AUSTRALIAN INDUSTRY
GROUP

2003

SAFETY NET REVIEW

CASE

Submission to the

Australian Industrial Relations Commission

By

The Australian Industry Group

And

Engineering Employers' Association, South Australia

February 2003

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2003 SAFETY NET REVIEW CASE

Submission

1. INTRODUCTION

1.1 This year's Safety Net Review Case presents an important challenge to the Commission in terms of how it responds to Australia's current economic conditions.

1.2 While the Australian economy has performed well in 2002, the most recent economic data points to slower growth in 2003 and below average performance relative to previous years. Indeed, the economic risks going forward are moving increasingly towards the down side, reflecting the impact of Australia's worst ever drought on record, continuing share declines, rising oil prices, the prospect of war with Iraq and faltering global growth.

1.3 Ai Group and EEASA strongly oppose the excessive claim by the ACTU for a $24.60 per week increase in all award rates. The ACTU claim is fundamentally out-of-step with weaker economic growth levels facing 2003 and sharp deteriorations in labour productivity gains over recent quarters. In addition, the low paid have benefited from the very large increase awarded by the Commission in last year's case, together with successive safety net adjustments totalling $82.00 over the previous six years.

1.4 While opposing the amount of increase sought in the unions' applications, Ai Group and EEASA would support a moderate increase of $11.00 per week to apply to all award rates of pay, subject to the principle of absorption. Our position has been determined based on a balance between what level of wage increase is reasonably sustainable in the current economic climate, and the requirement

under the Act to maintain a safety net of fair minimum wages without generating adverse employment outcomes, especially for low income earners.

1.5 The evidence presented in this submission demonstrates that the ACTU claim for a $24.60 per week increase could not be granted without having damaging consequences for employment levels throughout the economy. Such an increase, while delivering benefits to some low income households, would result in an overall net detriment for both employers and low income earners.

1.6 The evidence also demonstrates that the increase awarded in last year's case did have a negative economic impact extending beyond just those sectors in which a high proportion of employees are award reliant. A survey undertaken by Ai Group across its membership base in the second half of 2002 reveals that a significant proportion of manufacturing and other employers reported accepting lower profits, investing more heavily in technology, reducing job advertisements and lowering overall employee numbers in response to the 2002 Safety Net Review Decision.

1.7 The survey evidence also highlights that the indirect costs of any safety net adjustment are not limited. There is a substantial flow-on of the increases to non-award and over award employees. This is further reason why the Commission should go slow in awarding wage adjustment in the current weaker economic climate.

1.8 The results of the survey also suggest the need for the Commission and the industrial parties who appear before it to develop a deeper understanding of the full impact of safety net wage increases. To this end, Ai Group submits that the Commission should undertake its own independent survey (with appropriate involvement of the parties) to measure the actual effect of any future wage adjustments upon employers, employees and the Australian community.

1.9 In assessing any possible wage adjustment, Ai Group submits that the Commission should also be mindful of how safety net increases represent a very poor "bang for the buck" insofar as low income households are concerned. For

many low-income households, wage increases granted by the Commission are significantly diluted due to features of the income tax system, the income support system and by the interaction between these two systems.

1.10 The evidence presented in this submission establishes that, on average, low income households with earnings will receive around half of the extra costs imposed on employers as a result of any safety net wage increase. Indeed, many low income households (such as sole parents, part-time workers and low income families with children) will receive less than 30% of the actual cost to the employer.

1.11 In adjusting the award safety net, Ai Group submits that full account should be taken of the dilution of benefits actually received relative to the full costs to employers and the implications of these extra costs on the employment opportunities for members of low-income households. Once these factors are absorbed, it becomes patently clear that a large safety net increase will result in a net detriment for low-income households as well as employers.

1.12 This year's case will also very important in the context of a new major round of enterprise bargaining across the manufacturing sector involving hundreds of enterprise agreements expiring over the first half of 2003. The evidence illustrates that the Commission's decision to award a safety net increase will potentially have a significant bearing upon wage outcomes. A large safety net wage increase would fuel excessive wage claims and unrealistic wage outcomes at the enterprise level.

1.13 Over coming months, it will be vital for Australia's interests that the parties to enterprise bargaining within the manufacturing sector reach productive outcomes which provide sustainable benefits to employers and their employees. The potential for widespread industrial disputation and the ensuing damage to the Australian economy is quite apparent. The Commission's approach to wage adjustment will likewise be important in this context.

1.14 Ai Group acknowledges that a further flat rate adjustment of $11.00 per week will further compress the relativities within skills-based classification structures. However, we do not believe that relativities have eroded to such an extent as to be ineffective or unworkable. In addition, the effect of market factors on actual rates of pay cannot be ignored.

1.15 Finally, Ai Group submits that there is a need to clarify the operation of the Commission's Statement of Principles insofar as they relate to applications for retrospective safety net wage increases. In light of significant confusion and even inconsistency emerging over the operation of safety net adjustments during the past year, it is important for the Commission to clarify in its decision that delays arising from the ebbs and flows of the Commission's workload do not constitute "exceptional circumstances" warranting retroactive wage adjustments.

2. Ai GROUP'S POSITION

2.1 Our understanding of the ACTU's claim is as follows:

- An increase of $24.60 per week in all award rates of pay.
- A commensurate adjustment of allowances which relate to work or conditions of employment which have not changed.
- Absorption of safety net adjustments into existing above award payments.

2.2 Ai Group strongly opposes the ACTU claim on the basis that it is not reasonably sustainable in the current economic climate, it will deliver very little benefit to many low-income households once the effects of taxation and withdrawal of income support arrangements are taken into account, and it will result in a net detriment for employees (especially low-skilled workers) through reduced employment opportunities.

2.3 Ai Group proposes a moderate increase which reflects the weaker economic conditions facing industry in 2003, and the shift toward significant downside risks around the outlook for the global and Australian economy. At the same time, Ai Group's proposal would have the effect of maintaining real wages in the lowest paid classifications and have a noticeably less detrimental impact on the prospects for employment of members of low-income households.

2.4 Accordingly, we propose the following:

- A flat adjustment of $11.00 per week to be applied to all award rates of pay and the Federal Minimum Wage.

- A commensurate adjustment to rates of pay for junior employees and apprentices.
- The adjustment to be payable from a date not earlier than 12 months after the operative date of the safety net adjustment in the relevant award flowing from the May 2002 Safety Net Review decision.
- The adjustment is subject to full absorption into over award payments, irrespective of whether they reflect formal or informal agreements or individual arrangements.

