

12. The Form of Any Increase

What the Commission Is Being Asked to Consider

[12.1] The Commission does not have before it on this occasion any claim which should give rise to the awarding of either a percentage increase, or to an a “reverse” stepped increase such as that awarded in 2001 (which provided larger increases to those on higher award rates of pay).

[12.2] In contrast to previous cases since 1997, the ACTU has not advanced a two-stage claim on this occasion, and does not seek a percentage increase above a specific cut off (C7 or C10).⁵⁶ The ACTU has instead claimed “a \$25 weekly increase in all award rates”.⁵⁷ This is a claim for a flat dollar increase only.

[12.3] It is welcome that the ACTU has accepted the validity of flat dollar increases as the appropriate mechanism to balance the range of considerations under the *Workplace Relations Act 1996*, including balancing the ongoing importance of relativities.

[12.4] The ACTU’s acceptance of the legitimacy of a flat dollar, rather than percentage increase, is further underscored by the context in which the ACTU advances its current claim. In its 2001 decision the Commission specifically requested parties address the issue of percentage increases, and their relevance as an option for awarding safety net increases into the future.⁵⁸

[12.5] Whilst it is accepted that the options open to the Commission are not limited to those sought by parties to the proceedings (s.120 of the *Workplace Relations Act 1996*), no party appears to propose that the Commission do other than award a flat dollar increase to minimum award rates on this occasion. As no party appears to be advancing a percentage

⁵⁶ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [2]

⁵⁷ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [1.2]

⁵⁸ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [137]

increase or a 2001 style stepped increase, this does not appear to be a valid consideration for the Commission, despite the Commission foreshadowing that it remains an issue in its 2001 decision.

[12.6] What should be determined in these proceedings is the quantum of the flat dollar increase that should be awarded, and whether this should be applied to all or only some award classifications.

[12.7] The ACTU proposal to address classification structures appears set to be addressed separately.⁵⁹ ACCI reserves all rights to respond as appropriate, and notes that positions in these proceedings are advanced without prejudice to any fresh proposal on relativities which may arise during the life of principles from this matter.

[12.8] ACCI also reserves the right to argue that these proceedings alter the appropriate forum for any consideration of such issues, and that any principles arising from these proceedings should not be disturbed during their life.

Why All Rates Need Not Increase

[12.9] The Commission has previously rejected submissions that all award rates need not be varied in these proceedings⁶⁰. The Commission observed in 2001 that it had an obligation to maintain a safety net of fair minimum wages for all employees.

[12.10] However, the Commission appears to have also firmly acknowledged that the extent to which any increases should apply to all or only some award wage rates remains a matter for determination on each occasion, by weighing the economic, labour market and other statutory considerations under the *Workplace Relations Act 1996*.

[12.11] The Commission observed in 2001 that “*the form of the increase is a matter for determination on the merits of the particular case taking*

⁵⁹ (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [3.8], p.39

into account all of the relevant statutory provisions.”⁶¹ The Commission also clearly noted that *“there may be circumstances in which a safety net adjustment may be appropriate only at lower classification levels.”*⁶²

[12.12] Clearly, the Commission has countenanced that it is open to it to find that increases should only be awarded to the minimum wage, or some limited subset of award classifications. In not accepting the inevitability of increases only for particular groups⁶³, the Commission appears to have envisaged that such a position could be sustained on its merits, balancing of the range of statutory considerations under the *Workplace Relations Act 1996*.

[12.13] The issue of maintaining relativities remains a consideration. It is however only one amongst a number of factors that must be weighed in the Commission’s consideration. On each occasion the Commission considers appropriate safety net increases, parties may make submission on, and the Commission must determine, how this consideration should be weighed against others in the Act. There appears little basis to conclude that this should be a prevailing, or overarching consideration.

[12.14] This is reinforced by recalling the breadth of considerations in the *Workplace Relations Act 1996*, and in Part VI in particular. Considerations such as that in s.88(3)(a) are but one amongst many to be balanced.

