Australian Hotels Association

2009 Submission to the Australian Fair Pay Commission

Concerning Minimum Wages

20 March 2009
1. **Introduction**

The AHA is the pre-eminent tourism and hospitality industry organisation in Australia. It has in excess of 5000 members operating general and accommodation hotels.

The AHA is a federally registered industrial organisation of employers. It has a national office and branches in each State and Territory. It also has a discrete branch to represent the interests of its accommodation members. This branch covers four and five star properties operated by the major chains.

The hotel sector, excluding accommodation, employs nearly 200,000 employees (according to figures from a recent PWC survey).

The overwhelming majority of AHA members (more than 95%) are constitutional corporations, and within the jurisdiction of the Workplace Relations Act 1996 (“the Act”).

Approximately 50% of AHA members are small businesses with less than 20 employees.

Our members currently operate under three federal awards and numerous NAPSAs. From the 1\textsuperscript{st} of January 2010 the majority of employees in our sector will have their underpinning employment conditions determined by the “modern” Hospitality Industry (General) Award 2010. The transfer to this award will bring with it unexpected and unbudgeted increases in labour costs for our members.

Currently less than 10% of AHA members operate under statutory collective or individual agreements.

The tourism and hospitality industry in Australia employs more than 900,000 employees and contributes approximately 5% of Australia’s Gross Domestic Product.

Employees in the accommodation, café and restaurant industry are heavily award reliant. This means that an adjustment to minimum wages affects the industry heavily in comparison to industries that are less reliant upon the award system.
2. **Structural Change to Workplace Conditions**

Workplace relations in Australia will undergo significant change over the next 12 months as the Australian Government’s Fair Work Act 2009 (FW Act) comes on-line.

The AHA supports the introduction of the FW Act as it has the potential to increase productivity bargaining at the enterprise level, underpinned by a guaranteed safety net, good faith bargaining obligations and clear rules governing industrial action.

The AHA remains concerned that there appears to have been little or no modeling of the likely economic impact of the FW Act, particularly on employment and labour costs. Importantly for the purposes of this submission, we anticipate the new arrangements will initially increase compliance costs and levels of workplace disputation as industrial parties seek to test elements of the new system in order to advance their interests. This is of particular concern in the current economic climate.

3. **Modern Award Implications**

A substantial majority of workers in our sector will have their conditions underpinned by the Hospitality Industry (General) Award 2010 from the 1st of January 2010. Our members, particularly in the accommodation sector, are deeply concerned the new “modern” award will see an increase in labour costs – not least because the award’s “shift worker” definition may capture a wider range of employees than has traditionally been the case, with the result that many more hospitality workers could be entitled to an extra week of annual leave each year.

Accommodation hotels already pay a higher percentage of operating costs in wages than other countries. This additional payroll cost would be a concern to the industry at any time, but is of particular concern as it will take effect at the height of what the IMF have called “the worst global financial crisis since the great depression” and a projected drop in international and domestic visitors. Many accommodation hotels are managed by international companies who are monitoring operations on a global basis. In some cases Australian managers have been instructed to reduce labour costs in line with any drop in revenue.

The difficulty for our members is that this potential increase in the cost of labour from award modernisation, does not, by our observation, appear to have been counter-balanced with changes to employees’ conditions that would assist in containing the impact of cost increases, such as productivity offsets.

We are further concerned by the recent government announcement (Deputy Prime Minister letter to the Chair of Senate Standing Committee into the Fair Work Bill 2008 – 26 February 2009 (attached)) that it proposes to contain in the transitional arrangements for FWA a provision “to ensure that an employee’s take home pay is not reduced as a result of the employee’s transition onto a modern award”. This announcement will have further cost implications for our members; particularly in South Australia, Western Australia and North Queensland where employers and employees will be required to transition from NAPSA’s to the modern award.
Given that the announcement regarding employees take home pay did not contain a reciprocal commitment that transitional arrangements under the FW Act would ensure that employers costs of labour would not increase as a result of the transition to modern awards, the only possible scenario remaining is that there will be an increase in costs for employers.

