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Justice Iain JK Ross
President
Fair Work Commission
Level 4, 11 Exhibition St
Melbourne VIC 3001

Dear President Ross, Vice President Catanzariti and Fair Work Commission members,

Thank you for the opportunity to make a submission on the important financial and social role of penalty rates in the retail and hospitality sectors.

The Justice and Peace Office is an agency of the Catholic Archdiocese of Sydney. We promote justice, peace, ecology and development through projects and activities based on the social teachings of the Catholic Church. At our most recent census in 2011 over 27.5% of the population of Sydney was Catholic. We work with and represent that community of approximately 600 000 people.¹

We are making a submission to the Fair Work Commission's penalty rates case because we strongly oppose the Productivity Commission's recommendation to reduce Sunday penalty rates in the retail and hospitality industries. We are concerned that the recommendation does not provide a proper balance between the rights of employers and the rights of employees in several respects. As Christians we are also troubled by the effort to encroach further on time with family and communities as well as time for rest, recreation and worship on Sundays.

As Catholics we believe that a good working life is a good intended for us by God. Work is a way we live out our dignity as well as participate in and glorify Creation. The Church teaches that the economy must be always at the service of human beings and never the other way around. It teaches that we have a right to decent, just and dignifying work as well as a responsibility to do that work honestly and fairly. A key element of this is that we ought to be compensated for work with a living wage – a wage that allows individuals and families to flourish. All work, wages and production should be oriented in this direction. These suggested cuts are not so oriented.

Unfair effect on the vulnerable

Reducing penalty rates will punish some of Australia's already most vulnerable and low-paid

¹ National Catholic Census Project 2011,
<http://pro.catholic.org.au/pdf/Australian%20population%20by%20diocese%20and%20religion%202011.pdf>



workers. This reduction will create a two-tier system of the 'haves' and 'have nots' in a period when the gap between rich and poor is already unjustifiably large. Why is it acceptable to be actively creating a group of working poor in Australia in 2016? As Pope Francis has said, work should not be crushing and humiliating. It should be something 'that makes a man truly free, [...] that accords with man's noble dignity'.² It absolutely should not be a cause of violation to human dignity or something that reduces us to poverty rather than lifting us out of it.³

The Productivity Commission argues that Australians' desire to eat at a cafe or shop on a Sunday is reason enough for these industries to 'normalise' Sundays. And the Report argues that it is right and fair for these changes to be shouldered by workers, not by business or consumers. We believe this is profoundly unfair and unjust. Australians largely agree. A January 2015 Essential Media Poll found that 68% of voters oppose cutting weekend penalty rates.⁴

Time, community and individual health matter. The ordering of these cannot be left simply to the marketplace. Leading full lives must take priority over a never-ending pursuit of ever greater profit and endless consumption, most especially when we are forcing the most vulnerable in our community to pay the greatest price.

Families and dignity in life matter

As has been well documented elsewhere the projected costs of these cuts on workers and their family are not insignificant.⁵ People will be forced to either work more hours in their current jobs, assuming those hours actually become available, or they will have to seek other job opportunities – not an easy task for a group of workers that generally have a whole raft of family responsibilities keeping them in shift work, or are low-skilled. We cannot see how these cuts will have anything but negative impacts on families and marriages. Catholics care deeply about the health of our marriages and family life.⁶

The effect of having to either work more hours, juggle more shifts in the one family, or live on less will see a deeper erosion of our communities, likely leading to more family breakdown. Whether a family 'chooses' to live on less or 'chooses' to work more to make up the shortfall in their wages there will be increased stress in households. We will see parents and children begin to forego sports, volunteering and other community activities because they either do not have the time or can no longer afford it. We do not believe this entails a 'living wage', and we oppose the needs of business being given too much priority over the needs of families, communities and relationships.

Job creation in an unconvincing and unjust way

The productivity Commission argues that reducing Sunday penalty rates will likely mean an increase

² *Vatican Radio*, 'Pope Francis: work in accord with human dignity', 14 December 2015, http://en.radiovaticana.va/news/2015/12/14/pope_francis_work_in_accord_with_human_dignity/1194214

³ Pope John Paul II, *Laborem Exercens*, 1981, p. 8

⁴ Essential Media Report, *Cutting Penalty Rates*, 13 January 2015, www.essentialvision.com.au/cutting-penalty-rates

⁵ Department of Education, Employment and Workplace Relations Submission, *Senate Standing Committee on Education, Employment and Workplace Relations Inquiry into Fair Work Amendment (Small Business – Penalty Rates Exemption) Bill*, 2012, p. 11.

⁶ *National Church Life Survey*, 'Public issues and priorities for churches, NCLS Fact Sheet 13004', 2011.



in jobs. Not all economists agree with this, arguing that there is no concrete evidence that rate cuts will lead to increased sales and therefore staffing levels.⁷ It will, of course, increase profit margins, but, again, there is no guarantee as to how these will be used in relation to job growth. We also ask the question of what use is an increase in jobs if the pool of employees needing extra hours or additional jobs will concurrently increase?

These questions and concerns aside, it remains that, as Catholics, we believe it is fundamentally unjust and morally unacceptable to reduce unemployment with a solution that damages the living standards and wages of vulnerable people.⁸

Sundays still matter

Aside from the Catholic Church having a long history of standing in solidarity with workers and advocating for fair and dignifying pay and conditions, it also has a vested interest in protecting the Sabbath as a day we are free to worship and rest together. We believe in the good of the Sabbath, 'that it was made for humankind' (Mk 2:27) and that we are not just entitled to it but have an obligation to respect and enjoy it.

Though the Productivity Commission is right to say that there has been a decline in religious observance on Sundays, the Australian community more broadly continues to see Sunday as a special day – a day different to the weekdays or Saturday. Major sporting events like football finals, Australian Open Tennis finals, as well as mothers and fathers' day all continue to fall on Sundays because this is the time most of us are free to enjoy each other and leisure pursuits. We believe that if some of us are to work on this day we ought to be fairly compensated for giving up that special time.

Sundays remain a day for us all, in whatever ways are authentic for each of us, to honour and enjoy those parts of being human that lie beyond labouring. Quality time with friends, family and community are essential to keeping people, marriages, families and communities healthy and strong – a value strongly held by the Church. To reduce the importance of Sunday by not paying people for the sacrifice they are making is another step towards understanding work, time and human beings in only economic ways. We believe God intended us for far more than that.

We hope that this submission will help the Fair Work Commission make a fair and just decision about Sunday penalty rates; a decision that will preserve and promote a culture that values a full life and human dignity above an unrestrained interest in profit. We sincerely thank the FWC for considering the views of the Justice and Peace Office and for your work.

Yours sincerely,
Kimberley Doyle
Research and Project Officer, Justice and Peace Office

⁷ Ross Gittins, 'Don't be sure lower penalties mean more jobs', *Sydney Morning Herald*, 10 August 2015.

⁸ Australian Catholic Bishops Conference, 'Statement in relation to the Commonwealth Government's Workplace Relations Amendment (Work Choices) Bill', 25 November 2005.