3. ECONOMIC CONDITIONS AND OUTLOOK

3.1 In responding to Australia's current economic conditions, the Commission is presented with an important challenge in this year's Safety Net Review Case.

3.2 The Australian economy performed well in 2002, being amongst the fastest growing in the OECD. The manufacturing sector also did reasonably well, with output growing by around 4% and the sector recording profit growth. However, this performance reflects the past financial year in which the Commission granted workers a significant wage adjustment.

3.3 On face value, this record of past economic performance could lead the Commission to conclude that a significant wage increase is justified again in 2003. However, the Australian Industry Group contends that this would be an inappropriate response because it fails to take into account how industry has responded to the economic environment. As well, given that wage adjustments have to be paid going forward, what matters is current and expected performance rather than past performance.

3.4 The last twelve months has seen manufacturers channel back into the economy almost all of the returns from growth by way of new investment, additional jobs and company and other taxes. Furthermore, the most current economic data points to slower growth and below average performance relative to previous years. Indeed, the economic risks going forward are moving increasingly towards the down side.

3.5 While Ai Group accepts that a modest wage adjustment is appropriate, conceding to the excessive claim sought by the ACTU simply on a superficial analysis of the past strength of the Australian economy would threaten the growth potential of the Australian economy at a time of global economic uncertainty, falling exports partly impacted by the drought, and possible military conflict with Iraq. It would also fail to recognise that economic conditions have changed for the worse.

3.6 The Commission must look to an outcome that provides a balance between the need for current wage earners to receive an adjustment and the need to provide for continued growth and opportunity for new entrants. Excessive wage adjustments would threaten growth, investment and new jobs.

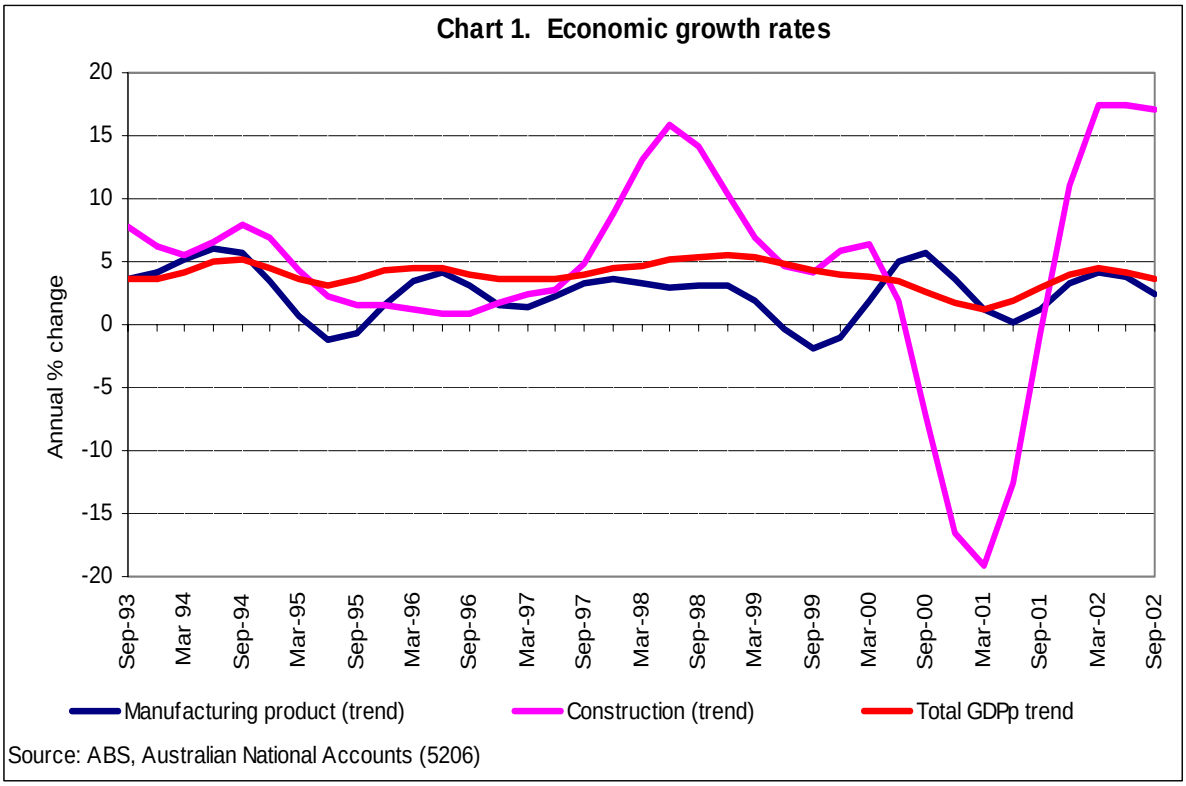
3.7 The Commission also needs to understand that the economic risks are on the down side, and rather than 2003/4 being a year of rebound in growth as presented by the ACTU, month by month the evidence is moving towards slower growth. Mounting risks and uncertainties necessitate the Commission adopting a cautious approach to wage adjustments in the same way the Reserve Bank of Australia has been cautious in setting interest rates.

3.8 The following analysis provides the economic basis for Ai Group's proposition. The analysis is divided into the following parts:

- Current state of the Australian economy and manufacturing;
- Benefits of a growing manufacturing sector;
- Getting the balance right; and
- Response to the ACTU submission.

Current State of the Australian Economy and Manufacturing

3.9 The Australian economy throughout 2002 was one of the fastest growing in the OECD. For the twelve months ending September 2002, the Australian economy grew by 3.7% compared to 2.4% for Britain, 0.8% for Germany, 0.4% Japan, and



