TABLE OF CONTENTS

Table of Figures ................................................................. 1
Executive Summary .......................................................... 2
Restaurant & Catering Australia ........................................ 3
The Restaurant Industry ....................................................... 3
    Current Economic Situation ............................................. 3
    Restaurant & Catering Industry Results ........................................ 4
    State by State Results ....................................................... 4
The Cost Base ...................................................................... 5
Restaurant Industry Employment ........................................ 6
The 2009 Australian Fair Pay Commission Minimum Wage Review .......................................................... 10
    Considerations in Setting the Minimum Wage .......................... 10
    2008 Decision Too Large .................................................. 10
Tax Cuts ........................................................................... 11
The Hospitality Industry General Award .............................. 12
    Capacity to Pay ............................................................. 12
    Recommendation .......................................................... 12
Traineeship and Apprenticeship Rates of Pay ................. 13
Casual Loading ................................................................. 14
Impact of Previous Decisions ................................................. 15

TABLE OF FIGURES

Figure 1 – Hospitality Businesses by Employment Number, 2004 ........................................... 3
Figure 2 - Quarterly change in GDP (Millions) – source ABS GDP 5206 ................................. 4
Figure 3 - Turnover, Restaurants, Cafes and Fast Food Businesses 2005 - 2009 ........... 4
Figure 4 - Café & Restaurant Turnover (Millions) January 2005 (Month Only) – January 2009 ................................................................. 5
Figure 5 - Café & Restaurant Turnover (Millions) November, December & January Months – 2005/06 – 2008/09 .............................................. 5
Figure 6 - Workforce by Employment Type ........................................................................... 6
Figure 7 – State by State Employment 2005 - 2008 ................................................................. 7
Figure 8 – Turnover v Employment, Cafes Restaurants and Catering Businesses NSW .. 8
Figure 9 – Turnover v Employment, Cafes Restaurants and Catering Businesses Victoria ................................................................. 8
Figure 7 – Forms of Employment, ABS 2006 ........................................................................ 9
Table 1 – Occupation Distribution, Key Occupations, Accommodation Cafes and Restaurants ................................................................. 9
Figure 8 – Monthly Cash Rate (RBA) 2004 – 2009 ................................................................. 11
Figure 9 – Tax Savings Table ......................................................................................... 11
Executive Summary

Restaurant & Catering Australia (R&CA) is the peak national organisation representing the interests of restaurateurs and caterers.

The Association represents the interests of the 40,000 cafes, restaurants and caterers in Australia that turnover in excess of $15 Billion per annum.

The industry is continuing to grow despite the economic woes that Australia is currently facing. In January 2009 turnover in cafes, restaurants and caterers was 1% up on January 2008. December 2008 we also saw growth of 1.7%.

Despite continued revenue growth the cost base of the industry has increased significantly during this period with the cost of wages estimated to have increased by over 10%, the cost of food increasing by over 5% and a resultant decrease in profitability by under 2% profit before tax.

Employment in the industry has consistently been at around 250,000 for the past five years, despite period of huge growth (over 15% per annum in some years). This is due to increased wage cost pressure.

Restaurant & Catering Australia believes that the Australian Fair Pay Commission (AFPC) should not increase minimum wage levels at all in this review cycle because:

- The decision of the Commission in 2008 was, but the time of its implementation larger than could be justified by economic conditions;
- The Tax Cuts that take effect on 1 July 2009 are more than sufficient to keep take-home pay at the same level as cost increases;
- The restaurants, café and catering industry is facing the possibility of large wage cost increases through the implementation of the Hospitality Industry (General) Award 2010, should it be implemented in its current form, and;
- Any increase in the level of the minimum wage would cost jobs in the restaurant, café and catering sector.

The huge increase granted by the Australian Fair Pay Commission in 2008 (effective October 2008) had a significant effect in the restaurant and catering industry. The increase had stopped businesses from taking on additional staff to service additional demand over the 2008 Christmas period and lead to a number of businesses closing their doors.

