

10. The Relevance of Comparative Materials

[10.1] The ACTU seeks to bring forward a very wide range of economic and other materials in its submission, including material on income distribution, and comparative outcomes for various groups in the labour market. This material is irrelevant to the AIRC's consideration of safety net increases.

[10.2] Notions of comparative wage justice, and of sustaining wage increases with reference to the remuneration of specified comparator occupations has not formed a consideration in this Commission's award wage fixing functions for many years.

[10.3] Three principal issues arise from the ACTU material that should be placed in their proper context at this point:

- a. The relevance of comparative, and distributional materials generally.
- b. Information on CEO and executive salaries.
- c. Material on wage outcomes for various officers and groups outside the minimum wage fixing framework of this Commission.

Comparative / Distributional Materials

[10.4] The ACTU written submission includes information on perceived inequality³⁶, distributions of income and wages, and disparities in levels of wage increase between sectors of the labour market.³⁷ This includes dedicated sections on the distribution of wage and salary income.³⁸

³⁶ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002 [1.30], p.8

³⁷ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, Sections 2, and 7 *passim*.

³⁸ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [7.7-7.13], p.153

[10.5] The Commission made a very clear statement on the relevance of such comparative/distributional material in the conclusion to its 2001 decision:

[125] As noted in previous decisions the statutory scheme does not give to the Commission a supervening social welfare responsibility either for incomes generally or their distribution. The scheme regulates wages and conditions of employment and requires the adjustment of the minimum wages safety net contained in awards having regard to particular considerations. 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...

[10.6] This clear statement on the relevance of such material was welcome, and should provide considerable assistance to the Commission and parties in the proper treatment of comparative and distributional material into the future.

- a. The AIRC should treat comparative/distributional material advanced by the ACTU on this occasion in the manner outlined in paragraph 125 of the 2001 decision.
- b. The ACTU carries the burden of demonstrating to the AIRC that information on comparative wage outcomes and income distribution is relevant to the variation of the safety net under the *Workplace Relations Act 1996*, and that the approach outlined in 2001 should be departed from.

[10.7] In light of the clear indication from the Commission in 2001, it must be assumed that the ACTU has advanced such material on this occasion solely as information of Australian living standards, which it recognises is not germane to the determination at hand.

Executive Salaries

[10.8] Last year the increase in the minimum wage was 3.2% while the growth in the Wage Cost Index was 3.4%. In the year before, using the same comparison those at the lower end of the scale did relatively better than employees generally.

[10.9] But as we already noted during last year's case, what any of this shows is hard to answer. It is a statistic which in the context of a wage case has little meaning other than perhaps this, that those at the bottom of the wage scale tended to price themselves out of jobs at more or less the same rate than did the average employee. Only if the productivity of employees at the lower end of the scale was rising more rapidly than the average would this not be the case, and since there are no wage productivity trade offs because of the Safety Net, there is less likelihood that wages growth is compensated for by higher productivity.

[10.10] The ACTU in each case spends a good deal of effort to show that certain categories of employee received larger increases than other categories. One of the most crucial issues to understand in looking at the different wage rates paid to different individuals is to recognise that wage differentials represent different scarcities of skills as well as the productivity of the individuals. Productivity, of course, attaches to the job and not to the person. There is a certain value to an employer in having certain work done. No matter what the actual skills or education or innate abilities of the individual employed are, the amount that will be paid will have to at least match the value of the output produced to the employer.

[10.11] The ACTU recognises the importance of productivity and payments adjustments in relation to the importance of keeping a skills differential in awards. It however refuses to see that this is simply the entire point of wage differentials across the entire economy where different payments are a recompense for different labour market functions.

[10.12] The ACTU chooses to focus on a number of subsections of the labour market where increases appear to be larger than average. The point being raised by the ACTU is that here are increases being granted in one area and therefore it asks the question why the same increases shouldn't be granted in other areas.

[10.13] We would remind the Commission that the remuneration of executives and other employees has no bearing whatsoever on the appropriate growth rate in the Safety Net.

[10.14] Similarly the growth in the earnings of parliamentarians has no bearing on what ought to happen to the Safety Net in Australia. The aim of the Commonwealth Remuneration Tribunal is to find some formula which will take the salaries of parliamentarians out of the political arena.

[10.15] This is the same situation in terms of senior public servants and judicial remuneration. A formula needs to be found in which the normal politics of wage movements can be removed. It is probable that there is a great deal to be desired in the format in which this has been done, it is nevertheless a mechanism that will reduce the level of community criticism of the increases.

[10.16] But when all is said and done, the serious question is at what rate should the minimum wage in this country grow, and what rate should awards in general grow, which will balance the two considerations of employment growth and increases in real earnings. The faster that wages grow the more slowly will employment grow. Similarly the slower that wages grow the more rapidly will the labour market grow.

[10.17] It is a matter of no consequence to draw in the wages paid to others. The key question that really has to be considered is, what will happen to those on awards and on the minimum wage if the ACTU claim, or anything remotely like it, is granted. The clear and obvious answer to that is that it will cost many of them their jobs.

Parliamentary, Judicial and Other Salaries

[10.18] The ACTU has submitted material on wage outcomes for statutory, judicial and other public officers covered by the Commonwealth Remuneration Tribunal (CRT), including; judges, senior public officers, parliamentarians, Ministers, and the Prime Minister³⁹.

[10.19] Consistent with the Commission's clear position on the relevance of comparative materials, this is not pertinent to the consideration at hand, and does not advance the ACTU's \$25 / 6.05% application.

[10.20] There are clear differences between both the recipient base and determination framework of CRT and the AIRC. These differences render the material presented by the ACTU irrelevant to the AIRC's consideration of the ACTU's \$25/6.05% wage claim.

