

## 9. Needs and The Low Paid

### *The Commission's Approach To Needs*

[9.1] In these proceedings to consider an appropriate increase in the award safety net of minimum wages, the Commission must balance a set of statutory considerations, including but not limited to those set out in s.3(d), 88A(b), and 88B(2)(c) of the *Workplace Relations Act 1996*. The Commission noted the “range” of these considerations in its last decision<sup>19</sup>.

[9.2] It is now established that the Commission receives a significant amount of information which is said to be relevant to its determination under s.88B(2)(c). This includes, but is not limited to the material in Section 6 of the current ACTU written submission. The Commission must navigate this material, not only to assess the needs of the low paid, but also to place this consideration in its proper context against other considerations relevant to these proceedings. This is illustrated by the following conclusion from the 2001 decision:

*The information about income levels and distribution provided by the parties is informative of Australian living standards. However, it must be taken into account having regard to the limited nature of our task and statutory responsibilities.*<sup>20</sup>

[9.3] The Commission went on to reiterate the following conclusion from its 1999, 2000, decisions:

*"Considering the needs of the low paid requires the exercise of judgement as to varying income levels and the resultant living standards attained in the Australian community. There is clearly a gap between income levels derived from bargaining and those provided by the award system. The evidence and submissions inform the Commission in its task of adjusting the safety net. Central to the adjustment of the safety net consistent with ss.88B(2) is a consideration of the economic factors, the desirability of attaining a high level of employment and the needs of the low paid. In this context we reject the proposition that the low paid include people who are unemployed. The relevant statutory provisions deal separately with the low paid and the unemployed and the expression 'the low paid' in ss.88B(2)(c) is intended to refer to persons who are in employment. However, we are required by ss.88B(2)(b) and 90(b) to take the level of*

<sup>19</sup> *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [100]

<sup>20</sup> *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [125]

*employment into account and we have done so. Many low paid employees are unable to afford what are regarded as necessities by the broader Australian community."*<sup>21</sup>

[9.4] The Commission concluded as follows:

*We acknowledge that the material does indicate that people on low incomes face particular difficulties and that is one of the factors which we have taken into account.*

[9.5] ACCI does not seek to commend to the Commission any construction of the *Workplace Relations Act 1996* which is at odds with this approach, nor to argue specifically on this occasion that the unemployed are, in a technical sense “the lower paid” within the meaning of s.88B (2)(c). But the circumstance of the unemployed and the capacity of the labour market to employ them are clearly relevant in these proceedings. ACCI stress that one of the key objectives of the Commission in its decisions must be the maintenance of award wage settings which promote employment growth. Taking account of the needs of the low paid will require awarding an increase that is moderate and sustainable.

[9.6] However, in regard to needs:

- a. There are significant inconsistencies in the material presented by the ACTU, especially in section 6 of its written submission.
- b. This material fails to provide a valid basis for determining employee needs. It illustrates a diversity of incomes, and expenditures that cannot sustain or advance the ACTU claim.
- c. The consideration in s.88B(2)(c) is just one consideration under the *Workplace Relations Act 1996* relevant to these proceedings.
- d. The *Workplace Relations Act 1996* reveals no pre-eminence for the consideration of needs above the wider economic and labour market considerations set out in Part VI, and the Act 1996 more generally.
- e. A proper balance of the statutory and evidentiary considerations in this matter should lead the Commission to:

<sup>21</sup> *Safety Net Review - Wages April 1999 Decision* [Print R1999] (1999) 87 IR 190 at 213

- i) Reject the ACTU's ambit \$25 / 6.05% wage claim.
- ii) Instead award a genuinely moderate, targeted and responsible increase.

### ***The ACTU Approach – Ignoring Employment Effects***

[9.7] Once again the ACTU has given primacy to the needs of the low paid and advanced a submission structure that relies heavily on witness evidence from a very small selection of employees employed on minimum award wages.<sup>22</sup> It has also sought to argue in the remainder of Section 6 of its submission that aggregate and research measures further underscore the relevance of its claim to the lower paid.

[9.8] Whilst the ACTU materials are designed to illustrate that it is more difficult to make ends meet on a low income compared to a higher income, the ACTU appears to have again ignored the trade off between increasing minimum award wages and negative impacts on the level of employment.

[9.9] The principal issue in this case, as with previous ACTU claims is the effect of any increases in award wages on jobs. As stressed in these proceedings in previous years, the primary need for the lower paid is to keep their jobs. (Research presented with this submission indicates that job retention is a valuable asset for employees). Continued access to work opportunities for the currently unemployed is also a vital consideration under the *Workplace Relations Act 1996*. Please refer to ACCI's survey and results located at Tag 6.

### ***ACTU Witness Evidence***

[9.10] The ACTU is quite correct in saying that its current witness evidence is consistent with the evidence presented in previous cases.<sup>23</sup> This material shows no more and no less than on previous occasions. There is

<sup>22</sup> There may be some doubt that all employees are on minimum award wages, as some appear to be covered by agreements, e.g. Max Evans, Tag 11, ACTU Witness Statements.

