in production accompanying a minimum wage increase, farmers will simply be unable to continue employing and be forced to restrict their labour force to existing employees, limiting growth and innovation. ... The minimum wage should continue to operate as a stepping stone to higher skills and long-term workforce participation, not a barrier to hiring.”<sup>140</sup> We dealt with the employment effects, and countered the purported disemployment effects, of minimum wage increases in Chapter 9 of our initial submission.<sup>141</sup> As to the NFF’s call for increased productivity as a necessary underpinning for minimum wage increases, while the recent ABARES industry snapshot indicates that the productivity growth of Australian farmers has slowed since 2000-01, the position is somewhat more nuanced. According to ABARES data, between 2000-01 and 2022-23, the average annual productivity growth rate of 0.72 per cent in the broadacre farm sector

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<sup>137</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *ABARES Insights: Snapshots of Australian Agriculture 2025*, Issue 1, February 2025, p. 7.

<sup>138</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural Commodities Report: March quarter 2025*, Volume 15, Issue 1, March 2025, p. 7; see further pp. 120-124.

<sup>139</sup> NFF, pp. 10-13.

<sup>140</sup> NFF, p. 13.

<sup>141</sup> ACTU, paras 534-541.

(including large-scale crop and livestock production) exceeded the 0.14 per cent average annual productivity growth rate of the market sector (i.e. all agricultural activity).<sup>142</sup>

#### 4.8 South Australian Wine Industry Association

154. The SAWIA submission raises a number of challenges facing growers and wineries including ongoing global demand weakness with exports remaining significantly below 2019 levels, oversupply issues, rising production costs and shifting consumer preferences.<sup>143</sup> It points to its own 2024 Industry Snapshot results showing the impact of financial pressures on profitability and debt levels for operators in the SA wine industry. These data are used to assert that “any additional cost burden, including excessive wage increases, risks pushing more businesses into financial distress, job losses, or reduced investment in the industry”.<sup>144</sup> Other data sources indicate that many of the challenges confronting the industry arise from longer-term problems, including a decline in exports to the US and UK markets from around 2007-08 and a 4 per cent fall in global wine consumption over the last 10 years (with consumption now at its lowest level since 1996).<sup>145</sup>

155. On the issue of export levels, the SAWIA highlights “ongoing volatility in global wine markets” while also noting the recent 34 per cent increase in Australian wine exports “largely driven by strong shipments to mainland China following the removal of tariffs on Australian bottled wine at the end of March 2024”.<sup>146</sup> The beneficial impact of the removal of Chinese tariffs, as predicted in the ACTU’s reply submission in last year’s AWR,<sup>147</sup> is further detailed in a recent report by Wine Australia:

‘In the 12 months ended December 2024, Australian wine exports increased by 34 per cent in value to \$2.55 billion, the highest value since June 2021. Total volume also increased by 7 per cent to 649 million litres. The average value of exports increased by 26 per cent to \$3.93 per litre free on board (FOB), the highest average value since late 2020. The increase in value was a result

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<sup>142</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *ABARES Insights: Snapshots of Australian Agriculture 2025*, Issue 1, February 2025, p. 9.

<sup>143</sup> SAWIA, pp. 3-5.

<sup>144</sup> *Ibid*, p. 5.

<sup>145</sup> Kym Anderson, *Clarifying Controversial Contributions to Australia’s Current Wine Industry Crisis*, Wine Brief No. 48 2024, Wine Economics Research Centre, University of Adelaide, November 2024; KPMG, *Wine Industry Insights: Key Emerging Issues*, September 2024.

<sup>146</sup> SAWIA, pp. 3-4.

<sup>147</sup> ACTU reply submission for AWR 2023-24, para 104.

of high levels of shipments to mainland China between April and December 2024, after tariffs on Australian bottled wine were removed at the end of March 2024. In those nine months, 83 million litres of wine, worth \$902 million, have been exported to mainland China.’<sup>148</sup>

156. The SAWIA notes the decline in 2024 in Australia’s third-largest wine export market by volume, the USA, before observing that: “Further exacerbating these difficulties, the recent announcement by the US Administration of a 10 per cent tariff on all Australian goods, including wine poses a significant threat to the industry’s competitiveness in one of its most valuable export markets.”<sup>149</sup> Referring to the prospect of the imposition of US tariffs, ABARES stated that: “The potential for increased barriers to global wine trade in 2025 and 2026 creates uncertainty concerning demand for Australia’s wine exports across world markets. However, the magnitude, scope, and secondary effects of trade barriers (such as policy responses or trade diversification) can impact the competitiveness of Australian wine exporters in a variety of channels.”<sup>150</sup> Further, the recent ABARES report indicated that: “Australian wine export volumes are forecast to increase by 3 per cent to 651 million litres in 2024–25 as greater demand from China offsets weaker demand from Hong Kong, the United States and the United Kingdom.”<sup>151</sup> In addition: “Australian wine grape prices are forecast to rise on average in 2024–25, but to differing degrees across varieties and regions. Prices are forecast to rise further in 2025–26, driven by improved demand from winemakers ... .”<sup>152</sup>

157. In summary, the ACTU submits that the circumstances of the Australian wine industry are positive, and certainly not as dire as the SAWIA submission conveys, revealing the absence of any need for caution in the Panel’s approach to increasing minimum wages in the current Review.

#### **4.9 Australian Retailers Association (ARA) and National Retail Association (NRA)**

158. The Australian Retailers Association and National Retail Association asserted in their submission that ‘many of our members have expressed the view that there is growing reluctance amongst

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<sup>148</sup> Wine Australia, *Australian Wine Export Report 2024*.

<sup>149</sup> SAWIA, p. 4.

<sup>150</sup> Australian Bureau of Agricultural and Resource Economics and Sciences, *Agricultural Commodities Report: March quarter 2025*, Volume 15, Issue 1, March 2025, p. 72.