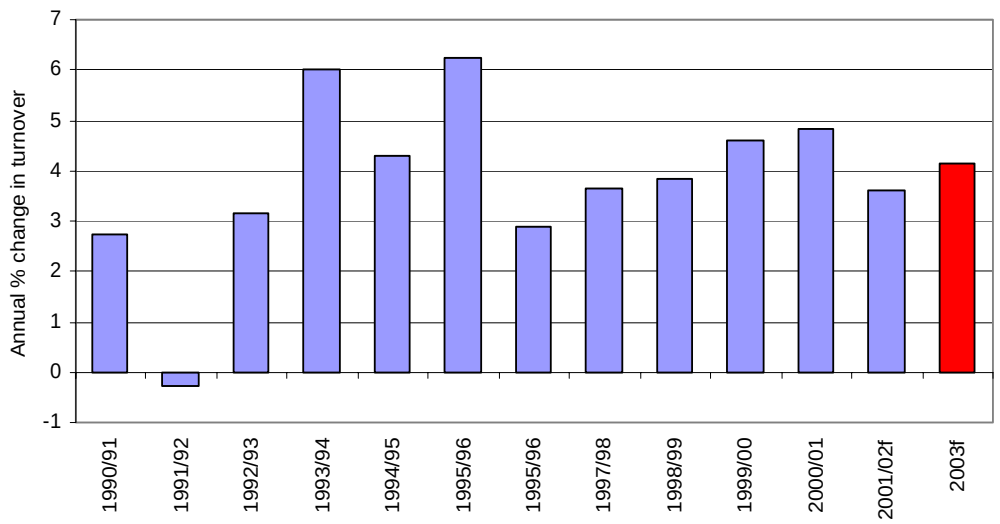
2.5% for the United States. Outside of non-Japan Asia, only Canada (4.0%) and New Zealand (3.9%) grew faster than Australia.

3.10 As Chart 1 highlights, the strength of the Australian economy was undoubtedly assisted by a strong construction sector (particularly in the housing market), underpinned by low interest rates, employment growth and strong domestic demand. Given manufacturing's strong links to the construction sector, it too has benefited with growth peaking at 4.1% in the March quarter 2002. However, growth has slowed in recent quarters, with the *National Accounts* showing annual growth of 2.3% in the September quarter 2002.

3.11 Economic forecasts for 2003 expect the Australian economy to slow further due to the combined effects of the drought, a softer housing sector, continued global economic weakness and cautious consumers anxious about the prospect and implications of a war with Iraq. The recent *Age* poll of economists has the Australian economy growing by 3.1% in 2003,[1] while a poll of forecasters by *The Economist* has Australia growing by 3.2% in 2003.[2]

3.12 Ai Group has recently surveyed the manufacturing sector to establish prospects for 2003. The results incorporate the projections of 783 companies across Australia with an annual turnover in excess of $50 billion (or 20% of total activity). The results of this survey are found at Annexure A, entitled "*Business Prospects for Australian Manufacturing in 2003*".

Chart 2. Annual change in manufacturing turnover



Source: ABS Manufacturing Industry (8221) and Ai Group

[1] Annexure B – *The Age*, Business, 6 January 2003 at p.2
[2] Annexure C – *The Economist, 11 January 2003 at p.88*

3.13 Based on turnover, Australia's manufacturing sector is estimated to grow by 4.2% based on sales and service income in 2003. While this is higher than the 3.6% growth in turnover in the 2001/02 financial year (ABS sales data), sales growth strengthened in the second half of 2002 to just over 4%, and this appears to have carried through into growth prospects for 2003 (see Chart 2). Nevertheless, the forecast and growth rate achieved in 2001/02 are below that of the previous two years (1999/2000 and 2000/01).

3.14 Combined with the impact of a slowing housing sector, three additional factors appear likely to act as a brake to manufacturing growth in 2003 – the drought, the decline in share prices in 2002 and an expected weak recovery in global trade.

3.15 ABARE has estimated that the drought could lower economic growth in 2003 by 0.75%, while Australia's stock market has experienced its worst year in over a decade, with a 12% decline in share prices. In the United States, share prices have declined for the third consecutive year, with the Dow Jones Industrial Average down 17% in 2002.

3.16 The Ai Group survey shows that the drought is likely to impact to varying degrees on almost one in two companies (48%) in 2003. For one in three companies, the impact will be to lower production through weaker demand resulting from reduced farm incomes. An additional 12% of firms, the majority being food manufacturers, expect input costs to rise, while 2% anticipate lower exports as a consequence of falling rural output.

3.17 The full negative impact of the drought upon Australian economic growth will, of course, only become clearer over the next few quarters (around the time when the next safety net wage adjustments begin to take effect). As the Deputy Governor of the Reserve Bank, Glenn Stevens, recently stated:[3]

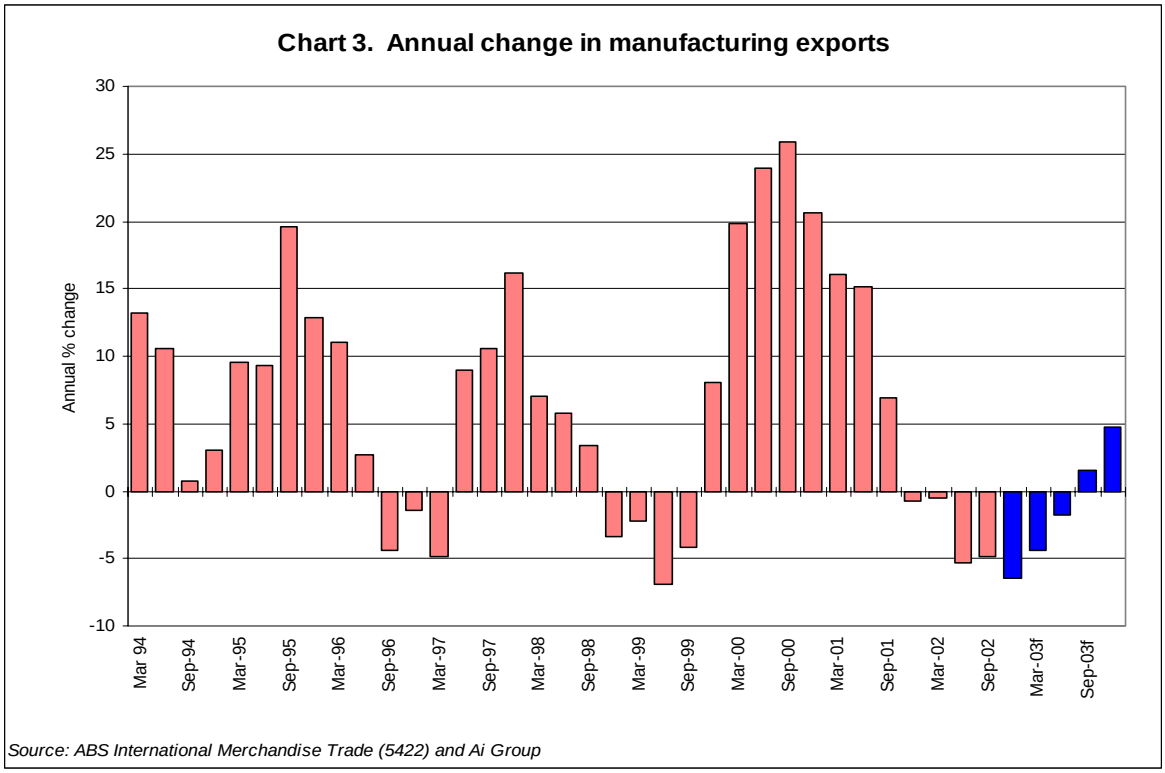
[3] Annexure D - "*Economic Outlook*" by Glenn Stevens, Deputy Reserve Bank Governor, speech presented at CEDA conference, 13 February 2003