[12.15] In its 2001 decision, the Commission *“pointed to the tension in the Act between the obligation to maintain the award safety net and, when adjusting the safety net, to have regard to the needs of the low paid.”* It stated that: *“In future safety net reviews we would be assisted by submissions which recognise that tension and make proposals as to how it should be resolved in the particular case.”*⁶⁴

⁶⁰ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [137]

⁶¹ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [139]

⁶² See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [138]

⁶³ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [138]

⁶⁴ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [137]

[12.16] This tension should be resolved by considering the totality of economic and labour market material before the Commission. Consideration of this material should lead the Commission to break with what it has been acknowledged to be a discretionary practice of awarding increases to all award classification levels.

[12.17] A proper weighing of the economic and labour market considerations, and other material brought forward in this submission, should outweigh any justification for increasing all award rates based on the maintenance of relativities.

Flat Dollar v Percentage Increase

[12.18] The Commission signalled last year that:

“We believe that there will be occasions where in order to comply with the statutory objects discussed above, and to avoid further erosion of relativities in skill-based classification structures, a percentage adjustment may be appropriate. In our view skills, responsibilities and the conditions under which the work is performed remain relevant considerations in the fixation of fair minimum wages.”⁶⁵

[12.19] This is not such an occasion. Whilst such considerations are said to remain relevant generally, when assessed against current economic and labour market considerations, the Commission should not be persuaded that any increase should be awarded in a percentage form.

[12.20] Any percentage increase to all award rates would inherently cease to be moderate in character, and would have the wide ranging negative economic and labour market impacts attaching to immoderate increases variously described throughout this submission.

[12.21] The following table illustrates the dollar levels of various percentage increases at upper award levels. It illustrates that percentage

⁶⁵ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [139]

increases cannot properly be conceived of as moderate, nor can they be linked to the needs material advanced by the ACTU.

[12.22] There potential disparity in dollar increases between award employees also appears potentially problematic, as illustrated by the final row of the table.

[12.23] The Commission has also previously recognised the inherent capacity for percentage increases to add significantly, and inappropriately to AWOTE.⁶⁶

Figure 10 - Dollar Outcomes Under Percentage Increases

	+2.0%	+2.5%	+3.0%	+3.5%	+4.0%	+5.0%	+6.0%
C14	\$8.27	\$10.34	\$12.40	\$14.47	\$16.54	\$20.67	\$24.80
C10	\$10.14	\$12.68	\$15.22	\$17.75	\$20.29	\$25.36	\$30.43
C7	\$11.36	\$14.19	\$17.03	\$19.87	\$22.71	\$28.39	\$34.07
C1(a)	\$16.74	\$20.93	\$25.11	\$29.30	\$33.48	\$41.85	\$50.22
C1(b)	\$19.24	\$24.05	\$28.86	\$33.67	\$38.48	\$48.11	\$57.73
Difference between increases at C14 and C1(b)	\$10.97	\$13.71	\$16.46	\$19.20	\$21.94	\$27.44	\$32.93

[12.24] It is also not difficult to conceive of any such safety net increases at higher levels substantially diminishing the incentive to bargain and to enter agreements. Increases of over \$20 per week have been consistently rejected by this Commission as inappropriate, yet any move to a percentage approach may see this come to pass for many classifications in many workplaces. It is also particularly difficult to conceive how such signals to employees would be consistent with the importance of encouraging ongoing productivity improvement under the *Workplace Relations Act 1996*.⁶⁷

[12.25] Importantly, the AIRC does not have a claim for any percentage increase before it on this occasion. As already outlined, this should not

⁶⁶ *Safety Net Review - Wages May 2000 Decision* [Print S5000], [115]

⁶⁷ Section 3(a), 88B(2)(b), 118A(2), 143(1B)(c), 170MX(5)(d) and 501(4)(b).

therefore be considered as an option for any increase awarded in this matter. Despite the Commission identifying this as an issue for consideration, no party has pressed this approach, and it therefore should not be further considered.