At the time of making this submission it is difficult for the AHA to properly analyse the cost implications of the modern award for the industry, as the transitional arrangements for the award have not yet been finalised. While the AHA has reached agreement on prescriptive transitional arrangements for the industry with the LHMU, which the AHA believes will assist in minimising the cost implications of transition to the modern award, there is no guarantee that the agreement will be given effect by the Australian Industrial Relations Commission (AIRC), which has final say on the matter. The decision of the AIRC will not be known until the second half of this year.

4. Compliance Costs of FWA

We believe compliance costs in our industry resulting from the commencement of the FW Act will increase in two main areas.

Firstly, as with any major change, our members will have much to do to ensure their businesses are ready to operate under the new legislative scheme from 1 July 2009. This will require extensive administrative resources, payroll changes, management education, publication and distribution of educational material, general legal compliance costs as well as employee education and awareness.

The second area which is likely to result in additional costs for employers is the introduction of compulsory union multi-employer bargaining in the sector via the low paid bargaining stream. The AHA is strongly of the view that the power of Fair Work Australia (FWA) to issue low paid authorisations will see an increase in workplace disputes as industrial parties seek to test elements of the new bargaining stream in order to advance their interests.

The only way these increased compliance costs can be minimised is if FWA adopts an approach to the transition to the new system which fosters collaboration in preference to the adversarial mindset and tactics that are still all too prevalent in workplace relations in Australia. If FWA assists the industry to engage in meaningful consultation and collaboration with its employees we believe we will see a move towards beneficial outcomes for workers and their business. This in itself will reduce compliance costs in the longer term.

5. Economic Considerations

There seems little doubt we have entered the biggest financial crisis since the great depression. This severe credit, banking, currency, and trade crisis first emerged in September 2007. While there has been a level of optimism that the worst of the crisis will be over by the end of 2009, the message now becoming stronger is that it is more likely we will see the worst of the crisis in 2010. Some experts are forecasting the crisis could last as long as seven years.
Even the most optimistic forecast of the global financial crisis will require significant effort from industry to ensure long term business viability, even recognising the attempts of governments world-wide to encourage spending through the introduction of stimulus packages. The anticipated increase in unemployment to above 7% and changes to household saving levels will reduce the level of discretionary spending in the economy and hence aggregate demand for the products and services provided by AHA member businesses.

The negative impacts of the global financial crisis on Australian businesses and Australian employees feature heavily in the daily news – both business and current affairs. Australian employers are being strongly encouraged to do all they can to retain employment during the crisis with many taking unconventional steps to do so. Examples include mutually agreed reductions in employee hours and workloads and encouraging employees to take accrued annual and long service leave.

We note in particular the AFPC’s comments in its Economic and Social Indicators – Monitoring Report July to December 2008 (in the Introduction) that:

"It is clear from the various business surveys that the Australian labour market will weaken significantly during the course of 2009. A reduction in working hours can be expected to bear the brunt of the initial adjustment. However, many businesses expect a decline in employment and the rate of unemployment to rise further. The key unanswered question is: how sharp and how prolonged will the weakening of labour market conditions be?"

Real incomes for low paid workers have been significantly increased due to reductions in interest rates, lower petrol prices, tax changes and the benefits of Government economic stimulus packages. The $900 payment in the second stimulus is the equivalent of around about a 3% wage increase for average workers in our sector. Single income families with children have had a greater benefit.

6. **AHA Recommendation**

The AHA believes that in the current economic climate that any increase in Australia’s minimum wage levels will lead to a sharp increase in unemployment. We are therefore of the view that this reality plus the fact that low paid workers have received significant increase in their real income through other means justifies the AFPC determining not to increase Australia’s minimum wage levels in 2009.

In these troubling times, the AHA believes the AFPC should be primarily focused on the capacity of the unemployed and the low paid to obtain and remain in employment. Looking at global minimum wage comparisons, we believe Australia has a fair and sound safety net in place for the low paid. In the hospitality sector, this safety net will be further enhanced from 1 January 2010 when the National Employment Standards and the new modern award take effect.