"The debilitating effects of drought on farmers and their surrounding communities will become more fully apparent in the next couple of quarterly figures . . . "

3.18 Compared to the drought, the impact of the share market decline is expected to be smaller, with about 13% of firms likely to be affected (according to the Ai Group survey). This is partly due to the majority of companies being unlisted and therefore not directly impacted by market movements, except where they have invested earnings in shares.

3.19 Nevertheless, with many companies relying on internal funds from earnings and equity raising for investment activity, the share market falls are likely to lead to moderately lower levels of investment in 2003 than would have been the case had share prices remained unchanged or risen. In total, 13% of firms expect to spend less on new equipment and machinery, with about one in five of these firms sharply lowering their investment plans. Production and employment expectations are also affected, although to a lesser extent.

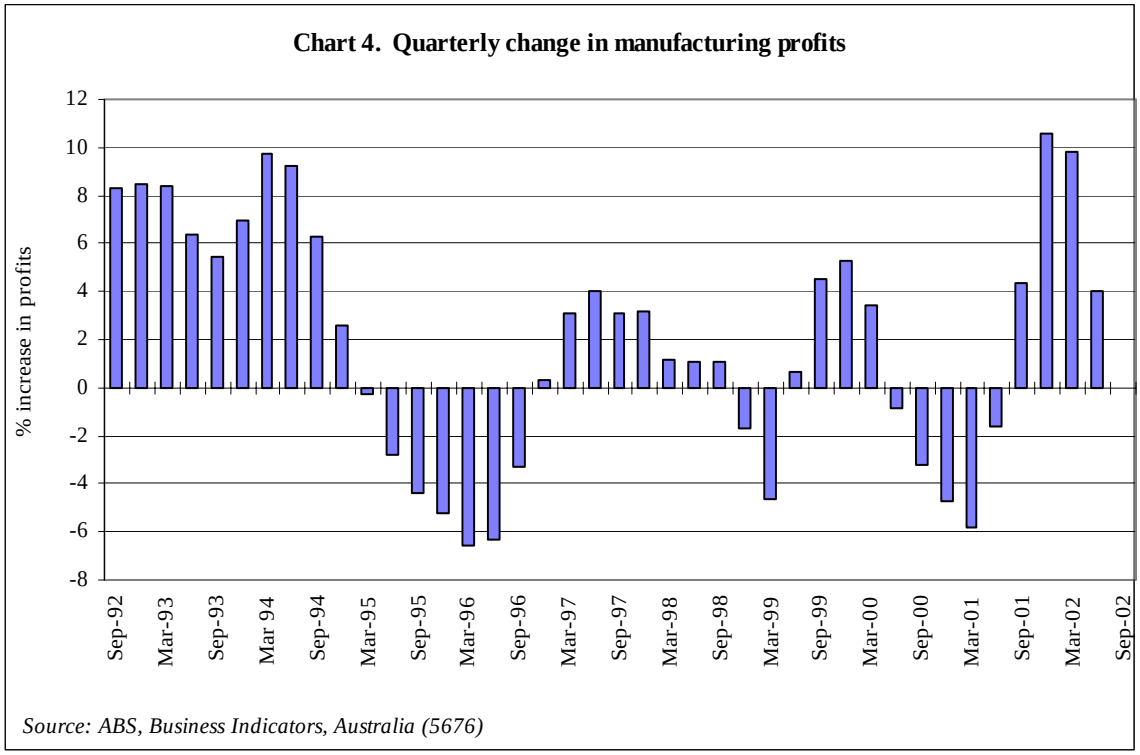
3.20 Finally, expectations of a slow recovery in global trade means that further declines in exports are anticipated until the middle of 2003 and this will act as a drag on growth prospects in the manufacturing sector. Chart 3 highlights how manufacturing exports (measured on a quarterly annualised basis) declined by 5% in the September quarter 2002, with little prospect of a return to nominal growth until the second half of 2003.



Benefits of a growing manufacturing sector

3.21 The strength of the Australian economy and the manufacturing sector has benefited both industry and workers.

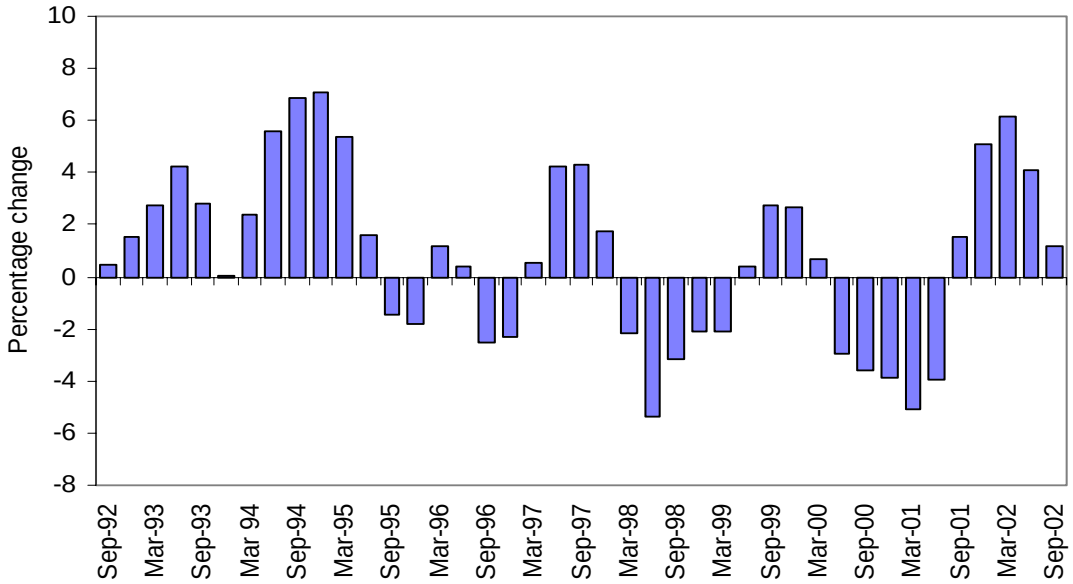
3.22 For industry, the benefit has been an improvement in profit levels over the last twelve months after years of poor and negative returns. While at one level, it can be argued that this should provide the basis for a wage adjustment, the level of any such increase needs to take account of how these profits have been returned to industry in the form of new investment, jobs and company taxes. This process benefits workers because it provides for the economy to continue to grow, thereby providing job security, job growth and higher living standards. Excessive wage adjustments can destroy these benefits to workers in future years.