Relativities

[12.26] The Commission has highlighted a desire to avoid further erosions in relativities in skill based classification structures.⁶⁸ The Commission has also previously concluded that, “*relativities remain an important determinant of the fairness of the minimum wage structure within awards*”. However:

- a. The extent to which relativities have actually been eroded by decisions since 1991 is a matter for debate. Whether the change in these relativities is significant, and is of such significance as to provide the primary basis for the fixing minimum wages into the future, is questionable.
- b. It is not clear that any particular form of increase is inherently superior in regard to relativities, such that it should be awarded contrary to its wider economic or labour market merit.
- c. The ACCI position would have an identical impact on relativities to a percentage increase, and a superior impact to the 2001 increase. It would be more consistent with wider economic and labour market considerations than other options before the Commission.
- d. There are a number of other considerations that must be balanced against percentage increases, which should mitigate in favour of a genuinely targeted and moderate increase, that is not applied to all award classifications.

⁶⁸ See *Safety Net Review - Wages May 2001 Decision* [Print PR002001], [138]

[12.27] To the extent that the maintenance of relativities remains a consideration in particular industries and workplaces, this does not justify the awarding of increases which would be excessive at higher award levels. Any perceived imperative to maintain relativities is outweighed by the significant economic and labour market harm that may be wrought by more substantial increases at higher pay levels.

[12.28] Bargaining offers the capacity to maintain relativities and internal relationships between wages for different tasks. That a proportion of enterprise agreements provide for percentage rather than flat dollar increases does not make this an inherently desirable approach. Rather, it illustrates that where appropriate, various increase options (many of which are not appropriate for minimum wages) can be implemented at the workplace level.

[12.29] The extent to which relativities have actually been significantly distorted by the passage of flat dollar increases since 1991 is a matter for debate. The following table compares the current effective relativities against those originally set down:

Figure 11 - Current vs Original Relativities

Level	Original Relativity ⁶⁹	Current Relativity ⁷⁰	% Change ⁷¹
C14	78%	81.5%	4.5
C13	82%	84.8%	3.4
C12	87%	89.2%	2.1
C11	92%	93.4%	1.0
C10	100%	100.0%	0.0
C9	105%	104.1%	-0.8
C8	110%	108.2%	-1.6
C7	115%	111.9%	-2.7
C6	125%	120.2%	-3.9
C5	130%	124.3%	-4.4
C4	135%	128.4%	-4.9
C3	145%	136.6%	-5.8
C2(a)	150%	140.7%	-6.2
C2(b)	160%	148.6%	-7.1

[12.30] This shows that arguably significant negative percentage changes to the original relativities (such as those over 5%) do not come into effect until the C4 level. A C4 employee earns a minimum of \$651.20 per week, or over 80% of AWOTE (\$809.10).⁷² The statutory focus on the low paid under the *Workplace Relations Act 1996* has not seen a significant erosion of earnings for persons on most award levels. Larger changes in relativities

⁶⁹ Source: The *Metal Trades (Australian Capital Territory) Award 2000*

⁷⁰ Metal Engineering and Associated Industries Award 2000

⁷¹ Percentage changes not percentage point changes.

⁷² 6301.0 Average Weekly Earnings, Australia, Preliminary, Private Sector Full Time AWOTE, Trend August 2001 – www.abs.gov.au

appear confined to higher income earners, and even there are not objectively excessive.

[12.31] It appears inappropriate to continue to determine minimum wages by having significant regard to developments arguably primarily affecting persons earning in excess of 80% of AWOTE.

[12.32] There is also the wider question of whether it is valid to describe the relativities as eroded or significantly eroded by decisions since 1991. It may be argued on the basis of the above, that the relativities to the trade rate have not significantly altered, and that award rates retain their broad relativity to the trade rate, having become over time banded approximations to the original relational rates.

[12.33] In addition, the changes to the relativities under C10 have been positive. That less skilled employees area earning comparatively higher minimum wages under the *Workplace Relations Act 1996* appears a positive development.

[12.34] It is also relevant to examine what the actual impact of any percentage or tiered increase on relativities would be, and to evaluate this against the clear labour market and economic detriment that would attach to any such excessive increases in wages. It has already been illustrated that any shift to percentage increase would see very significant dollar increases flowing to higher income earners, and additionally that higher dollar increases come into effect only part way up the skills classification table.

