

5 June 2020

Fair Work Commission  
Annual Wage Review 2019-20  
GPO Box 1994  
Melbourne VIC 3001

Dear Members of the Expert Panel,

**Annual Wage Review 2019-20**  
**Submissions in relation to National Accounts data and in reply to supplementary submissions**  
**National Retail Association Limited, Union of Employers**

In accordance with the timetable of the Annual Wage Review 2019–20 (**the Review**) as updated by the Expert Panel on 6 April 2020, the National Retail Association Limited, Union of Employers (**NRA**) makes these submissions to:

- (a) address the National Accounts data for the March 2020 quarter released on 3 June 2020; and
- (b) respond, where relevant, to supplementary submissions filed on 29 May 2020.

**Response to supplementary submission of the SDA**

The Shop, Distributive and Allied Employees' Association (**SDA**), in its supplementary submission, opposes the NRA's stated position in the Review noting that the Full Bench of the Fair Work Commission in the *Penalty Rates Case* [2017] FWCFB 1001 stated at paragraph [43] of that decision:

*We accept that while the transitional arrangements determined in this decision will ameliorate the adverse impact of our decision upon the employees affected, it will not remove that impact and the implementation of the variations we propose (albeit over an extended time period) are still likely to reduce the earnings of the employees affected. The phased reductions in Sunday penalty rates that we intend to make will be implemented at the same time as the implementation of any increases arising from the Annual Wage Review decision. This will usually mean that the affected employees will receive an increase in their base hourly rate of pay at the same time as they are affected by a reduction in Sunday penalty rates. As such, the take home pay of the employees concerned may not reduce to the same extent as it otherwise would – but it is also important to acknowledge that they will receive a reduction in the earnings they would have received but for the implementation of the Penalty Rates decision. Accordingly, any Annual Wage Review increase cannot be said to ameliorate the impact of our decision. It is the phased implementation of the Sunday penalty rate cuts which provides a degree of amelioration. (SDA's emphasis)*

The SDA then goes on to assert in its supplementary submission that this reasoning discloses an assumption on the part of the Full Bench that the “usual” circumstance arising from the annual wage review process is an increase in wages.

With respect, the Full Bench was speaking at a time at which the last significant economic crisis, the Global Financial Crisis, was almost 10 years past, and during which intervening time the annual wage review process had indeed seen increases to wages in each year on the back of a relatively undisturbed economy.

However, the critical word in the passage relied on by the SDA is “usually”. Whilst precedent from 2010 onwards allows one to appreciate why the Full Bench felt able to use the word “usually” here, the Full Bench did not go so far as to presume that this would “always” be the case. Indeed, had the Full Bench made such a statement, the AFPC Wage Setting Decision of 2009 would have rendered such a statement incorrect.

Critically, the Full Bench, by its words, was simply observing that which had gone before since 2010. It was not creating a precedent binding on any future exercise of the Commission’s powers, if indeed such was able to be done.

We question the utility of the SDA’s foreshadowed application to defer the final stage of implementation of reductions to Sunday penalty rates in the *General Retail Industry Award 2010* (and others) if there is no increase to minimum wages as a result of the Review, given that the relevant determinations, although expressed in terms of a phased implementation, came into effect in full in 2017.

Further, the corollary to the SDA’s assertion – that the implementation of increases to casual evening and Saturday penalty rates ought to be deferred if there is an increase to minimum wages as a result of the Review – ought, on the apparent logic of the SDA, be just as arguable.

Whilst we acknowledge that there is a level of circularity, in that businesses require consumers to spend in order to make the profits that enable higher wages which, in turn, enable increased spending, we are not convinced that an increase in minimum wages in the Review would result in an increase in spending (discussed further below).

### **Submissions with respect to National Accounts data and other data published after 29 May 2020**

The National Accounts data published by the Australian Bureau of Statistics (ABS) on 3 June 2020 paints a worrying picture of the economy, especially since the period those data reflect (up to 31 March 2020) includes only the first fortnight of COVID-19-related restrictions following the first meeting of the National Cabinet on 15 March 2020.

In the words of the Shadow Treasurer, “Given we already know the economy deteriorated further in the June quarter, this means that Australia is in recession for the first time in nearly three decades.”<sup>1</sup>

The propensity of Australian consumers to save, rather than spend, in times of financial uncertainty despite government stimulus measures is demonstrated in these National Accounts, with the household saving to income ratio increasing to 5.5%, the highest since September 2016.<sup>2</sup>

This is not unexpected, as other ABS data indicates that the majority of Australians in receipt of government stimulus payments elected to save that money rather than spend it.<sup>3</sup>

The decline in GDP of 0.3% in the March quarter is perhaps a concerning sign of what may lie ahead for the June 2020 quarter and beyond, given that the full effect of the COVID-19 pandemic had yet to manifest as at

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<sup>1</sup> Jim Chalmers MP, Shadow Treasurer and Member for Rankin (2020) *Australian economy in recession for first time in 29 years* [Press Release], 3 June 2020,

<sup>2</sup> Australian Bureau of Statistics (2020) *Australian National Accounts: National Income, Expenditure and Product, Mar 2020*, “Analysis” cat. no. 5206.0, accessed 3 June 2020, <https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features3Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=>

<sup>3</sup> Australian Bureau of Statistics (2020) *Household Impacts of COVID-19 Survey, 14 – 17 Apr 2020*, cat. no. 4940.0, accessed 3 June 2020, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/4940.0Main%20Features214-17%20Apr%202020?opendocument&tabname=Summary&prodno=4940.0&issue=14-17%20Apr%202020&num=&view=>

the end of March. The ABS noted that the GDP figure for the year was 1.4%; the lowest it has been since September 2009 at the height of the Global Financial Crisis (GFC).<sup>4</sup>

A decline in domestic final demand – that is to say, spending – contributed to 0.5% of the decline in GDP.<sup>5</sup> The ABS further observed that household spending was at its weakest since March 2009 (during the GFC).<sup>6</sup>

Household consumption decreased by 1.1% in the March quarter for a decline of 0.2% throughout the year.<sup>7</sup> Noting the abysmal retail trade figures for April 2020 published by the ABS on 4 June 2020 (the preliminary April report of 20 May has been referred to in our previous submissions), it is likely that this trend will continue in the June 2020 quarter and beyond.

It is noted that the increase in retail trade experienced in March (often referred to as “panic buying” by media) contributed to the increase in gross operating surplus (0.9%) reported in the National Accounts.<sup>8</sup> One might expect that the significant decline in retail trade in April 2020, and likely to be similarly reflected in retail trade figures for May 2020, will have a negative effect on GDP in the June 2020 quarter.

Whilst household consumption will increase again in time, it remains as yet unknown when such a reversal of present ill fortunes will occur and how long it will take for consumer spending to reach anything near pre-COVID levels.

As such, businesses cannot expect to see a return to “business as usual” in the immediately foreseeable future, and there is no data on which the Expert Panel can rely upon in order to predict when such a recovery will occur, or the speed of any such recovery.

In consequence of this, the NRA maintains that the appropriate stance of the Expert Panel is to not increase minimum wages as a result of the Review. How such a decision affects future reviews will be for those future Expert Panels to determine, having regard for the most reliable economic data available to them at the relevant time.

Yours sincerely,



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<sup>4</sup> Supra, note 2

<sup>5</sup> Supra, note 2

<sup>6</sup> Supra, note 2

<sup>7</sup> Supra, note 2, “Household consumption behaviour in response to COVID-19”, accessed 4 June 2020

<sup>8</sup> Supra, note 2, “Income at current prices”, accessed 4 June 2020.