3.23 Chart 4 highlights the quarterly movement in manufacturing profits. While for the year ending June 2002, manufacturing made significant profit gains, these compensated for the sizeable losses that were incurred in the previous year. Indeed, in the September quarter 2002 profits before company tax fell by 0.1%. Over the period from 1995 to present, the profit performance of manufacturing has remained relatively flat with quarterly profit gains being substantially negated by profit declines.

3.24 In total, for the year ending September 2002, manufacturing made a total of $13.9 billion in profits before tax. These funds enabled manufacturers to expend $10.3 billion in new investment *(ABS Private New Capital Expenditure, 5625),* create about 30,000 new jobs *(ABS Labour Force 6203)* costing $1.2 billion, and pay company (estimated around $3 billion, *ATO Taxation Statistics*) and other taxes.

Chart 5. Quarterly change in manufacturing investment

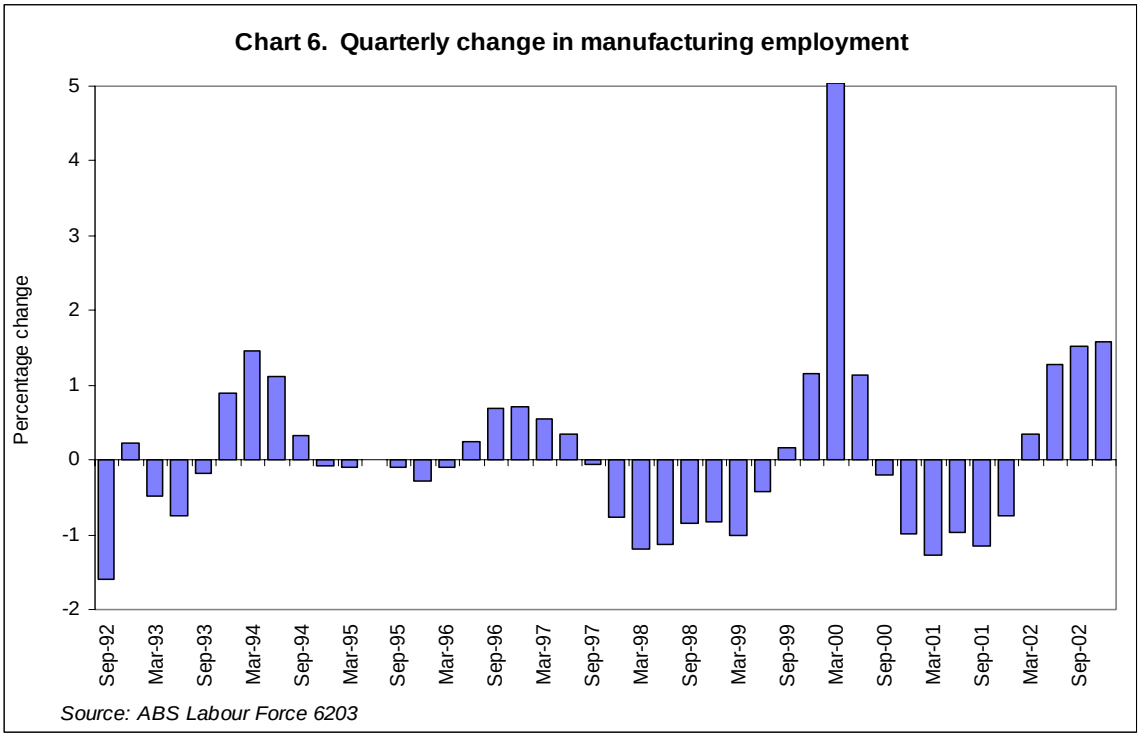


Source: ABS Private New Capital Expenditure 5625

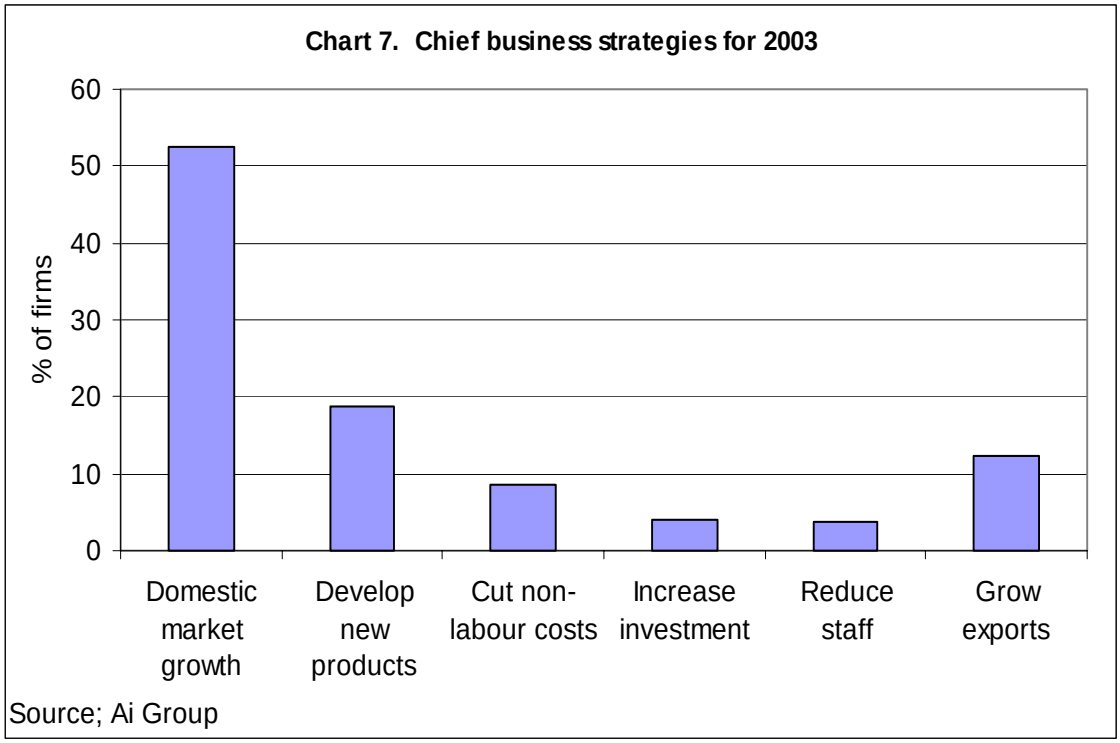
3.25 The Federal Government has emphasized the importance of business investment providing the momentum for continued growth in 2003 with the likely easing in consumer and housing demand. After falling sharply throughout 2000 and much of 2001 (Chart 5), manufacturing investment has lifted significantly as companies reinvest surplus funds in growing their businesses and improving efficiency and productivity. Given that manufacturing is the largest investor in the Australian economy (accounting for around 19% of all new investment), this has helped to sustain the growth and jobs momentum in the economy. Ai Group's *Business Prospects for Australian Manufacturing in 2003* highlighted that further investment gains can be anticipated in 2003 with overall investment expected to grow by 5%.