[10.21] Changes in the incomes of highly qualified persons holding the highest judicial/ parliamentary/ bureaucratic positions in Australian society do not assist the AIRC in addressing the ACTU's \$25/6.05% claim for increases in minimum award rates.

[10.22] The CRT operates under specific empowering legislation⁴⁰, which provides a qualitatively different decision making framework to that applied by the AIRC under the *Workplace Relations Act 1996*. This includes different statutory imperatives and objects for the two bodies.

[10.23] The CRT is effectively supplementary to the AIRC. Under the *Remuneration Tribunal Act 1973* the primary considerations for the CRT follow the principles and decisions of this Commission in wage case matters.⁴¹

³⁹ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002 [2.31-2.37]

⁴⁰ *Remuneration Tribunal Act 1973 (Cth)*. The long title describes it as an Act to establish a tribunal in relation to the remuneration and allowances, and recreation leave entitlements, of the holders of certain public and other offices, and for related purposes.

⁴¹ *Remuneration Tribunal Act 1973 (Cth)*, Section 5(1)

[10.24] There may be something of an implicit double dip in the ACTU's identification of previous CRT deliberations (which reflect previous AIRC determinations) to support future AIRC minimum wage increases. For example, the determination for judicial officers cited by the ACTU⁴², arose from the CRT's principal consideration of the AIRC's 2001 Safety Net Decision.

[10.25] CRT determinations and recommendations necessarily also differ from those of the AIRC based on the unique circumstances and history of specific judicial/parliamentary/statutory offices, and the unique labour markets for such senior positions.

- a. The employment arrangements, rights and duties of positions subject to the CRT differ markedly from those primarily affected by the AIRC's deliberations in this matter. There can be considerable differences in employment motivation, future employment prospects, and retirement incomes of persons covered by the CRT compared to those subject to minimum award wages set by this Commission.
- b. It is interesting that the ACTU cites increases payable to members of Parliament⁴³ in support of its 6.05% increase. There have traditionally been far stronger pressures for moderation in these salaries than the ACTU has imposed on its wage claims. In addition, one of the implicit aims of the CRT appears to be find approaches which takes the salaries of parliamentarians out of the political arena. This role clearly differs from that of the AIRC.

[10.26] The CRT does not make minimum wage determinations, but determines actual salaries paid to statutory officers. The importance of workplace level bargaining, and of minimum wages operating as a safety net, which is fundamental to the AIRC's minimum wage determination appears, less relevant to many of the positions covered by the CRT decision

⁴² Commonwealth Remuneration Tribunal, Determination 2001/23, cited in (C2001/5719 and ors) ACTU Written Submission, 8 February 2002 [2.32]

⁴³ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [2.37]

framework. (Although there is scope for PEOs to negotiate details of total remuneration, including salary packaging and performance bonuses⁴⁴).

[10.27] CRT determinations are of particularly limited relevance to this Commission’s determination under s.88B(2)(a) of the *Workplace Relations Act 1996*.

- a. The unique nature of the employment subject to the CRT disqualifies it from being relevant to assessing the “standards generally prevailing in the Australian community”. CRT determinations apply to 875 public offices⁴⁵. Whilst some offices are held by multiple persons, even were CRT deliberations to apply to perhaps 3000 persons, this would equate to less than 0.04% of Australia’s 9,225,300 person labour force⁴⁶. This simply cannot constitute “living standards generally prevailing in the Australian community”.
- b. There is no basis to conclude the CRT’s periodic determination of wage increases is methodologically or economically superior to that applied by this Commission. It is a different methodology designed for a different salary setting task.
- c. The CRT determinations are based on considerations unique to public employment at very high levels. A minimum wage determination for the private sector, which focuses on lower paid employees, is quite distinct and reflects different statutory, economic and labour market considerations.

[10.28] The yearly nature of the CRT deliberations is set out in statute⁴⁷, and differs from the duties upon this Commission to determine applications for wages increases only when and so often as they are made. This automatic periodicity is appropriate given that many covered by the CRT

⁴⁴ Guidelines for the Structure set by the Tribunal in its relevant Determination (1999/15 - http://www.remtribunal.gov.au/Home/dets/det_1999_15.html)

⁴⁵ 225 federal parliamentarians, approximately 50 judicial and related positions; and approximately 600 public offices – Information supplied by the CRT.

⁴⁶ ABS 6202.0 Labour Force, Australia, Preliminary, January 2002 - Trend

⁴⁷ Remuneration Tribunal Act 1973 (Cth), Section 8

are not in a position to actively seek salary increases (e.g. judges, members of parliament).

Conclusion

[10.29] As was the case in previous years the ACTU attempts to focus on a number of the subsections of the labour market where increases appear to be larger than average. The point being raised by the ACTU is that there are increases being granted in one area, which it questions why can not be granted in other areas (principally to the award safety net).

[10.30] The ACTU calls on the Commission to ameliorate various perceived trends in comparative earnings.⁴⁸ This misunderstands the role of the Commission and of these proceedings.⁴⁹

[10.31] As was the case on the last occasion, we would remind the Commission that the remuneration of executives and other employees, officers and office holders, has no bearing whatsoever on the appropriate growth rate of the award safety net. Similarly the growth in the earnings of parliamentarians has no bearing on what ought to happen to the safety net in Australia.

[10.32] The Commission's very clear finding that this material is of very limited relevance to its minimum wage setting functions under the *Workplace Relations Act 1996*⁵⁰ was welcome, and should not be departed from. Nothing in the ACTU material appears to warrant any departure from the established approach.

⁴⁸ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [1.30], p.8-9

⁴⁹ *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [125]

⁵⁰ *Safety Net Review - Wages May 2001 Decision* [Print PR002001]