A wage increase in the midst of the current crisis will send the wrong message to employers and employees who are doing all they can to work together to protect jobs until the economy recovers.

A wage increase this year will impact the hospitality sector in a more profound way than in most other sectors, as it is heavily pay scale reliant. We note the AFPC’s comments in its Economic and Social Indicators – Monitoring Report July to December (at page 31) that:
“Employment growth in some of the more Pay Scale reliant industries, such as Retail trade and Accommodation, cafes and restaurants, has been volatile over the last two years. However, employment growth has been particularly low in the six months to November 2008 in those two industries.”

7. General Hospitality Cost Considerations

The effect of the global financial crisis, changes to Australia’s workplace relations laws and wage increases are not the only cost factors impacting on the hospitality industry. AHA Member feedback indicates the following additional matters are also contributing to increased costs of business:

- Corporate cost reductions programs have seen the corporate sector travelling far less for business purposes. The accommodation sector has been significantly affected by these cost cutting initiatives and has had to lower their room rates in order to attract corporate clients seeking to reduce costs in the current economic climate.

- The introduction of smoking laws across the country since 2006 has seen a drop in revenue of between 5% and 30%. In addition, hotels have had to undertake significant renovations to comply with the changes and continue to service their customers. In many cases this loss of revenue due to the changes in smoking laws has not recovered.

- Hotel (pub) prices have increased dramatically as a result of a one off premium from poker machines and consolidation. Business will need to increase revenue or reduce costs to achieve a satisfactory return for this investment. Media reports have highlighted the concerns of number banks with their exposure to hotels.

- Australia’s comparatively high wage levels and low room rates have led to a lack of investment in new hotels. High wage costs favour hotel formats offering lower levels of customer service thereby leading to reduced employment numbers and employee working hours. This is inconsistent with Tourism Australia’s goal of attracting high yielding visitors to Australia and ensuring dispersal to regional areas.

- It has been estimated that Australia will require 16,000 new high quality hotel rooms to cater for anticipated growth in demand over the next decade. There was little investment support based on current returns and this will be exacerbated by the current economic conditions.

- There continues to be limited growth in domestic tourism especially in regional towns located on the traditional holiday transit routes. Many AHA members have lost overnight stays as people travel less by car because of cheap air-flights.

- Cost increases in the hotel supply chain through unaffordable wage increases will not be able to be absorbed into margins.
8. Research Paper – Accommodation, Cafes and Restaurants Industry Profile

The Australian Fair Pay Commission recently released a Research Report (1/09) titled Accommodation, Cafes and Restaurants Industry Profile. The research paper aims to inform the AFPC minimum wage reviews by “providing statistical information on the industry”.

The paper makes the following important findings:

- The bulk of the industry is small operators suggesting “a highly competitive environment with little scope to set prices and pass on increases in costs” (page 2).

- With 6.5% growth (2002-03 to 2005-06) the industry has “exhibited slower than average growth” compared to other industries (page 2).

- Demand in the industry “has been heavily driven by an increase in real disposable incomes and wealth that has occurred over the last 10 years” (page 3). Naturally the industry is concerned the global financial crisis will significantly reduce real disposable income, and this will have implications for the industry moving forward.

- The industry is heavily reliant on part time and casual employees so it has the flexibility to respond to changes in business cycles (unfortunately due to the over-regulated nature of our award’s part time provisions, where part timers have more guaranteed rostering conditions than full-timers, this reliance is primarily on casuals).

- 38% of employees in the industry have been in their current role for less than 12 months (compared to 21.3% of all workers across the economy) (page 4).

- The industry is relatively low-skilled with a low proportion of employees having non-school qualifications. Expenditure on formal training is low compared to all industries (page 4).

- Productivity gains in the industry have “lagged” behind other industries by a “considerable margin” with the “vast majority” of employees (57%) reliant on awards for setting pay and conditions with a further 26.3% reliant on unregistered common law contracts (page 4).