<sup>151</sup> *Ibid*, p. 70, although note that this forecast was made before the Trump administration’s announcement of the 10 per cent tariff on all Australian imports into the USA.

<sup>152</sup> *Ibid*, p. 69.

employees to commit to full-time positions, with a preference for casual roles that offer greater flexibility.’<sup>153</sup>

159. Recent labour force data says otherwise. In the year to February 2025, in the Retail trade sector, the number of employees with paid leave entitlements is up 1.4 per cent, while the number of employees without paid leave entitlements has fallen by 1.3 per cent. Within the aggregates and over the year to February, the number of employees with paid leave entitlements has increased by around 11,000 workers, while the number of employees without paid leave entitlements has fallen by around 6,100 workers. The difference was even more significant over the year to November 2024, where the number of employees with paid leave entitlements increased by around 56,000 workers, an addition that was more than twice the fall in the number of employees without paid leave entitlements of around 27,000 workers.

160. More to the point, over the year to February 2025, the number of full-time employees with paid leave entitlements increased by around 10,000 workers, while the number of full-time employees without paid leave entitlements increased by around 2,100 workers. Further, over the year to February 2025, the number of part-time employees with paid leave entitlements increased by around 800 workers, while the number of part-time employees without paid leave entitlements fell by around 8,200 workers – a figure more than offset by just the increase in full-time employees with paid leave entitlements.

161. ARA and NRA’s claim that there is a growing preference for casual roles with greater flexibility is entirely inconsistent with recent labour market outcomes – and, in fact, the opposite is true. Employment with paid leave entitlements has more than off-set declines in employment without paid leave entitlements over the year to February 2025 and has done so in six of the last eight quarters (see Figure 22). Further, increases in employment with paid leave entitlements in the Retail sector has outpaced employment without paid leave entitlements since May 2023 (see Figure 23). This indicates that this perception of ARA & NRA’s membership is at odds with trends in the actual labour market.

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<sup>153</sup> Australian Retailers Association, 4.23, p. 8

Figure 22: Retail sector change in employment

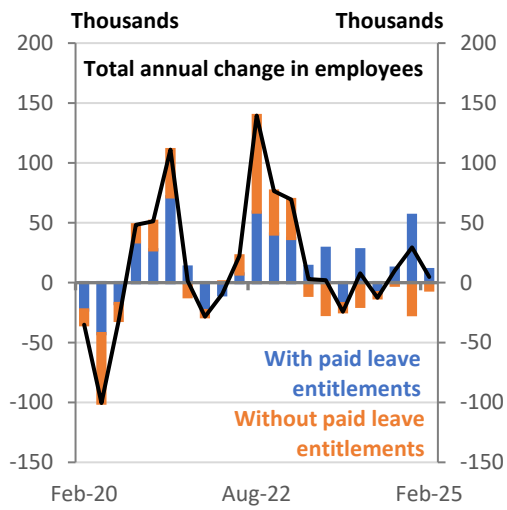
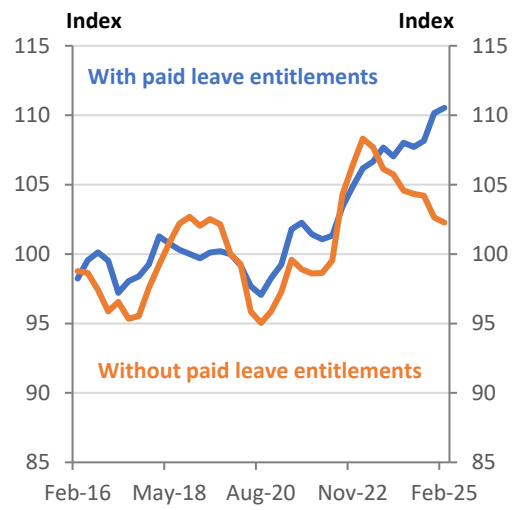


Figure 23: Retail employment index by type



Source: ABS Labour Force Detailed, Australia & ACTU calculations

## 5. GENDER EQUALITY AND THIS REVIEW

162. The Expert Panel issued its initial decision in the Gender Undervaluation Priority Awards Review (**the Priority Awards Review**) on 16 April 2025: [2025] FWCFB 74 (**the Initial Decision**).

163. In the Initial Decision, the Expert Panel set out the background to the consideration of gender-based undervaluation, the applicable concepts and principles, and the development of a contemporary approach to the identification and rectification of gender-based undervaluation. It then set out a number of principles consistent with the statutory framework which guided its consideration in the Priority Awards Review. These include the following:

- a. It is necessary to establish at the outset that the occupation group is female-dominated, with 60 per cent or more being the usually accepted standard;<sup>154</sup>
- b. It is then necessary to undertake a historical analysis of the development of the award rates of pay in order to ascertain whether there are any indicia of gender-based undervaluation, with the Expert Panel listing what it considers to be the most significant indicia;<sup>155</sup>
- c. Identifying gender-based undervaluation requires a close examination, based on agreed facts or evidence, of the skills and duties of the work in question, including whether the work is of a caring nature requiring the exercise of ‘soft’ or ‘invisible’ skills which may not have previously been properly recognised or valued because of past assumptions based on gender. If the award rates have been set simply on the basis of the application of the C10 Metals Framework Alignment Approach, then it may be presumed, in the absence of evidence that indicates otherwise, that any ‘soft’ or ‘invisible’ skills found to be required for the performance of work have not been taken into account in the fixation of the wage rates;<sup>156</sup>
- d. Having regard to the above matters, a conclusion must be reached as to whether the rates of pay in the relevant award have undervalued the work for gender-related reasons.

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<sup>154</sup> [2025] FWCFB 74 at [67].

<sup>155</sup> *Ibid* at [67].