[12.35] Logically any percentage increase this year would not actually change the position of award relativities, as the following table illustrates:

Figure 12 - Impact of % Increases on Relativities

	+2.0%	+2.5%	+3.0%	+3.5%	+4.0%	+5.0%	+6.0%
C14 Relativity	81.5 %	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%
C14 (\$) Increase	\$8.27	\$10.34	\$12.40	\$14.47	\$16.54	\$20.67	\$24.80
C2(b) Relativity	148.6 %	148.6%	148.6%	148.6%	148.6%	148.6%	148.6%
C2(b) (\$) Increase	\$15.07	\$18.84	\$22.61	\$26.37	\$30.14	\$37.68	\$45.21

[12.36] At best, a percentage increase would have a neutral effect on relativities. It and would do nothing to restore the previous relativities (were that a valid goal of wage determination).

[12.37] A genuinely moderate increase in award rates as proposed by ACCI would clearly meet the concern expressed the Commission on the last occasion. Our position is what, in all circumstances, is appropriate. It is not an ambit proposition. The following table outlines the impact on relativities of a genuinely moderate increase (\$10 per week) under two scenarios:

- (1) A \$10 increase solely to the minimum wage (ACCI proposal).
- (2) A \$10 increase to all award rates.

Figure 13 - \$ Impact of Moderate Increases on Relativities

	Current	ACCI proposal	\$10 to all awd. rates
C14	81.51%	83.48%	81.86%
C13	84.80%	84.80%	85.09%
C12	89.24%	89.24%	89.44%
C11	93.36%	93.36%	93.48%
C10	100.00%	100.00%	100.00%
C9	104.12%	104.12%	104.04%
C8	108.22%	108.22%	108.06%
C7	111.95%	111.95%	111.72%
C6	120.17%	120.17%	119.78%
C5	124.29%	124.29%	123.82%
C4	128.39%	128.39%	127.84%
C3	136.61%	136.61%	135.90%
C2(a)	140.73%	140.73%	139.95%
C2(b)	148.56%	148.56%	147.62%
C1(a)	165.02%	165.02%	163.77%
C1(b)	189.69%	189.69%	187.95%

[12.38] This table shows that:

- a. The ACCI proposition (1) will not disturb relativities to the C10 classification, save that it will increase the relative earnings of the lowest paid (consistent with the statutory emphasis on the low paid under the *Workplace Relations Act 1996*). The ACCI position is also consistent with the wider economic and labour market factors in favour of a moderate and targeted increase.
- b. Even were a genuinely moderate increase applied to all levels (2) - which is not economically appropriate - there would not be a

significant negative change in relativities. At the C1(b) level the change in relativities would be less than 1%.⁷³

- c. This shows that a percentage or reversed staggered approach is not necessary avoid further movement from the previous relativities. A genuinely moderate and targeted increase (such as that proposed by ACCI) would also meet this aim.

⁷³ Percentage rather than percentage points.

Figure 14 – Relativities: The ACCI & ACTU Proposals Compared

Level	ACCI Proposed Relativities	ACTU Proposed Relativities
C14	81.51%	82.38%
C13	84.80%	85.51%
C12	89.24%	89.74%
C11	93.36%	93.67%
C10	100.00%	100.00%
C9	104.12%	103.93%
C8	108.22%	107.84%
C7	111.95%	111.39%
C6	120.17%	119.22%
C5	124.29%	123.15%
C4	128.39%	127.06%
C3	136.61%	134.89%
C2(a)	140.73%	138.82%
C2(b)	148.56%	146.28%

[12.39] At each point, the ACTU proposal would see the relativities move further from their original level. In contrast, the ACCI proposal would see relativity outcomes more congruent with the original levels.

[12.40] The issue of relativities is one amongst a number of factors to be balanced in these proceedings. When relativities are properly balanced against the other determinative factors under the Act, this should see the ACCI proposal preferred to all other options, including the ACTU claim, the style of increase awarded in 2001, and any percentage increase.

What the Commission Should Award

[12.41] The Commission should award the following from these proceedings:

- a. A flat dollar rather than percentage increase.
- b. A genuinely moderate increase.
- c. An increase that is properly targeted to low income earners. This should be by way of an increase solely to the minimum wage.
- d. An increase that is consistent with promoting employment growth and bargaining at a workplace level.