The tax cuts scheduled for 1 July 2009 will provide a 4% increase in take home pay for the average wage earner in the restaurant, café and catering industry. This is more than sufficient to off-set increases in outgoings for these employees.

The Hospitality Industry (General) Award, if implemented as is, on the 1st January 2010, will increase wage costs in restaurant and catering businesses in the order of 5.6% across NSW, 8.5% in Queensland and 15.7% in South Australia. These increases themselves will mean job losses. These should not be in any way compounded by increases imposed by the Australian Fair Pay Commission.
Restaurant & Catering Australia

Restaurant & Catering Australia (R&CA) is the peak national organisation representing the interests of restaurateurs and caterers.

The Association is a federation of State Associations that work together on matters of national importance. The State Associations had a combined membership of over 6,500 in the 2008 calendar year. There is a R&CA member restaurant and catering association in every State and Territory.

The Restaurant Industry

In 2004 the Australian Bureau of Statistics reported 37,699 restaurant, café and catering businesses that are registered for GST. Of these businesses, 89% employ 20 people or less. There are 124 businesses Australia wide that employ in excess of 200 people. In the broader accommodation, café and restaurant industry, 75% of employing businesses employ less than 20 people (Figure 1 below).

The Business Register records 68,022 businesses in the total accommodation, café and restaurant sector (including hotels, pubs and clubs). Restaurants, cafes and catering businesses account for 55.4% of the hospitality industry by numbers of businesses.

Whilst the reporting of numbers of businesses in the restaurant sector alone has not been repurchased from the ABS, the overall numbers of businesses in the accommodation, café and restaurant sector have grown by 2.1%, 1.8% and 1.8% each financial year from 2004/05 to 2006/07. It is expected conservatively that there were 39,888 restaurants, cafes and caterers in Australia in 2007.

Current Economic Situation

In making any submission to the Fair Pay Commission at this time, the current Australian economic situation must be canvassed.

In December 2008, CommSec chief equities analyst Craig James said the jobs figures were just another round of bad news to leave the year 2008 with an inglorious title. He went on to say that "In terms of a calendar year, this is the worst year on record. To be able to find an annual decline anywhere near as bad as this you have to go back as far as 1930". His analysis was based on the value of Australian stocks which, he suggests, were the worst hit due to the heavy reliance on resources.

---

1 ABS Business Register 2004, Unpublished purchased by R&CA
2 Ibid
3 8161.0.55.001 Australian Bureau of Statistics Business Register, Counts of Businesses
In fact GDP contracted by 11% during the Great Depression. At this stage Australia has only seen a small contraction in the GDP (0.14% in the December Quarter).

![Figure 2 - Quarterly change in GDP (Millions) – source ABS GDP 5206](image)

**Restaurant & Catering Industry Results**

In January 2009 turnover in the café, restaurant and fast food sectors was up 5.5% on January 2008 and achieved a 2.7% better result than the previous year on a seasonally adjusted basis.

![Figure 3 - Turnover, Restaurants, Cafes and Fast Food Businesses 2005 - 2009](image)

This result incorporates the revised grouping adopted by the ABS which groups restaurants, cafes and caterers with fast food operators as opposed to hotel, pubs and clubs.

The Café and Restaurant sector alone turned over $1.28 Billion in January 2009, 1% up on January 2008.

**State by State Results**

On a State by State basis January 2009 was stronger than 2008 in all States bar South Australia and Queensland. Victoria in particular recorded a very strong January, presumably due to strong events driving tourism during that month.
A comparison of the November to January Quarter across each jurisdiction shows continued strength in all States / Territories other than NSW. NSW has recorded a steady decline in turnover in this quarter and has fallen behind Queensland for overall market-share.

The Cost Base

A report released by the Australian Bureau of Statistics\(^4\) in April 2008 (the most recent report in a five-yearly series) shows a slowing in restaurant profits (as forecast by the R&CA) with 28.8% of businesses (the businesses employing less than 5 people) generating a LOSS of 0.3%.