<sup>156</sup> *Ibid* at [69].

Where a positive finding is made, this will likely constitute a work value reason justifying the variation of modern award minimum wage rates.<sup>157</sup>

- e. Determining a variation to award minimum wages to rectify gender-based undervaluation requires the making of a value judgement based on the need to achieve the modern awards objective and the minimum wages objective. In determining this, the gender equality considerations are likely to have significant weight, with three guiding principles for the exercise of the FWC's discretion:<sup>158</sup>
  - i. The C10 Metals Framework Alignment Approach should not be applied in a mechanistic way to determine the outcome;
  - ii. In respect of work of a 'caring' nature involving the exercise of 'soft' or 'invisible' skills, the Caring Skills benchmark rate established in the Stage 3 Aged Care decision for a Certificate III-qualified employee indicates the upper end of the range of potential outcomes; and
  - iii. In respect of the C1(a) benchmark identified in the Stage 3 Aged Care decision for a degree-qualified Registered Nurse, this rate should apply as a minimum, to any classification for which a university degree is required (except at the entry level) in the absence of evidence justifying a different outcome on work value grounds.

164. The Expert Panel found that the following occupations have been the subject of gender-based undervaluation:

- a. Pharmacists covered by the *Pharmacy Industry Award 2020*;
- b. Health professionals, pathology collectors and dental assistants covered by the *Health Professionals and Support Services Award 2020 (HPSS Award)*;
- c. SACS employees, crisis accommodation employees and home care employees in disability care covered by the *Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award)*;

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<sup>157</sup> Ibid at [70].

<sup>158</sup> Ibid at [71].

- d. Dental assistants and dental/oral therapists covered by the *Aboriginal and Torres Strait Islander Health Workers and Practitioners and Aboriginal Community Controlled Health Services Award 2020 (ATSIHW Award)*; and
- e. Children's Services Employees covered by the *Children's Services Award 2010*.

165. It further determined that these findings constitute work value reasons justifying the variation of the modern award minimum wage rates applying to each category of employees.

166. The Expert Panel issued a determination to vary the *Pharmacy Industry Award 2020* to rectify the identified gender-based undervaluation. This will involve a total increase in minimum wage rates of 14.1 per cent, to be implemented in three phases from 30 June 2025, 30 June 2026 and 30 June 2027 respectively.

167. In the case of each of the other awards, the Expert Panel set out its provisional views on appropriate award variations to remedy the gender-based undervaluation it has found to have occurred. We note that parties will be given an opportunity to be heard in relation to the provisional views before the Expert Panel varies any of the awards, and that further conferences in relation to each award will be scheduled after the parties have had a reasonable opportunity to properly consider the provisional views.

168. We note and concur with the concerns raised by the ASU in relation to the proposed classification structure to be adopted in the SCHADS Award in its correspondence to the Commission dated 23 April 2025.<sup>159</sup> These concerns include that the proposed classification structure appears to reduce the classification and rate of pay for many positions currently covered by Schedule B and C of the SCHADS Award. These concerns will be raised at the forthcoming conferences. We strongly support the submissions of the ASU that the SCHADS Award classification structure should properly value the work of people covered by it, and that the proposed classification structure should not result in any positions paid at a lower rate or classification than they currently are.

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<sup>159</sup> [Correspondence](#) from the ASU to the Fair Work Commission Re: AM2024/21 Gender Undervaluation Priority Awards Review dated 23 April 2025.

169. We consider it likely that the further conferences and potential further evidence and hearing in the Priority Awards Review will take some time and will not be resolved prior to the decision in the 2024-25 Annual Wage Review. However, out of an abundance of caution, we reiterate the concerns raised by the ASU in its reply submission to the 2024-25 Annual Wage Review in relation to the SCHADS Award,<sup>160</sup> and concur with their position that every position covered by the SCHADS Award should get the full benefit of this year's Annual Wage Review decision, and any increases to minimum rates should be applied in full to the current SCHADS Award rates of pay (inclusive of the Equal Remuneration Order).

### 5.1 The Gender Undervaluation Priority Awards Review Decision – General Observations

170. In Chapter 4.1 of the ACTU's Initial Submission to this year's Annual Wage Review, we summarise how the gender equality considerations have been interpreted by the FWC in previous decisions. The Initial Decision does not depart from these established principles, but we wish to emphasise the following points.

171. Firstly, as outlined above, the Expert Panel set out a number of principles which guided its consideration in the Review, including the following:<sup>161</sup>

The process of identifying gender-based undervaluation also requires a close examination, based on agreed facts or evidence, of the skills and duties of the work in question. An important element of this is to analyse whether the work is of a 'caring' nature requiring the exercise of 'soft' or 'invisible' skills, including but not limited to the skills of 'interpersonal and contextual awareness, verbal and non-verbal communication, emotion management and dynamic workflow coordination', which may not have previously been properly recognised or valued because of past assumptions based on gender (emphasis added).

172. Consistent with our initial submission,<sup>162</sup> this assessment of the FWC should involve the assessment of whether invisible skills are utilised, regardless of whether the work is 'caring' or not. Invisible skills in caring work should not be a proxy for gender-based undervaluation. There are many examples of invisible skills exercised by female dominated occupations that are likely

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<sup>160</sup> ASU Reply Submission to the 24-25 Annual Wage Review, 30 April 2025, at page 2.

<sup>161</sup> [2025] FWCFB 74 at [69].

<sup>162</sup> ACTU Initial Submission to the 24-25 Annual Wage Review at [376]-[378]

to have been undervalued but which do not necessarily involve caring work. This is explored and detailed examples given in section 4.4 below.