3.26 Similarly, after a year and a half of reducing staff levels, the last twelve months (to November 2002) have seen over 52,000 new jobs created in manufacturing (Chart 6). This is 26% of all new jobs created over the last year, a substantial achievement given that the sector accounts for just over 13% of the economy.

Further modest gains in employment are anticipated in 2003, but this could be threatened if companies are required to meet excessive wage claims.



3.27 Ai Group's survey of business prospects for 2003 reinforces the view that businesses are looking to grow rather than trim costs or jobs. Chart 7 highlights the chief business strategies identified by firms. In total, 53% of firms identified domestic market growth as the main business priority in 2003. This is in contrast to 4% of firms who identified reducing staff as the main business strategy for 2003.



Getting the balance right

3.28 More so than in previous years where the direction of economic growth appears uncertain, it will be important for the Commission to get the balance right.

3.29 2003 is shaping up to be a year of great economic risks. Most of these risks are centered on events and issues outside Australia beyond the control of the Australian Government or the Reserve Bank of Australia. These include unsteady global sharemarkets which have experienced significant losses over the last twelve months, the weak recovery in world industrial economies, the threat of terrorism, war with Iraq and escalating oil prices and concerns about global supply. Indeed, the OECD in its latest *Economic Outlook* (December 2002) summed up the current situation as one of increasing uncertainty and downside risks dominating, adding:

"…*downside risks seem to dominate at this juncture, including new financial market shocks, with a further deferral of corporate investment; a possible further*

cut in household wealth stemming from falling property prices; a disorderly unwinding of international imbalances; emerging market crisis and/or a surge in oil prices" (p.31).

3.30 Any protracted war in Iraq could cost the US economy up to $1,595 billion US dollars, and seriously further undermine financial markets, consumer confidence and business investment, leading to a stalled recovery in global markets and slower economic growth in Australia.[4]

3.31 Add to this the domestic implications of drought, a slowing housing market, an appreciating Australian dollar threatening exports and the prospect of further trade losses, there is little room for economic policy makers to get it wrong. As well, industrial disputation over renewal of enterprise agreements in the first half of 2003, particularly in Victoria, threatens to destabilise the economy in 2003.

3.32 The concern about the year ahead has been reflected in the caution adopted by central banks around the world in setting interest rate policy. As the RBA Governor, Ian Macfarlane recently stated in his *Opening Statement to House of Representatives Standing Committee on Economics, Finance and Public Administration* in Warrnambool on 6 December 2002:

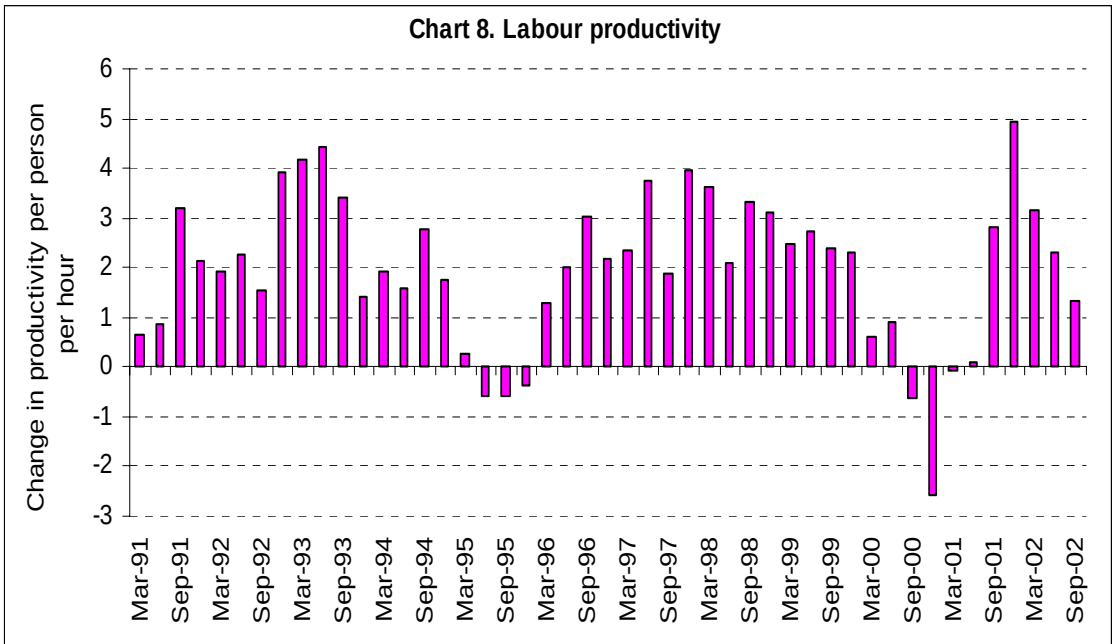
"*The caution shown by central banks such as ours derived in part from the downward revisions to world growth, but also in part from our suspicion that the risks were on the downside. In other words, if an outcome very different to the consensus were to occur, it would be more likely to be weaker than stronger*" (p.8).

