Andrew Barr MLA
Chief Minister

Member for Kurrajong

Treasurer
Minister for Economic Development
Minister for Tourism and Major Events

Rachel Stephen-Smith MLA

Minister for Workplace Safety and Industrial Relations
Member for Kurrajong

Minister for Community Services and Social Inclusion
Minister for Disability, Children and Youth
Minister for Aboriginal and Torres Strait Islander Affairs
Minister for Multicultural Affairs

Fair Work Commission
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MELBOURNE VIC 3001

By email: amod@fwc.gov.au

Dear Commissioners,

The ACT Government reiterates our support for the current penalty rates regime and our strong opposition to the Fair Work Commission's proposed changes that would bring about a significant reduction in pay for thousands of Territory workers.

As stated in our initial submission to the Commission's Four Yearly Review of Modern Awards, the ACT Government believes that: *"Penalty rates are a representation of our social contract and have been part of Australia's social and economic fabric for more than 100 years...any attempt to reduce penalty rates represents an erosion of this social contract."*

There are strong equity and economic arguments against the proposed cut to penalty rates. It is the ACT Government's view that there are no transitional arrangements which could ameliorate these impacts or prevent significant disadvantage to workers affected by this decision.

In light of this, the ACT Government calls on the Commission to set aside this decision to reduce Sunday penalty rates and not proceed with the development of transitional arrangements to give effect to it.

Cutting penalty rates will harm Territory workers

The Commission's ruling affects workers who are employed under retail, hospitality and pharmacy industry awards. The Australian Bureau of Statistics' Average Weekly Earnings data shows workers in these industries already earn significantly less than other Australians, with average wages for retail workers sitting at $687 a week – just 59 per cent of the national average wage. Wages for hospitality workers are even lower, averaging $524 a week or 45 per cent of the average wage.[1]

There are almost 28,200 Canberrans currently working in the hospitality and retail sectors alone.[2] These workers face particular challenges in an otherwise high wage economy such as the ACT's, because the costs of life essentials such as housing, utilities, transport and groceries reflect the higher average incomes of their fellow Canberrans.

The reduction in pay brought about by the proposed cuts to penalty rates has been estimated at up to $77 a week. This represents more than 10 per cent of the average wage of workers in the affected sectors. Cutting wages so dramatically – regardless of whether this is done at a single point in time or through a phased approach – will lead to a significant reduction in their standard of living. Given that households in the bottom 60 per cent of incomes already spend as much or more than they earn each week,[3] these workers simply do not have the capacity to absorb a pay cut of this magnitude.

The wage impact of the proposed reduction in penalty rates has been well acknowledged by the Commission itself. In its final ruling, the Commission noted:

> *'A substantial proportion of award-reliant employees covered by these modern awards are low paid and the reductions in Sunday penalty rates we have determined are likely to reduce the earnings of those employees who currently work on Sundays...most existing employees would probably face reduced earnings as it is improbable that, as a group, existing workers' hours on Sundays would rise sufficiently to offset the income effects of penalty rate reductions.'*[4]

It is not fair or equitable to demand that some of the lowest paid workers in the ACT take a significant pay cut through reduced penalty rates without any compensation such as improved conditions, job security or higher average wages overall. No proposal for transitional arrangements can address this fundamental problem with the Commission's ruling; only setting aside this decision and maintaining the current penalty rates regime can do so.

Cutting penalty rates will not boost economic activity

The principal argument for penalty rate cuts rests on flawed assumptions about the economic impact of such cuts. While proponents of penalty rate cuts argue this may lead to more economic activity and employment, in fact the fundamental principles of supply and demand indicate the opposite.

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[1] Australian Bureau of Statistics, 2016, *Average Weekly Earnings*
[2] Australian Bureau of Statistics, 2016, *Labour force: Australia, detailed, quarterly*
[3] Parliamentary Budget Office, 2015, *Goods and Services Tax – Distributional Analysis*
[4] Fair Work Commission, 2017, *Decision: 4 yearly review of modern awards – Penalty Rates*

The ACT's retail, hospitality and pharmacy workers are also consumers within our economy. Private consumption represents fully one quarter of the ACT's State Final Demand, with households pouring $16.6 billion into the economy through their private spending in the last year alone.

Significantly reducing the take home pay of thousands of Territory workers will reduce their spending power and therefore curtail consumption. There are more than 26,000 businesses operating across the ACT, with local consumption representing the vast majority of their revenue streams. Any reduction in consumption is therefore also likely to result in a reduction in business revenue.

Furthermore, to the extent that the proposed cuts lead more businesses to operate on Sundays, this is still unlikely to lead to increased revenue or employment.

Workers in the retail and hospitality sectors currently report some of the highest levels of underemployment of any in Australia, with tens of thousands of people unable to get sufficient hours at work. Any additional hours created by longer opening hours are therefore likely to be absorbed by existing workers rather than adding to total employment.

Similarly, an increase in opening hours without any commensurate rise in employee wages or spending power will simply shift current consumption to different times throughout the week, rather than adding new consumption overall.

Again, the lack of strong economic evidence or arguments supporting the proposed cuts to penalty rates is a fundamental weakness that cannot be addressed through the design of transitional arrangements. It is worth noting that although both the federal government – via Treasury – and employer groups had the opportunity to present detailed modelling or analysis supporting the claimed economic benefits of cutting penalty rates, no such evidence was presented. Given the extended duration of the Commission's deliberations and the multiple opportunities for proponents to provide this, it may be fair to conclude that such evidence simply does not exist. As there is little economic basis for these cuts, but significant risk of economic harm, it would be more prudent to maintain the current penalty rates regime.

In light of the above points, the ACT Government believes the only appropriate course of action is for the Fair Work Commission to set aside the current ruling in the interest of protecting economic security for workers and promoting sustainable growth across both the ACT and Australian economies. We call on the Commission to now do so.

Yours sincerely,

Andrew Barr MLA
Chief Minister

Rachel Stephen-Smith MLA
Minister for Workplace Safety and Industrial Relations