Businesses reported to the ABS an average net profit of 3.8%, down 5% on the previous survey period (2003-04). In the same period labour costs had risen by an annual average of 10% and occupancy costs by 9.7%.

\(^4\) Cafes, Restaurants and Catering Services, ABS 8655.0
It is expected that in 2008 this rate of wage cost growth would have continued on the back of the 2008 decision by the Fair Pay Commission to increase the standard Federal Minimum Wage and all Australian Pay and Classification Scales by $21.66 per week.

In the period December Quarter 2007 to 2008 the price of restaurant meals increased by 4.4%\(^5\). In the same period the overall price of food (the second largest input cost for restaurants after labour) rose by 5.6%. Of these increases categories of food product for restaurants rose significantly (Meat & Seafood by 5.2% and Bread and Cereal by 7.2%.

Restaurant Industry Employment

The Australian Bureau of Statistics Cafes, Restaurants and Catering Service Australia report (released in April 2008), cited industry employment at 195,814 persons. According to ABS Labour Force data\(^6\), industry wide employment in August 2008 (for accommodation, cafes and restaurants) was 527,900. Data previously purchased from the ABS\(^7\) suggested that employees in cafes and restaurants were 48.5% of hospitality employment.

It is estimated that at the end of 2008 there were 256,000 employees in the cafes, restaurants and catering industry in Australia.

Figure 6 - Workforce by Employment Type

*Cafes and Restaurants Australia* also noted that 39% of employees were casual with permanent full time employees making up a further 16.9% of the workforce. The proportion of casual workers is more than double the all industry average of approximately 26%. As a result there are more employees subject to rates greater than the standard hourly rate than in other industries.

The number of casual employees has been steadily growing by an average of 1% per annum. This casualisation of the industry has been evident over the past ten years. The largest proportion of the restaurant, cafe and catering workforce is part-time females.

---

\(^5\) ABS, Consumer Price Index, 6401.0, December Quarter 2007

\(^6\) ABS, 6202.0 - Labour Force, Australia, Jun 2006

\(^7\) Data prepared 4 March 2004 for Restaurant and Catering Australia, by ABS from Employed Persons for ANZSIC 573
Employment for the period 2005-2008 has remained roughly constant despite significant growth in turnover. This suggests that the determinant of employment, in the restaurant, café and catering industry, is the capacity of the employer to pay staff rather than the projected level of business.

This is demonstrated by figures 8 and 9 below where turnover and employment levels for New South Wales and Victoria have been plotted.
The difference in the nature of employment in the hospitality industry is clearly demonstrated by the ABS Forms of Employment data. The hospitality industry has a roughly 40:60 split of full time to part time workers, whereas the all industry average is 70:30.

Other characteristics of the hospitality labour market include a lower than average proportion of working operators (reflecting the high labour intensity of the sector) and a lower than average (6.6%) number of workers on contract. 74% of full time workers in the hospitality industry have leave entitlements compared to 89% across all industries.

---

8 ABS Forms of Employment, November 2006, ABS 6359.0
The major occupations in the wider hospitality industry include waiters, kitchenhands and manager/supervisors. These occupations, with the possible exception of kitchen hands, are all regarded as having good to very good career prospects or are in other words still undergoing significant growth and are in shortage.

<table>
<thead>
<tr>
<th>Occupation</th>
<th>% in Accommodation, Cafes and Restaurants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managers / Supervisors</td>
<td>12.2%</td>
</tr>
<tr>
<td>Qualified Cooks / Chefs</td>
<td>11.2%</td>
</tr>
<tr>
<td>Other Cooks / Chefs</td>
<td>9.2%</td>
</tr>
<tr>
<td>Kitchen Hands</td>
<td>18.2%</td>
</tr>
<tr>
<td>Bar Attendants / Baristas</td>
<td>6.5%</td>
</tr>
<tr>
<td>Waiting Staff</td>
<td>38.0%</td>
</tr>
<tr>
<td>Other</td>
<td>4.7%</td>
</tr>
</tbody>
</table>

Table 1 – Occupation Distribution, Key Occupations, Accommodation Cafes and Restaurants

On the basis of the ABS Cafes, Restaurant and Catering Services report (at the end of July 2007) of a 3.8% net profit and the recent increases to costs, R&CA estimates that the average restaurant in January 2009 is facing less than 2% profit before tax.