173. Secondly, the findings made by the Expert Panel in relation to gender-based undervaluation affecting the *Pharmacy Industry Award 2020* are significant in confirming that it is possible to identify gender-based undervaluation without historical undervaluation. The material before the Expert Panel did not permit a finding that pharmacists have been the subject of historical undervaluation because of assumptions based on gender, because it was unknown whether the occupation was female-dominated or even mostly female when the starting point rates of pay were established in 1996. However, the Expert Panel found that the undervaluation identified clearly had a contemporary gender dimension in that, by reason of the current and apparently growing female domination of the occupation, women are disproportionately affected and disadvantaged by it. This is exacerbated if female pharmacists were more likely to be paid only the minimum award rate than men, consistent with broader labour market patterns. The Expert Panel found this was sufficient to permit the undervaluation to be characterised as gender-based, and there were therefore work value reasons justifying the adjustment of the minimum rates of pay for pharmacists covered by the *Pharmacy Industry Award 2020*.<sup>163</sup>

## 5.2. Conduct of Future Proceedings

174. Having now had the benefit of the Initial Decision, we wish to reiterate and expand on the points made in our Initial Submissions regarding how the Review was conducted and how future proceedings could be conducted to ensure that issues of gender-based undervaluation are addressed in both a reasonable timeframe and in a sustainable and efficient way.<sup>164</sup>

175. One of our proposals was that future proceedings be divided into multiple phases, including an initial inquiry phase to determine the scope of the proceedings and the issues to be determined, and determinative phases to determine rates of pay and classification structures. What is also now clear, having had the benefit of the Decision, is that there should be two clear stages in the

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<sup>163</sup> [2025] FWCFB 74 at [102].

<sup>164</sup> See 24-25 ACTU Initial Submissions at [387]-[394].

determinative phase. Stage 1 should deal with the question of whether there has been gender-based undervaluation, and Stage 2 should deal with the remedy.

176. A two staged approach would lead to greater efficiencies and less cost for the parties. In the Priority Awards Review, the example of the issue of the economic impact of proposed wage increases is illustrative. The parties spent considerable resources finding, instructing, calling and cross-examining expert witnesses, as well as making submissions, on the issue of cost. Ultimately, the Initial Decision, whilst making a few limited findings, determined that this evidence was irrelevant because it didn't address any of the actual outcomes expressed in the provisional views. This may well mean a repetition of this process, which is cost-prohibitive for union parties, and which may limit the full participation of parties in future gender undervaluation proceedings.

177. A two staged approach in future proceedings would ensure that parties only need to put on relevant evidence about cost and economic impact once. It could also facilitate agreement on any wage increases, with the only outstanding issues being implementation and phasing in. To ensure the greatest efficiency, at the commencement of the second stage, the FWC could also express any preliminary or provisional views about the remedy, so that parties can address it in their material. The second stage would therefore determine all outstanding issues.

178. We note that the ACTU had proposed something similar to this in the Priority Awards Review. In submissions made on 11 September 2024, the ACTU referred to the following issues in the proceedings:<sup>165</sup>

- a. Whether variations to minimum wages in the relevant modern awards would be necessary to meet the modern awards objective and the minimum wages objective; and
- b. The implementation timetable for any increases, having regard to funding and related issues.

179. The ACTU submitted that given the nature of the proceeding as an own-motion proceeding, it may be premature for the parties to address these issues comprehensively in evidence and submissions until the Commission had reached a view (or expressed a preliminary view) about

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<sup>165</sup> Outline of Submissions of the ACTU – Requests for extensions of time, 11 September 2024 at [35].

what (if any) variations it considered are justified by work value reasons. Further, the ACTU noted that such views or preliminary views would also assist the parties to properly instruct experts to provide a report on the question of the impact on employment, business and the national economy (if any) of any proposed wage adjustment.<sup>166</sup>

180. The ACTU therefore sought directions to:<sup>167</sup>

- a. Defer the determination of issues at paragraphs 11(2)(b), 11(2)(c) and 11(7) of the 24 June 2024 Statement until after the Commission has decided, or expressed a provisional view about, whether the variation of any particular modern minimum wages is justified by work value reasons; and
- b. Permit further evidence and submissions in relation to those deferred issues after the publication of the Commission’s decision or provisional view.

181. In a Statement published on 20 September 2024, the Expert Panel noted the ACTU’s request to have the above issues deferred until after the publication of an initial decision or provisional view. The Expert Panel considered that it would be premature to split the proceedings in the way proposed by the ACTU, “particularly given that the scope of the issues in dispute in each matter is not yet apparent. If, for example, it is agreed or not in dispute in respect of any of the subject award classifications that the minimum rate of pay has been subject to gender undervaluation such that there are work value reasons justifying an adjustment, then the issues concerning the modern awards objective, the minimum rates objective and the timing and phasing-in of any pay increases may readily be addressed during and following the December hearings.”<sup>168</sup>

182. We note that there was only a consent approach taken in relation to two awards (although not on all matters). This was one factor which meant a determination could be issued in the *Pharmacy Industry Award 2020* without expressing a provisional view, but a provisional view was expressed in relation to the *ATSIHW Award*. The other awards the subject of the proceeding had a number of issues in dispute.

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<sup>166</sup> Ibid at [36]-[37].

<sup>167</sup> Ibid at [40].

<sup>168</sup> [Statement](#) [2024] FWCFB 382 at [22].

183. We consider that the most efficient approach in future will be to conduct proceedings in two stages as described above, unless there is a meaningful degree of consent that means issues concerning the modern awards objective, the minimum rates objective and the timing and phasing-in of any pay increases may readily be addressed in the first stage, and there are no other issues the parties may wish to be heard on (for example, proposed changes to classifications structures).