<sup>23</sup> (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [6.79], p.135.

no basis for the Commission to accord any additional weight to this material than has been applied on previous occasions.

[9.11] The ACTU again ignores the precariousness of employment of the very persons they place at the vanguard of the claim (the witnesses). It also ignores the extent to which wage increases such as that sought would endanger employment, particularly at comparatively lower pay levels. Another important consideration is that undue, unwarranted and non-productivity based increases can impact on underemployment, and employees' capacity to access desired part-time and casual hours.

[9.12] The statements of Shirley Bennett<sup>24</sup> and Max Evans<sup>25</sup> for example, highlight the precariousness of employment for those on lower award classifications. Ms Bennett also specifically reports her current perception of job precariousness, which could only increase if an employment endangering level of increase (such as \$25/6.05%) were awarded.

[9.13] The evidence presented by the ACTU also illustrates that it is not appropriate to view safety net wages as the sole source of income for persons employed at lower award classifications (and their households). A wide variety of social security payments and income transfers from Government are revealed in the witness statements:

- a. Mr Nicolaidis – Austudy payments to cover child education expenses.<sup>26</sup>
- b. Elizabeth Pamela Neville – Special bill paying arrangements by utilities.<sup>27</sup>

<sup>24</sup> (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 2 – George Nicolaidis, [5], p.33.

<sup>25</sup> (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 11 – Max Evans, [7], p.46.

<sup>26</sup> (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 2 – George Nicolaidis, [6], p.9.

<sup>27</sup> (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 2 – Elizabeth Pamela Neville, [11], p.12.

- c. Albert Yakoubian – Prescription medicines (Whilst Mr Yakoubian does not specifically mention this in relation to his medical expenditures, the Commonwealth Pharmaceutical Benefits Scheme and Medicare Safety Net may well apply).<sup>28</sup>
- d. Les Whatnall – Family assistance, rent assistance, and pharmaceutical benefits<sup>29</sup>.
- e. Michael James Howells – Centrelink payments to spouse.<sup>30</sup>

[9.14] The witness material also highlights more generally the range of income sources than can flow to the households of minimum wage earners.

[9.15] Tag 11 of the ACTU Composite exhibit demonstrates the diversity of expenditures of lower income earners. A diverse range of spending leads these persons to reportedly expend 100% of their incomes.

[9.16] There is no question that the level of expenditure in the households illustrated is lower than the average. However, this is because these are households in which the income is below the average. Any household that has an income below the average will typically have expenditures below the average. That is what one would expect.

[9.17] The conclusions that can be drawn from the ACTU witness materials are limited. Perhaps the only ones which may reliably be drawn are:

- a. There is a diversity of personal circumstances, incomes and expenditures for persons reliant on award wages.<sup>31</sup>

<sup>28</sup> (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 4 – Albert Yakoubian, [14], p.19.

<sup>29</sup> (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 9 – Les Whatnall, [6], p.36.

<sup>30</sup> (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 9 – Michael James Howells, [7], p.41.

<sup>31</sup> Mr Evans (C2001/5719 and ors) ACTU Written Submission – Witness Statements, 8 February 2002, Tag 11, [1], p.46 is employed on an enterprise agreement. Enterprise agreements also appear to apply to the workplace of Mr Howells.

- b. As would be expected, persons on comparatively lower wages report comparatively lower levels of income for expenditures, and that they spend a greater proportion of their wage incomes on accommodation and living expenses.

[9.18] The witnesses are again no doubt sincere in believing that the increase in award rates sought by the ACTU would benefit them. What they fail to recognise is that the aggregate effect of higher labour costs, with increases of \$25/6.05%, are the very factors that would slow the ability of their employers to increase real incomes and maintain levels of employment.

[9.19] These witness statements certainly provide an insight into the kinds of desires individuals have but they provide no insight whatsoever into how improvements in their standard of living can actually be afforded in the workplaces in which they work.

[9.20] The increase in costs that this claim would create would lead to an increase in prices that would entirely eat up any increase in wages. People do not get ahead by handing out more money without higher productivity. It is only by fostering productivity that we actually achieve an improvement in living standards while also improving job security.

[9.21] The true lesson to be drawn from these witness statements is again that to improve the job security of these individuals, and to raise their standard of living, the ACTU claim in this case should be rejected in favour of a genuinely moderate and targeted increase.

### ***Comparison of Witness Statements: 1999-2002***

[9.22] Comparing the witness statements on incomes and living expenses to safety net review cases since 1999 reveals a marked variation in personal costs of living.

### Figure 7 - Comparison of ACTU Witness Statements Household Expenses

Year	Low Expenses	Average	High Expenses
1999	\$330.00	<b>\$441.57</b>	\$702.62
2000	\$264.00	<b>\$367.71</b>	\$469.52
2001	\$363.10	<b>\$484.51</b>	\$698.90
2002	\$380.40	<b>\$532.69</b>	\$717.20

[9.23] There is again a wide variation in the range of expenses cited the ACTU submission, from \$380.40 to \$717.20 per week. There is also considerable variation from year to year in the range of expenses associated with the low paid.