9 DEWR Job Outlook On-Line, August 2006
The 2009 Australian Fair Pay Commission Minimum Wage Review

Considerations in Setting the Minimum Wage

In the past Restaurant & Catering Australia has gone to great lengths (and cost) to undertake economic analysis to inform its submission to the Commission. This year the need for basic wage restraint has been well publicised and support for restraint seems almost universal.

Restaurant & Catering Australia believes that the Australian Fair Pay Commission (AFPC) should not increase minimum wage levels at all in this review cycle because:

- The decision of the Commission in 2008 was, but the time of its implementation larger than could be justified by economic conditions;
- The Tax Cuts that take effect on 1 July 2009 are more than sufficient to keep take-home pay at the same level as cost increases;
- The restaurant, café and catering industry is facing the possibility of large wage cost increases through the implementation of the Hospitality Industry (General) Award 2010, should it be implemented in its current form, and;
- Any increase in the level of the minimum wage would cost jobs in the restaurant, café and catering sector.

Each of these areas is detailed below.

2008 Decision Too Large

Despite the acknowledgement in the Australian Fair Pay Commission 2008 decision that 'Both ACCI and Australian Industry Group (Ai Group) emphasise the uncertainty in the economic outlook. They argue that this supports a cautious approach to adjusting minimum wages in the near term', the Commission elected to impose the largest increase in the minimum wage in history.

At the time when submissions were being lodged (March 2008) the Government was still talking about inflation and the Reserve Bank was still lifting interest rates to combat the so-called inflation genie.

It is not surprising that in this environment the Australian Fair Pay Commission granted a large increase. The setting of the minimum wage is, however, a far more blunt instrument than monetary policy. As it has, the Reserve Bank is able to reverse its decisions and can move quickly to undo the fiscal restraint it imposes. The Fair Pay Commission, in contrast has a six-month lead time from decision to implementation.

As is evident from the graph above, the Reserve Bank, by October 2008, had undone all of the increases it imposed from March 2008. In other words in the period of the decision to implementation of the AFPC minimum wage adjustment economic conditions had taken a 180% turn.
Despite the evidence in some quarters that the economic environment justified a decrease in the Minimum Wage, such as the 10% wage cut for some workers, delivered by the Commonwealth Court of Conciliation and Arbitration in 1931, Restaurant & Catering Australia concludes that there is at this stage, no justification for an increase in wages rather than calling for a decrease.

**Tax Cuts**

The tax cuts announced prior to the Election in 2007 will mean a significant increase in take home pay for employees in restaurant and catering businesses. According to the Weekly Savings Footnote\(^\text{10}\) distributed with the ALP Tax Policy, those on the average weekly earnings of a restaurant employee would receive an additional $25+ per week effective 1 July 2009.

This increase represents a 4% increase in take home pay. This, of itself, is likely to be greater than the movement in CPI for the 12 months. This in effect means that employees in the restaurant, cafe and catering sector will receive an increase in accord with the amount of additional expenditure they need to outlay to live.

The Australia Fair Pay Commission’s charter of ‘providing a safety net for the low paid’ is surely achieved by having the amount of money received by employees remaining consistent with the price of goods they need to purchase. In this twelve month period this is achieved by the already promised tax cuts. No adjustment to the minimum wage is required to achieve this core objective.

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\(^{10}\) Weekly Savings Footnote, alp.org.au, Tax Policy, 2007
Recommendation

That the Australian Fair Pay Commission note that the announced tax cuts (effective July 1) are sufficient to keep take home pay in line with price movements and as such the level of minimum wages should remain as is for this 12 month period.