### 5.3 Areas for future review

184. The Initial Decision flagged a number of areas that could be subject to future review.

185. Firstly, the Expert Panel, whilst finding that there was too little information before it to permit any proper assessment of the value of work of medical technicians (other than pathology collectors), did not foreclose any future consideration of the work value of medical technicians under the HPSS Award. It also observed that there were various deficiencies in the 'Technical and clinical stream' indicative roles in the Support Services employees classification structure, and considered that a wider review of these roles, how they fit into the structure and whether there should be a separate structure for the 'Technical and Clinical' roles would be appropriate in future. Such a review could include the consideration of the work value of medical technicians, as well as the issue of the rates for a Certificate IV qualified dental assistant.<sup>169</sup>

186. The ACTU and union parties welcomes the findings that the work value of medical technicians has not been foreclosed and could be given more intensive consideration in a future review. Given the limited timeframe and the evidence that was able to be gathered by the parties within that timeframe, it would have lacked fairness to determine this issue to finality in the Decision. We note also our position, as stated in the Initial Submissions, that priority occupations to be reviewed in future should include all classifications in the Support Services stream in the HPSS Award (including Receptionists in hospitals, Receptionists in general practice medical services and General Clerks in hospitals).

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<sup>169</sup> [2025] FWCFB 74 at [202], [291].

187. Secondly, the Expert Panel noted the submissions made by some parties regarding allowances to recognise the cultural load and cultural responsibility of employees covered by the ATSIHW Award and/or the use of language, and that cultural skills and the level of necessity or desirability of those skills are not adequately or properly described in the ATSIHW Award. The Expert Panel found that these issues were outside the scope of the current proceedings, but that they may be pursued further by separate application.<sup>170</sup> The ACTU and union parties welcome the opportunity to address these issues in future. We note also our position, as stated in the Initial Submissions, that priority occupations to be reviewed in future should include all classifications in the Health Workers stream in the ATSIHW Award.

#### 5.4 Invisible Skills and gender undervaluation in 'non caring' work

188. As we have previously submitted,<sup>171</sup> there are awards which contain a high level of gender-based occupational segregation, but do not on their face involve 'caring' work. However, it does not follow that this work does not involve the application of 'invisible skills' that are occupation-specific, and which have not historically been valued when setting modern award minimum rates. It remains necessary to conduct a fact-finding exercise to enable the proper consideration and weighing of the steps necessary to achieve elimination of gender-based undervaluation of work.<sup>172</sup>

189. Invisible skills in caring work should not be a proxy for gender-based undervaluation (as it arguably was in the 2012 Equal Remuneration SACS case, where the Full Bench accepted that the performance of care work in the SACS sector in the SCHADS Award was a proxy for gender-based undervaluation.)<sup>173</sup> In remedying that undervaluation, the FWC chose to only compensate undervaluation based on the proportion of caring work undertaken in the various occupations,<sup>174</sup> an approach which has continued to some degree in the Aged Care Work Value Proceedings and the Priority Awards Review. We concur with the view that has been expressed by Professor Charlesworth that the use of the 2012 SACS decision to understand gender undervaluation as

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<sup>170</sup> Ibid at [452].

<sup>171</sup> 23-24 ACTU Initial Submissions at [392]-[394], 23-24 ACTU Reply Submissions at [190]; 24-25 ACTU Initial Submissions at [376]-[378].

<sup>172</sup> Aged Care Stage 1 decision [2022] FWCFB 200 at [22].

<sup>173</sup> Expert Report of Dr Sara Charlesworth in the Gender Undervaluation Priority Awards Review, at [52].

<sup>174</sup> Ibid.

residing substantially in direct care work runs the risk of failing to fully respond to systemic gender undervaluation in the federal workplace relations system and potentially embeds an incomplete construction of gender undervaluation, despite the 2022 amendments introducing gender equality considerations.<sup>175</sup>

190. In relation to invisible skills used in ‘non caring’ work, the Spotlight tool and other research may be of assistance in identifying such skills, as well as knowledge, training, responsibility, demands, qualifications, which may not have been properly valued and therefore can contribute to the undervaluation of work. In our initial submissions, we gave the example of Beauty Therapists, for whom the Stage 1 report identified potential invisible skills such as:<sup>176</sup>

- a. The role of emotional labour and making customers feel better – working with the body as well as with feelings, generating positive emotions in clients, offering stress relief and building confidence;
- b. Building the relationships needed to secure a personal clientele and repeat business;
- c. Relational work requiring interactional competencies to ensure non-routine responses, reassurance around client’s concerns, and treating clients as individuals by relating to them personally and tailoring the service around client preferences;
- d. Being trusted with sensitive client disclosures and facilitating bonding and identity formation in marginalised communities. As people in frequent and intimate contact with diverse community members, they can act as informal helpers around medical and social issues, including family and domestic violence.

191. There are also multiple pieces of research that demonstrate the existence of invisible skills in work that could be characterised as ‘non-caring’ (although we do not necessarily consider that distinction to be a clear cut or useful one).

192. Anne Junor has written about the under-recognition of skills in gender-segregated jobs in rapidly growing service economies.<sup>177</sup> She finds that approaches to skill recognition based on

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<sup>175</sup> Ibid at [57].

<sup>176</sup> Cortis, N, Naidoo, Y. & Bradbury, B., “Gender Based Occupational Segregation: A National Data Profile”, UNSW Social Policy Research Centre, 6 November 2023 at pages 74-75.