3.33 As well, the Federal Treasurer in the *Mid-Year Economic and Fiscal Outlook 2002-03* stated:

[4] Annexure E – *"War with Iraq: A Spectrum of Market Risks",* National Australia Bank, 26 January 2003

"*Global economic conditions have remained subdued since Budget and downside risks around the outlook have heightened… Although there are some domestic risks to the Australian outlook – particularly uncertainty around the severity of the drought and the expected adjustment in the housing sector – the main risk is the possibility of prolonged international weakness, which could undermine confidence and spending, and exacerbate the domestic risks*" (p.2).

3.34 Ai Group believes that the Commission also needs to adopt this cautious approach in setting wage adjustments in 2003.



3.35 It is important to maintain Australia's good economic performance because, as has been shown above, this provides the basis for job growth and improved living standards. The Commission must therefore look to an outcome that provides a balance between the needs for current salary earners to receive a wage adjustment and the need to provide for continued growth and opportunity for new entrants. This is particularly so given that:

- the Commission awarded a very large increase in 2002;
- there are weaker economic conditions facing industry in 2003; and

- there has been a sharp deterioration in labour productivity gains (as measured per person per hour) in recent quarters making wage costs adjustments less affordable (see Chart 8).

3.36 Excessive wage adjustments would threaten growth, investment and new jobs.

Response to the ACTU submission

3.37 The ACTU in its written submission has premised its case for a $24.60 per week wage increase on an assumption that economic conditions will strengthen in 2003/4. It states:[5]

"*While the present economic climate is affected by the drought and weaker demand overseas, the official forecasts suggest that the Australian economy is well placed to remain strong, and in fact rebound even stronger during 2003-04 when any decision in this Case is likely to take effect*".

3.38 This assessment is largely based on data available towards the end of 2002, including the Federal Government, OECD and other sources.

3.39 While Ai Group does not seek to challenge these assessments or dispute the ACTU overview of economic conditions over the last year, these are essentially out-dated and irrelevant to the Commission's consideration of the economy going forward.

3.40 As we have pointed out in our economic analysis, since the start of 2003 the economic risks and uncertainties have been mounting. Because the pace of change is fast, any economic assessment needs to be constantly reviewed and updated. The ACTU submission fails in this regard because it reports on out-dated assessments.

[5] See para 5.2 of ACTU submission

3.41 Where is there any mention of oil prices? Where is there any mention of continuing share declines in 2003? Where is there any mention of Iraq and the prospect of war? Where is there any mention of the drought showing little signs of easing? Where is there any mention of world growth faltering in recent months?

3.42 Even with Ai Group's own assessment of manufacturing conditions in 2003, which the ACTU quotes, we understand that the prospect of war in Iraq will require us to revise (presumably down) our forecast, particularly if the war is protracted.

3.43 Two recent assessments of the Australian economy in 2003 highlight how the economic outlook is shifting rapidly, reflecting the balance of risk moving increasingly towards the negative.

3.44 First, the National Australia Bank in its assessment of business conditions released on 11 February 2003 has reported an alarming slowdown in economic activity since the start of 2003. Chief Economist, Alan Oster states:[6]

"While expectations of a slow-down were evident in the National's full December Quarter Business Survey (responses collected mainly in late November/early December), the pace of the slowing reported today appears much more rapid than expected in late 2002. Current readings from the Survey suggest that the growth momentum of the non-farm economy is now a touch below 4 percent – still relatively strong, but implying a relatively weak start to 2003 (given the strong base of late 2002). Clearly, the speed of the slowing needs to be watched - and, were it to continue at the current pace, would have significant implications for our economic and financial forecasts".

3.45 Based on these results, the NAB is forecasting growth to fall from around 3¾ percent in 2002 to around 2¾ percent in 2003, far removed from the picture of rebound that was present in late 2002 forecasts presented by the ACTU.

[6] Annexure F

3.46 The NAB results are consistent with the latest *Australian PMI* survey for January 2003 which shows that conditions in manufacturing, while making a positive start to the year, have eased from their peak of mid-2002.[7] Despite quoting recent Ai Group surveys,[8] the ACTU submission conveniently ignores these latest results which illustrate a marked easing in growth over the past half year. The seasonally adjusted Australian PMI© moved from 56.7 points in December to 52.7 points in January, reflecting softer growth in production, new orders and deliveries. Compared to June 2002, when activity peaked, the Australian PMI© has now fallen 7.4 points.

3.47 Second and even more significantly, the latest RBA *Statement on Monetary Policy* released on 11 February 2003 noted that the global recovery (built into growth assumptions for 2003/4) had lost momentum and this loss of momentum could well continue over the months ahead, particularly if war breaks out in Iraq. It states:[9]

"At the time of the February Board meeting, it was clear that the international outlook had not improved, with incoming information generally confirming the loss of momentum in the major economies late last year and a general increase in geopolitical uncertainty. There is thus a risk that the recent international weakness will become more protracted and will weigh more significantly on growth in Australia than it has done to date".

3.48 It also added that while the Australian economy is set to continue to grow at a good pace, it would be *"slower than last year".*[10] Or, as the Joint State and Territory Governments' submission puts it, *"overall economic growth is likely to slow"* and "*the year 2003 looks set to be a more significant challenge for the economy".*[11] This is clearly a change in assessment from that presented by the ACTU in its submission.

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7 Annexure G
8 See pp.62-64 of ACTU Submission
9 Annexure H – *"Statement on Monetary Policy"* Reserve Bank of Australia, February 2003
10 Ibid
11 See para 64 and 246 of the Joint State and Territory Governments Submission

3.49 These observations were also recently echoed by the Reserve Bank Deputy Governor, Glenn Stevens, in an assessment of the *"The Economic Outlook"* (dated 13 February 2003) where he stated:[12]

"*Australia still faces a difficult environment abroad. Uncertainty is high internationally at present . . . In the coming year, domestic demand in Australia will continue to grow, although probably more moderately than in the recent past . . ."*

3.50 Again, this is a change in assessment from that propounded by the ACTU. Rather than relying solely on economic data that pre-dates 2003, the Commission will need to look towards more current economic forecasts in the months ahead to ensure that any wage adjustment is consistent with current growth and expected growth in 2003/4.

[12] Annexure D

4. THE RELATIONSHIP BETWEEN THE AWARD SAFETY NET AND THE BROADER SOCIAL SAFETY NET

Overview

4.1 In last year's Safety Net Review Decision, the Commission gave express recognition to the inter-relationship between award wages and the broader social safety net:[13]

"For our part, we accept that significant adjustments in the social safety net may be relevant to the determination of the level of the award safety net."