The Hospitality Industry General Award

In December 2008 the Australia Industrial Relations Commission handed down a decision in relation to a Hospitality Industry (General) Award 2010. Despite the undertakings in the Minister’s Award Modernisation Request and the terminology in the Workplace Relations Act 1996 (Cth), that there will be no cost increase borne by employers, the Hospitality Industry award proposed for implementation in restaurants will increase costs dramatically.

Restaurant & Catering Australia had the increases modeled on the basis of the Exposure Draft of the Hospitality Industry (General) Award, which is LESS costly to implement than the final award. For those respondent to the award (and those to whom the Federal Minimum Wage would apply) increases as in the order of 5.6% increase across NSW, 8.5% in Queensland and 15.7% in South Australia.

These sorts of increases are unsustainable in the current environment of smaller margins and a more ‘brittle’ labour market. In work undertaken for R&CA by KPMG Econtech (attached), the job losses from these increases in costs are estimated at 8,000.

Capacity to Pay

It is clear from the analysis above that the industry lacks the capacity to pay more for staff (or pay existing staff more) than it is currently paying. Whilst revenues are holding in the current environment, levels of profitability remain very small. If the industry is to sustain its current employment commitment, wage levels must remain stable in the short to medium term.

In addition to the minimum wage, the Australian Fair Pay Commission has carriage over other rates of pay that impact heavily on the restaurant and catering industry. In particular junior, trainee and apprentice rates and the casual loading are of great importance to the industry. On capacity grounds alone, any increase to any of these rates (either proportionately with a minimum wage increase or disproportionately through any adjustment to these proportionate rates) would negatively impact on employment in these categories.

The restaurant, café and catering industry urges the AFPC to retain junior, trainee and apprentice rates at their current levels in order to ensure the retention of commitment to employment of these employee groups. Any reduction in the number of Trainees and Apprentices would have a significant impact on the industry’s ability to overcome the chronic skills shortage it currently faces.

Recommendation

That, in the event an increase is granted, that the Australian Fair Pay Commission make use of its power to record a differential decision and award a lesser increase to employees of Cafes and Restaurants on the basis that the businesses do not have the capacity to pay higher increases and the 2008 increase impacted on these industries to a greater extent.
Traineeship and Apprenticeship Rates of Pay

Trainees and apprentices are more important to hospitality businesses than in other industries. Other industry areas have a larger proportion of other forms of training to skill their workforce (and have a higher level of educational attainment within their workforces).

<table>
<thead>
<tr>
<th>Year</th>
<th>Metal trades</th>
<th>Automotive trades</th>
<th>Electrical trades</th>
<th>Construction trades</th>
<th>Food trades</th>
<th>Printing trades</th>
<th>Wood &amp; textile trades</th>
<th>Hairdressers</th>
<th>All trades</th>
</tr>
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<tbody>
<tr>
<td>1996</td>
<td>10.3</td>
<td>17.0</td>
<td>8.8</td>
<td>9.4</td>
<td>19.1</td>
<td>8.6</td>
<td>8.0</td>
<td>22.1</td>
<td>11.0</td>
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<td>1997</td>
<td>10.5</td>
<td>18.0</td>
<td>8.7</td>
<td>9.4</td>
<td>19.4</td>
<td>7.3</td>
<td>9.0</td>
<td>22.9</td>
<td>11.0</td>
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<tr>
<td>1998</td>
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<td>17.5</td>
<td>8.7</td>
<td>8.7</td>
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<td>21.4</td>
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<td>1999</td>
<td>9.8</td>
<td>17.8</td>
<td>8.9</td>
<td>9.4</td>
<td>19.0</td>
<td>6.5</td>
<td>9.4</td>
<td>18.5</td>
<td>10.8</td>
</tr>
<tr>
<td>2000</td>
<td>8.1</td>
<td>18.4</td>
<td>9.8</td>
<td>10.0</td>
<td>19.1</td>
<td>5.8</td>
<td>9.2</td>
<td>23.0</td>
<td>11.1</td>
</tr>
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<td>2001</td>
<td>7.7</td>
<td>16.2</td>
<td>10.5</td>
<td>10.1</td>
<td>21.0</td>
<td>8.2</td>
<td>8.9</td>
<td>21.3</td>
<td>11.2</td>
</tr>
<tr>
<td>2002</td>
<td>8.2</td>
<td>17.3</td>
<td>9.4</td>
<td>10.9</td>
<td>24.1</td>
<td>5.8</td>
<td>9.1</td>
<td>21.9</td>
<td>11.5</td>
</tr>
<tr>
<td>2003</td>
<td>8.1</td>
<td>17.7</td>
<td>10.3</td>
<td>11.7</td>
<td>22.1</td>
<td>6.1</td>
<td>10.1</td>
<td>24.1</td>
<td>11.8</td>
</tr>
<tr>
<td>2004</td>
<td>9.4</td>
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<td>12.2</td>
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<td>6.7</td>
<td>9.9</td>
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<td>12.7</td>
</tr>
<tr>
<td>2005</td>
<td>10.3</td>
<td>21.0</td>
<td>13.4</td>
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<td>7.3</td>
<td>9.4</td>
<td>23.2</td>
<td>13.5</td>
</tr>
</tbody>
</table>