- Industry hourly wage rates are “also quite low in the industry” although this is “not surprising given the labour intensive, low-skilled nature of many occupations comprising the industry” (page 5).

9. Feedback from Members

We recently conducted a survey of our members, asking them whether they had seen any changes in employment in the last 12 months and what likely changes they saw occurring over the next 12 months. A summary of responses received is set out below:

- Recruitment has slowed to an absolute minimum (generally a freeze is in place with only key positions being replaced).
Generally, employment numbers will diminish over the next 12 months given the occupancy figures and the need to be “frugal” with payroll costs.

Salaried staff wages will not be increased this year.

Casual employee hours have been significantly reduced.

Permanent hours have been reduced, despite all efforts being made to retain permanent employees where possible.

At this stage redundancies have been able to be kept to a minimum but this is expected to change.

Employers on workplace agreements with flexible part time provisions have been working to spread the available front-line hours amongst permanent employees.

Off-Shore Island Resorts are suffering from severely reduced occupancy.

This time last year, the industry was having trouble finding employees. Now there are plenty of quality candidates to fill positions.

Many in the industry are starting to put initiatives in place to try and retain employees in the current economic climate. Some of these initiatives include:

- Transferring casuals to permanents (but the restrictive nature of our award’s part time provisions is not assisting).
- Encouraging employees to use their accrued annual leave.
- Calling for volunteers among employees to take unpaid leave.
- An increased focus on multi-hiring and cross-training.

10. **Recommendations**

In making our 2009 submission to the AFPC, the AHA is mindful of the objective of the AFPC in discharging its functions to promote “the economic prosperity of the people of Australia” having regards to:

- The capacity for the unemployed and low paid to obtain and remain in employment;
- Employment and competitiveness across the economy;
- Providing a safety net for the low paid;
- Providing minimum wages for junior employees, employees to whom training arrangements apply and employees with disabilities that ensure those employees are competitive in the labour market.

The AHA recommends that “the AFPC should be primarily focused on the capacity of the unemployed and the low paid to obtain and remain in employment. Looking at global minimum wage comparisons, Australia already has a fair and sound safety net in place for the low paid”. This will be further enhanced from 1 January 2010 with the commencement of the National Employment Standards and modern awards.
The ongoing viability of employers and their capacity to retain employees around the country in these challenging times will be assisted by the AFPC determining that it is not appropriate to increase Australia’s minimum wage levels this year. Any increase in Australia’s minimum wage levels will lead to a sharp increase in unemployment. Importantly an increase in the pay scales this year will inhibit the ability of the unemployed and low paid to obtain and remain in employment.

The AHA recommends the matters the AFPC take into account include:

1. The near unparalleled level of global and domestic economic downturn and risk, and the increasing negative impacts on employers directly and indirectly in connection with increases in labour costs

2. The increased need due to the current global financial crisis for wages increases to be offset by productivity increases. The FW Act provides increased scope (and armoury) for bargaining at the workplace. Bargaining at the workplace should (undertaken properly in a spirit of mutual cooperation) see wage increases matched with productivity offsets.

3. The compliance costs that employers will face as they undertake the changes necessary to work under the FW Act.


5. The two Australian Government stimulus packages providing substantial additional income to the lower paid.

6. Reductions in inflation, and forecast further easing in prices and interest rates.

7. Significant scheduled tax cuts from 1 July 2009 and the beneficial impact these tax changes have on the disposable income of the low paid.

8. Forecast increases in unemployment.

9. The extra cost impact of increases in an industry that operates 24 hours a day, 7 days a week due to the compounded flow on effect of the increase into penalty rates. It is not insignificant that the majority of trading hours in the hospitality industry are subject to penalty rates.

10. The extra cost impact of increases in an industry that has a high casual component due to the seasonal nature of the hotel industry and the regulated nature of the Hospitality Award’s part time provisions. Increases have an extra compounding effect on casuals due to the casual loading (and penalty rates).