<sup>177</sup> Junor, A (2020) ‘Emotional Labour: Valuing Skills in Service Sector Employment’, Chapter in Sawer, M, Jenkins, F and Downing, K, How Gender can Transform the Social Sciences (2020), Palgrave Pivot Cham.

qualifications, work value cases and job evaluation, and which are focused on technical, physical labour skills and mental labour skills of managers, overlook the skills needed in technology-based clerical work, social community and care work, and in interactive frontline retail and hospitality service jobs. The skills involved in these service jobs have been taken for granted as ‘natural feminine attributes,’ yet the rise of the service economy has meant an increased requirement for skills of communication, coordinating, problem-solving, judgment, contextual understanding and complex multi-tasking.<sup>178</sup> Recognition can be impeded by the invisibility of service skills. Junor writes about the need to recognise the skills of ‘emotional labour’ in order to ensure gender equitable work value claims and job evaluation systems.<sup>179</sup>

193. Examples of the kind of historically undervalued skills captured by the term ‘emotional labour’ include unobtrusively guiding others, interweaving work processes, using nonverbal communication and managing relationships and contingencies, diplomacy in managing a difficult boss or client, displaying constant, heightened levels of pleasantness or unpleasantness in order to influence customers’ feelings and behaviour, and intensive deep acting in order to manage the emotions of others.<sup>180</sup> These skills are relevant to a diverse range of jobs, including flight attendants, debt collectors, and call centre workers.<sup>181</sup>

194. In addition to the skills involved in emotional labour or ‘emotion work’, ‘articulation work’ is another useful concept which describes skills such as attentiveness to contexts and consequences, and capacity for coordinating work processes and managing contingencies.<sup>182</sup>

195. Cortis and Naidoo, in a recently published article,<sup>183</sup> write about the gender-based undervaluation of feminised service roles that have been considered ‘ancillary’ on the basis that they supplement and are subordinate to the contributions of managers and the professions – occupations such as receptionists, clerical staff, administrators, aides, porters and cleaners.<sup>184</sup> They argue that these roles are vulnerable to undervaluation for similar reasons to frontline

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<sup>178</sup> Ibid, at page 150.

<sup>179</sup> Ibid at page 149.

<sup>180</sup> Ibid, at pages 151-152, 157.

<sup>181</sup> Ibid, at pages 151-152.

<sup>182</sup> Ibid, at page 153.

<sup>183</sup> Cortis, N and Naidoo, Y (25 April 2025) ‘Gender Segregation and women’s ‘ancillary’ occupations: The case of health care receptionists’ *Economic and Labour Relations Review*, 1-19.

<sup>184</sup> Ibid, at page 2.

carers, including assumptions that tasks are suited to women's 'natural attributes', they involve complex interpersonal and communication skills which may lack formal recognition. They occur behind the scenes to keep systems functioning and may involve tasks which are difficult to describe and not formally delegated, all of which can render the work invisible.<sup>185</sup> The authors note that in health care and education, there are several low paid ancillary service and administration roles where women comprise 90% of workers or more, including in the occupations of reception and office management, education aides, and veterinary nursing.<sup>186</sup>

196. The authors provide a more detailed exploration of one female and large ancillary occupation - receptionists working in health care, and the complex and invisible skills that this work involves - including the invisible interpersonal and organisational skills deployed to support patients and clients, smooth and coordinate work processes, and bolster the productivity of (traditionally male) managers and professionals.<sup>187</sup> They argue that this example underlines the need for ongoing work to address the gender-based undervaluation of 'ancillary' and 'supportive' roles which are dominated by women and characterised by low pay and high rates of part time work, and that challenge constructions of these jobs as peripheral and subordinate to male-dominated roles.<sup>188</sup>

197. The authors analyse the relevant literature using concepts drawn from the spotlight framework developed by Junor et al to identify key sets of skills used to coordinate processes and workflow, interact and relate and manage relationships, and to maintain and shape awareness.<sup>189</sup> Some examples of these skills include:

- a. **Coordinating workflow:** Managing health care workflow and patient pathways, by acting as intermediaries between the practice and patients, weighing up competing demands, determining a workflow that balances organisational and patient interests, making decisions that determine access to clinical staff under time pressure (an informal triage role): "Receptionists must manage a flow of patients at the same time they maintain records and documentation, attend to individual problems and emergencies, and keep

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<sup>185</sup> Ibid.

<sup>186</sup> Ibid, at page 3.

<sup>187</sup> Ibid at page 8.

<sup>188</sup> Ibid, at page 17

<sup>189</sup> Ibid, at pages 13-14.

offices and practices running smoothly, including through ad hoc problem solving, all while in a disruptive and confined waiting space.”<sup>190</sup>

- b. **Interacting and relating** – negotiating boundaries, communicating and connecting across cultures, establishing and maintaining patient relationships, gathering information in non-intrusive ways, handling patient distress, using expertise such as humanness, empathy and support, using skills of negotiating, diplomacy and tact to carefully handle sensitivities, appearing calm and emotionally neutral, and defusing patient hostility and reducing anxiety: “Interactions at the reception desk may relate to health system processes and pathways, along with individual physical and mental health problems, language barriers, emergencies and death.”<sup>191</sup>
- c. **Shaping awareness** – sensing, monitoring and shaping patients’ experiences, awareness and behaviour, influence patient care experiences, ensuring patients feel welcome, managing impressions of patients and visitors, working to inspire confidence and trust in clinical care. This requires tact and confidentiality, social knowledge and awareness, making rapid observations while multitasking, constant surveillance to sense situations among health care professionals and patients.<sup>192</sup>

198. The authors conclude that while usually considered part of an ancillary health care workforce, reception work is neither secondary nor supplementary but rather essential to service productivity and patient care. The wide range of skills used in these roles has been sidelined and invisibilised, and along with many other feminised jobs, feminised administrative and office support roles warrant further analysis, study and regulatory attention to improve skill recognition and progress gender pay equity.<sup>193</sup>

## 5.5 Impact of the Decision on this year’s Annual Wage Review

199. The Pharmacy Guild, in its initial submission to the 2024-2025 Annual Wage Review dated 30 April 2025, observes that the impact of the increases in wages flowing from the Gender

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<sup>190</sup> Ibid at page 14.

<sup>191</sup> Ibid at page 15.

<sup>192</sup> Ibid at pages 15-16.

<sup>193</sup> Ibid, pages 16-17.