% growth 2004–2005

Training rates were derived by calculating the number of trades apprentices (aged 15 years and over) in-training as at 31 December 2005 (NCVER) as a percentage of employed persons (15 years and over) as at November 2005 (ABS). The ABS does not produce monthly estimates for employment by occupation, with data available on a quarterly basis only.

This reliance is borne out by the above table which clearly demonstrates that the proportion of employees that are trainees and apprentices are higher among food trades than in any other industry.

There is a direct relationship between the level of industry confidence and the engagement of apprentices in the hospitality industry. As indicated in Figure 15 above, in the period following 9/11 and the Ansett collapse, apprenticeship commencements in 2002 fell below those in the year prior. This has been the only interruption to the continued growth.

The hospitality industry can not afford to have any form of disincentive attached to the employment of trainees and apprentices. The greatest disincentive to the engagement of trainees and apprentices would be to increase the minimum wage for these positions. Research undertaken in 2003 (for the National Skills Shortages Strategy Report – The Waiting is Over) it was found that a very significant number of apprentices particularly are paid over the award rate of pay. This is not a case for increasing the minimum rate.

The above minimum payments allocated to apprentices can be made to reward performance, whereas if the minimum rate were increased this could not be the case. The ceiling rate for the payment of apprentices is the rate for a qualified trades person. Apprenticeship rates (with applicable loadings) already nudge the full-time rates of pay. Any encroachment of the minimum rate on the rate for qualified food-tradespersons, would limit the extent to which payment above the minimum can be made in the workplace to recognise increased performance. Restaurant & Catering Australia contends that limiting performance based pay is contrary to the objects of the Act and the charter of the Australian Fair Pay Commission.
In contrast to considering lifting the proportion of the full time rate awards to apprentices (or setting some form of fixed rate to increase these minima), Restaurant & Catering Australia believes that the Fair Pay Commission should examine other ways in which additional incentives can be applied to the employment of apprentices and trainees. Approaches such as increasing employer incentives and/or setting reduced tax rates for apprentices / trainees could be ways in which an incentive could be offered to the trainees and the employer to further develop on the job training.

**Recommendation**

*The Australian Fair Pay Commission should consider recommending ways in which the take-home pay of apprentices and trainees can be increased without providing a disincentive for employers to engage trainees by raising the proportional rates for these positions.*

*The Commission should make recommendations for changes to taxation and/or incentive arrangements.*

**Casual Loading**

The restaurant and catering industry is a large and ever increasing user of casual employees. As noted above, some 53% of employment in the industry is casual at this stage. The industry is keen to have the Australian Fair Pay Commission focus on the mathematical and non-discretionary nature of the casual loading. In the terms of the Australian Fair Pay and Conditions Standard (and the proposed National Employment Standards) the leave for which the casual rate is compensating is annual leave, personal/carers leave and compassionate leave. Taken at their maximum, this leave accounts for just on 13% of the hours worked in a year. Restaurant & Catering Australia asks the Australian Fair Pay Commission to consider revising the casual loading down to this figure and to make clear the basis on which the casual loading is set, noting the non-discretionary nature of the loading.