[9.24] The change in the average expenses from \$484.51 to \$532.69 does not reveal any significant change in household expenses, rather it reflects changes in sample brought forward by the ACTU.

[9.25] The witness material also reveals a wide range of circumstances and needs more generally.

### Figure 8 - ACTU Witness Evidence: Diversity of Personal Circumstances

Witness	1	2	3	4	5	6	7	8	9	10	11
Paying for – (Family, Single, post Divorce single household)	F	F	D	F	F	S	S	F	F	F	F
Persons in Household	3	4	1	3	2	1	1	3	3	7	5
Incomes into Household	1?	2	1	1?	2	1	1	2	1	1	2
Government Assistance		Y		Y?					Y	Y	

[9.26] The statements reveal a high level of variability in personal circumstances and needs:

- a. The number of persons in the households varies from 7 to 1.
- b. Some households have dependent children, in others children have left home, and others still have children who contribute to the household.
- c. Some households have spouses/others who contribute separate working incomes, in others other adult household members do not contribute a separate income. In some households, spouses contribute social security payments.
- d. Some households receive income contributions from the Commonwealth by way of social security and medical benefits, others do not identify such payments.

[9.27] The comparative summary presented in Tag 11 of the ACTU composite exhibit underscores the variability of incomes and expenditures of the households of persons paid at award wage rates, and the lack of any basis to extrapolate to the low generally based on this material.

[9.28] There are also wide variations in personal spending priorities revealed by the witness materials:

**Figure 9 – Variation in Witness Expenses<sup>32</sup>**

	<b>Low</b>	<b>High</b>
Housing	\$50.00	\$320.00
Housing - % of Expenditure	3%	52%
Food / Beverages	\$25.00	\$200.00
Tobacco	\$30.00	\$55.00
Clothing	\$10.00	\$50.00
Transport	\$15.00	\$149.80
Recreation	\$10.40	\$35.00
Miscellaneous Goods & Services	\$7.50	\$175.00

<sup>32</sup> Source: ACTU Witness Statements, and ACTU Composite Exhibit, Tag 11.

### ***The Witness Material Is Not Representative***

[9.29] There are considerable variations in the witness material, and in the circumstances about which the ACTU seeks to generalise in support of its claim. The only available conclusion from the witness statements provided is that different individuals and households have different expenditure demands, patterns and behaviours. This provides little assistance to the ACTU in advancing its application.

[9.30] The extent to which the ACTU can viably seek to have the Commission generalise from the witness evidence, or treat it as representative is severely limited.

[9.31] 11 employees, selected by the ACTU, and not chosen randomly, cannot possibly constitute a statistically representative sample of lower paid, award-covered employees more generally.

[9.32] There is also no basis to conclude that the witness materials supplied are representative of incomes and expenditures generally at award rates of pay, or at lower award classifications including the minimum wage.

[9.33] The ACTU seeks to have the Commission endorse various propositions in regard to this material.<sup>33</sup> The Commission should instead limit its consideration of this material to the more limited conclusions outlined in this section, which place this material its correct employment/labour market context.

[9.34] The ACTU itself implicitly acknowledges the very limited conclusions that can be drawn from this material, in not seeking to have the Commission place significant determinative weight on the witness evidence.<sup>34</sup>

<sup>33</sup> (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [6.79], p.135.

<sup>34</sup> (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [6.79], p.135.

## ***Other Factors Affecting Needs***

[9.35] The ACTU witness material indicated some level of expenditure on superannuation for some employees.<sup>35</sup> It was unclear from the witness material where such an obligation arose from and precisely what was being paid. It would assist the Commission and parties to have more information on this from the ACTU.

## ***Conclusion***

[9.36] Those in low paid employment were better off than those without employment. Furthermore whatever the needs of the low paid are, the granting of the ACTU's claim will harm them by causing many to lose their jobs. This is particularly the case for those who find themselves in "precarious employment".

[9.37] There have been wage increases in recent years, and ACCI is arguing for an increase. We are asking the Commission to endorse a moderate and targeted increase. This should be made very clear.

[9.38] Unemployment, not the level of wages remains the main cause of poverty. The Commission may have distinguished the low paid from the unemployed under the construction of the Workplace Relations Act 1996, but it remains clear that unemployed persons enjoy the highest levels of relative disadvantage in our society and the lowest incomes to spend on their expenditure needs. Even if award wages were raised for a period of years, the award reliant employee would still be better off than the unemployed person relying on Government income transfers.

[9.39] The increase sought by the ACTU in these proceedings would see more persons slip from the ranks of the lower paid into the ranks of the unemployed, render the employment of many more precarious, and effectively destroy the prospects of the unemployed moving into

<sup>35</sup> e.g. Ms Redmond, (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [6.20], p.121, Mr Howells, [6.25], p.123.

employment. It is not necessary for ACCI to seek to prove that s.88B(2) does or does not accommodate those without jobs. The total economic and labour market consideration required for these proceedings indicates that:

- a. The ACTU ambit claim for a \$25 / 6.0% rise in award wages must be rejected.
- b. There should instead be a genuinely moderate and targeted increase as advocated in this submission.