Undervaluation case in the *Pharmacy Industry Award 2020* and in other Awards will start to take effect on 1 July 2025. The Guild acknowledges that the effect of this cannot yet be properly measured, and also submits that the Gender Undervaluation increases “are not in lieu of any annual wage review increase.”<sup>194</sup> Nonetheless, the Guild goes on to say that “the impact of those Gender Undervaluation increases must be taken into account in determining the amount of the annual wage review increase.”<sup>195</sup>

200. However the *Pharmacy Industry Award 2020* is the only award from the Priority Awards Review where there is certainty over what the increases will be and when they will come into effect. The Expert Panel expressed provisional views in relation to all of the other awards, with conferences and possibly a hearing to be scheduled where the parties can express their views in relation to the provisional views, with final outcomes to be determined. As such, these increases are simply not able to be taken into account, as there is no certainty about what they will be and when they will come into effect. We refer to our submissions on the approach the Panel should take in relation to social assistance measures,<sup>196</sup> in that it should only take into consideration measures that have been legislated or otherwise enacted at the time it makes its decisions, that those measures should be assessed in a broader historical context, and that the Panel should hold to its previous position of not applying direct discounts to negate measures that are “plainly intended to benefit low paid households”.<sup>197</sup>

201. Furthermore, and more significantly, these increases are very different to social assistance measures (despite the Pharmacy Guild’s submission that the increase to take home pay will have a positive impact on employees managing cost of living increases).<sup>198</sup> These increases have been made or proposed to rectify gender-based undervaluation identified in the Priority Awards Review. This is an essential task so that the Commission has a properly valued and non-gender-based foundation upon which to make any adjustments to minimum rates.<sup>199</sup> There has been no suggestion from previous Panels that corrections to minimum rates to rectify gender-based undervaluation should act as a moderating factor on annual wage review increases to minimum

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<sup>194</sup> Pharmacy Guild of Australia, Submission to the 2024-25 Annual Wage Review, 30 April 2025, at page 4.

<sup>195</sup> *Ibid.*

<sup>196</sup> ACTU 24-25 Initial Submissions at [342].

<sup>197</sup> [2019] FWCFB 3500 at [245].

<sup>198</sup> Pharmacy Guild of Australia, Submission to the 2024-25 Annual Wage Review, 30 April 2025, at page 4.

<sup>199</sup> *Annual Wage Review 2022–2023* [2023] FWCFB 3500 at [40]; *Annual Wage Review 2023–2024* [2024] FWCFB 3500 at [88]

rates. To do so would be inappropriate, unfair and counter-productive, as it would transfer some or all of the benefit of that correction from the intended beneficiaries to their employers via the setting of wages lower than would have otherwise been the case. It would also serve to exacerbate gender-based undervaluation and gender pay gaps by holding back the wages of minimum wage and award reliant workers, the majority of whom are women. We therefore submit that such an approach would be contrary to the considerations in s134(1)(ab) and 284(1)(aa), particularly the need to eliminate gender-based undervaluation of work and address gender pay gaps.

202. Finally, in relation to the *Pharmacy Industry Award 2020*, we note that there was consent between the relevant parties as to the amount of the wage increase. In relation to implementation, the parties had different views on the length of phasing in. The Expert Panel adopted the phasing-in timetable over three years proposed by the Guild (with the union submitting that a shorter timetable was appropriate) as one that “renders the cost impact acceptable to employers generally.”<sup>200</sup> The cost impact has already been thoroughly considered and taken into account in the Initial Decision,<sup>201</sup> with the phasing-in timetable proposed by the employer being adopted in order to make that cost impact acceptable to employers. The cost impact should not again be considered in the Annual Wage Review.

## 5.6. Response to Employer Submissions

### 5.6.1 Gender Pay Gap

203. In its submission, ACCI claimed that:

*Increases to the minimum wage and modern award wages are incapable of having any material impact on the gender pay gap or women’s economic inequality more broadly’, going on to suggest ‘Uniform increases to the national minimum wage rate and modern award wage rates do not effectively narrow the gender pay gap...The only difference is that those relevant male and female employees are now paid at a proportionately higher rates, albeit with the same wage gap.’<sup>202</sup>*

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<sup>200</sup> [2025] FWCFB 74, at [108]

<sup>201</sup> Ibid, at [105]-[108].

<sup>202</sup> ACCI, para. 159 & 163, p. 34

204. As noted in the ACTU's initial submission, the FWC has long recognised that 'any increase to modern award minimum wage rates will provide a disproportionate benefit to female workers, and may contributed to narrowing the aggregate gender pay gap across the entire employee workforce'.<sup>203</sup> This is because a majority of award employees are female, with women comprising 58.6 per cent of modern award-reliant employees. As the ACTU pointed out at paragraph [407] of our Initial Submission, if (and only if) there were an even split between male and female employees (which there is not), it is unlikely that increasing award wages would have an impact on narrowing the aggregate gender pay gap. In the event, increases in the minimum and modern award wages can have an impact on both the aggregate gender pay gap and women's economic inequality more broadly by raising the wages of women workers in lower-paid industries because of the composition of the workforce.

205. In this connection, Figure 95 and Figure 96 in the ACTU's initial submission demonstrate the strong correlation between increases in award wages and annual growth in female full-time average weekly ordinary time earnings, with growth in female full-time AWOTE rising more rapidly than male growth in full-time AWOTE in the years the Panel awarded robust increases in minimum and award wages. ACCI's claim runs against the available evidence and does not make a positive contribution to discussions around closing the gender pay gap and addressing women's economic inequality.