The Association contends that in many (if not most) cases today casual employees are seeking casual employment due to other commitments and a lifestyle choice. The need to compensate these employees for the 'lack of guarantee of work' is an outdated, outmoded concept. Further, the Association regards that any desire to protect the position of weekly employees or to deter employers from adopting casual engagement as the standard practice is an inappropriate consideration for the AFPC and to some extent beyond the scope of the Commission.

The history of the increase in the casual loading is that in many awards, the loading was increased from 10 to 15% consequent upon the increase in the period of annual leave from 2-3 weeks. Subsequently, the loading was increased from 15 to 19% consequent upon the increase in the period of annual leave to 4 weeks and to cover an additional 3 days per year sick leave with an additional increase of 1% to 20% reflected the introduction of the 17.5% annual leave loading. This ratcheting up and continual ‘rounding up’ of the loading places an unnecessary burden on the restaurant and catering industry.

Restaurant & Catering Australia believes that at a minimum, the increase in the loading from 19% to 20% based on introduction of the 17.5% annual leave loading should be reversed by the AFPC. Based on the ABS Report, Cafes and Restaurants Australia, a one percent reduction in the casual loading would save the industry $15 Million dollars per annum. The industry urges the AFPC to consider reducing the casual loading.

The AFPC should also acknowledge that the casual loading, unlike other aspects of the commission’s mandate, is a formula based on conditions established in the Australian
Fair Pay and Conditions Standard and is not a discretionary or arbitrary ratio that should be adjusted on the basis or economic or any other consideration.

**Recommendation**

The Australian Fair Pay Commission should lower the Casual Loading to 13% to reflect the purpose for the loading.

**Impact of Previous Decisions**

The restaurant, café and catering industry was, prior to the introduction of WorkChoices, the most award reliant of any industry. This is because the industry relies on the largest proportion of operative level employees of any industry. The industry has a very 'flat structure' and employs some 250,000 workers.

As noted above, in addition to the large number of operational level employees, the industry has a very large, non-full time component of its workforce. In the majority of cases, this non-full time component receives some form of payment, over and above but based on the full-time rate of pay. This has the effect of magnifying an increase in minimum wages.

In the attached report from KPMG Econtech, the relationship between increases in wage costs (at the minimum wage level) are drawn conclusively. The report concludes that ‘given our Award system produces higher minimum wages than other countries, . . . . . higher minimum wages would lead to lower employment, especially in Australia’.

As demonstrated in the trendline in the above figures, despite significant increases in the turnover for the hospitality and services sector of the economy, the numbers employed in accommodation, cafes and restaurants, has remained relatively flat. In fact, in real terms, the numbers employed in the café and restaurant sector particularly, have reduced against levels of turnover.

This proves the hypothesis in the attached Econtech paper that increases in minimum wages reduces the number of people employed. In the current environment higher unemployment is a real risk. Overall unemployment is likely to grow to over 7% increasing the numbers of Australians out of work and looking to the hospitality industry for their future. The capacity of these businesses to engage additional workers will be directly impacted by the level of increase granted in the 2009 AFPC Review.

Restaurant & Catering Australia contends that the direct relationship between lower employment and wage increases in this industry is due to the relatively fixed nature of wage costs for restaurant and catering businesses. That is, restaurateurs and caterers base the numbers of people employed on the number they can afford to pay rather than the number they need to engage to get the job done.

The huge increase granted by the Australian Fair Pay Commission in 2008 (effective October 2008) had a significant effect in the restaurant and catering industry. The increase had stopped businesses from taking on additional staff to service additional demand over the 2008 Christmas period and lead to a number of businesses closing their doors.