206. In its submission, Ai Group argue that most of the gender pay gap results from gender wage dynamics facing higher paid workers outside the modern awards system, and so changes to minimum wages will only have a very minimal effect on the gender pay gap. This argument is based on data they quote that the total earnings gender pay gap is considerably lower for award employees (2 per cent) than for all employees (15.9 per cent) and that the gender pay gap is negative when calculated on an hourly earnings basis.<sup>204</sup>

207. This argument has a number of problems. Firstly, as outlined in our initial submission, there is great variation in the gender pay gap across modern awards: of the 35 modern awards with data on gender, men had higher average hourly ordinary time earnings than women in 22 modern

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<sup>203</sup> Annual Wage Review 2022–2023 [2023] FWCFB 3500 at [9], [114]–[115], [117].

<sup>204</sup> Ai Group, section 10.4, page 40.

awards, with the difference exceeding 5 per cent in 12 of these modern awards. The gender pay gap is high in many female dominated modern award reliant industries - for example 21.6 per cent in Health care and social assistance, 17.8 per cent in Administrative support services, 10.4 per cent in Accommodation and food services and 9.9 per cent in Retail trade.<sup>205</sup> It is simply incorrect to claim that there is not a gender pay gap issue affecting modern award reliant workers.

208. Secondly, the proper comparison is the work of award wages in lifting women's pay relative to all employees across all pay setting methods. Figure 95 and Figure 96 in the ACTU's initial submission demonstrate the strong correlation between increases in award wages and annual growth in female full-time average weekly ordinary time earnings, with growth in female full-time AWOTE rising more rapidly than male growth in full-time AWOTE in the years the Panel awarded robust increases in minimum and award wages. The strong positive correlation is consistent with the Panel's previous findings noted above and suggests that a solid increase in award wages would contribute to lowering the aggregate gender pay gap across the workforce.

209. Finally, we note the international research which demonstrates that stronger minimum wages have positive disproportionate impacts in lifting women's pay, and hence reducing gender pay gaps and wage inequality between genders.<sup>206</sup>

### 5.6.2 Women's Workforce Participation

210. ACCI also claimed in its submission that:

*Large increases to labour costs, such as wages, have disemployment effects and therefore could potentially undermine the consideration of facilitating "women's full economic participation" ... considering the fact that women are disproportionately award-reliant... significant increases to the minimum wage and modern award wage rates, will have disproportionate disemployment impacts on women and should be avoided. Hence, any increase to the NMW above the 2.5 per cent which ACCI has proposed due to a pursuit of gender equality should not be accepted by the Panel.<sup>207</sup>*

211. There are five problems with this submission.

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<sup>205</sup> ACTU 24-25 Initial Submissions at [413]-[414].

<sup>206</sup> ACTU 24-25 Initial Submission, Chapter 10.

<sup>207</sup> ACCI, para. 165, p. 35

212. Firstly, there is no evidence presented in support of it.

213. Secondly, as the ACTU noted in our initial submission, a review of international literature around the minimum wage runs against ACCI's assertions quoted above. The two most relevant themes are presented below, with paragraphs [530] to [552] of our initial submission covering the literature in detail:

- a. Employment effects of minimum wage increases are generally near zero and in some cases positive; and
- b. Minimum wages have positive impacts in reducing wage inequality between genders.

214. It is worth noting, as the ACTU did in paragraphs [493] to [496] of our initial submission, that though some award-reliant industries have seen declines in employment, this is overwhelmingly due to flows of employees into the health care industry, and not the result of minimum and award wage increases. It bears repeating that there is no evidence of disemployment effects arising from increases in minimum and award wages and no credible authority claims there is.

215. Thirdly, the ACTU also notes in passing that the unemployment rate for women is still well below pre-pandemic averages and at 3.9 per cent is the lowest it has been in decades; that the underemployment rate has fallen since September 2024; that the participation rate for women in March 2025 was still near record highs and there is every indication that women's employment opportunities and labour market outcomes are still strong.

216. Fourthly, ACCI gives no consideration to the converse possibility, that "increases to modern award minimum wages which exceed those produced by the labour market generally may attract women into award-reliant industries and occupations" as the Panel noted last year<sup>208</sup>, and arguably demonstrated in paragraph 214 above.

217. Fifthly and finally, while lifting women's workforce participation may be a relevant consideration, consistent with ss 134(1)(ab) of the FW Act, we refer to the Panel's commentary in the *Annual*

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<sup>208</sup> [2024] FWCFB 3500 at [132].

*Wage Review 2022–2023* that s 134(1)(ab) is more likely to relate to conditions of work rather than rates of pay.<sup>209</sup>

218. Ai Group touch on similar issues in arguing in its submission that:

*The Panel’s consideration of gender equality should not be limited to an assessment of remuneration levels between men and women, or the gender pay gap. Rather, it should include other measures to achieve gender equality, such as the following three related matters: (i) lifting women’s workforce participation, (ii) sustaining the recent rise in full time employment of women; and (iii) encouraging the provision of additional hours of work to underemployed women.*<sup>210</sup>

219. In addition to the arguments put above in response to ACCI, we also note that the Panel should be cautious in accepting Ai Group’s submission that its task includes measures to achieve gender equality by “sustaining the recent rise in full-time employment of women” or “encouraging the provision of additional hours of work to underemployed women”. Firstly, the Panel’s task is to look at the need to achieve gender equality broadly, with specific consideration to be given to equal remuneration, gender-based undervaluation and gender pay gaps, which as the Panel has acknowledged, are the most relevant factors to setting minimum and award rates of pay. Secondly, we reject the argument by Ai Group (and other employers) that wage increases in excess of what they would recommend would undermine female workforce participation as put above.

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<sup>209</sup> *Annual Wage Review 2022–2023* [2023] FWCFB 3500 at [41].

<sup>210</sup> Ai Group, p. 37

**address**

ACTU

Level 4 / 365 Queen Street

Melbourne VIC 3000

**phone**

1300 486 466

**Web**

[www.actu.org.au](http://www.actu.org.au)