4.2 Ai Group strongly welcomes this statement. It will undoubtedly assist in creating a climate in which governments might develop proposals to better assist the low paid. In fact, since last year's Case, the Commonwealth Government has initiated a substantial review of the income support system which will include an examination of the interaction between the award system and the broader social safety net (i.e. the taxation and income support systems).[14]

4.3 Whilst on this occasion there are no specific proposals to make significant adjustments to the social safety net (either fully or partially in lieu of possible award wage increases), Ai Group maintains that the Commission should examine the impacts of any potential award wage increases (such as the ACTU claim for a $24.60 per week increase) holistically by taking into account the inter-relationships between potential wage increases and the income tax and income support systems for low-income households.

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13 *Safety Net Review – Wages – May 2002* (2002) 112 IR 411 at 456 per Full Bench

14 Annexure I – Ministerial Consultation Paper, "*Building a Simpler System to Help Jobless Families and Individuals",* Commonwealth of Australia, 2002

4.4 For many low-income households, wage increases granted by the Commission are diluted considerably due to features of the income tax system, the income support system and by the interaction between these two systems – a point highlighted in Ai Group's submission last year. When assessed against the extra costs borne by employers as a result of safety net increases, low-income households themselves receive a relatively small benefit as measured by increased disposable income. This impact varies widely across low-income households, according to their particular circumstances and the level of household income.

4.5 In this case, Ai Group urges the Commission to consider three implications of these facts:

- Safety net wage increases represent a very poor "bang for the buck" as far as low-income households are concerned.
- The income support system is much more effective in addressing the needs of low-income households and the Commission should take into account the impacts of changes to income support arrangements.
- In weighing the costs and benefits of any potential award wage increase, full account should be taken of the dilution of benefits actually received relative to the full costs to employers and the implications of these extra costs on the employment opportunities for members of low-income households.

4.6 These conclusions have gained considerable currency over recent years and, late last year received support in an International Monetary Report on Australia. (International Monetary Fund, Australia, Staff Report for the 2002 Article IV Consultation, 9 August 2002). The report noted:

"The awards system also still plays an important part in setting minimum wages, which remain very high in Australia relative to other advanced countries…. Historically, the minimum wage has been used as a means of providing a "living wage"…. This function could be more effectively accomplished through the tax and the income support system. Reducing the role of awards in setting minimum wages would enhance employment prospects for low-skilled workers." (p.18)

4.7 The evidence presented in this section demonstrates the significant dilution of benefits received by low-income earners relative to the full costs to employers arising from any potential safety net wage increase. The section also illustrates the more cost-effective role of the income support system in delivering benefits to low-income households, and how changes to income support levels should be reflected in safety net wage adjustments.

4.8 Moreover, the section demonstrates that there is a delicate balance between the costs and benefits of safety net wage increases for low-income earners due to the interaction between the wage, tax and income support systems. Apart from the extra cost to employers, the evidence presented in this submission confirms that safety net wage increases impose a corresponding reduction in employment opportunities for low-income workers. These costs may fundamentally outweigh the heavily diluted benefits for low-income earners associated with any safety net wage increase. This imbalance is more likely to result in a net detriment for low-income households (as well as employers) where the wage increase awarded is large.

<u>The Dilution of Benefits Arising from Safety Net Wage Increases</u>

4.9 The dilution of the benefits of any safety net wage increases, relative to the costs borne by employers, has two components. These are:

- the difference between the total costs borne by the employer and the actual amount paid in wages; and,
- the difference between the amount paid in wages and the amount by

which disposable income actually increases as a result of the extra wages paid.

4.10 These two components are usually illustrated by looking, respectively, at the additional labour costs paid as a result of the wage increases and at the effective marginal tax rates confronting wage earners.

- For every dollar of extra wages, employers bear additional costs. These extra costs are due to compulsory employer superannuation contributions, payments for workers compensation cover, extra State and Territory payroll tax liabilities and the increase in payments of overtime and other proportional loadings.

- The actual amount of these additional labour costs varies depending on the size, location and other particular circumstances of individual businesses. Based on extensive industry experience, Ai Group conservatively estimates the additional labour costs at around 30% of actual wage costs on average. In other words, on average, it costs employers $1.30 to pay an extra $1 in wages.

- Effective marginal tax rates apply to individuals and measure the loss of additional earnings due to consequential reductions in income support entitlements and increases in income tax liabilities. As illustrated in Annexure J, effective marginal tax rates vary from zero to 100% for low-income households depending on their individual circumstances.

4.11 Annexure J sets out in a series of graphs the effective marginal tax rates faced by a variety of household types. The effective marginal tax rates shown vary between zero and 100% over the range of incomes and circumstances shown in the graphs. Depending on these circumstances, the increase in disposable income due to a $1 increase in wages will vary between $1.00 and nothing.

4.12 To obtain a more complete picture of the dilution of benefits, the additional labour cost component discussed above can be superimposed onto the range of effective marginal tax rates evident from Annexure J. This combination of the two components is demonstrated in Table 1 below and summarised in the Actual Benefit Ratios. The table traces the overall impacts of an extra $1.00 paid in wages. It starts with the $1.30 it costs the employer to pay this extra $1.00 and calculates the impact on the disposable income of the employee's household over the range of marginal tax rates confronting low-income households. This range is drawn from the examples set out in Annexure J.

TABLE 1: HOW MUCH ARE SAFETY NET WAGE INCREASES DILUTED?

The cost to the employer of an extra dollar of wages.	The effective marginal tax rate of the employee.	How much of the $1.30 paid by the employer is actually received in the employee's household?	What amount is actually received by the employee's household as a percentage of the total cost to the employer? Actual Benefit Ratio
$1.30	0.0%	$1.00	76.9%
$1.30	17.0%	$0.83	63.8%
$1.30	30.0%	$0.70	53.8%
$1.30	40.0%	$0.60	46.2%
$1.30	50.0%	$0.50	38.5%
$1.30	61.5%	$0.39	29.6%
$1.30	75.5%	$0.25	18.8%
$1.30	88.5%	$0.12	8.8%
$1.30	100.0%	$0.00	0.0%

4.13 Before concluding this section, attention should be drawn to the part of the ACTU submission that selects from some important research by the National Centre for Social and Economic Modelling (NATSEM). The ACTU argues that, when the NATSEM findings on the incidence of high effective marginal tax rates are taken into account, the importance of their impacts is much less "dramatic" than would appear from looking only at the range of possible marginal tax rates.[15]

4.14 The NATSEM paper is an important step towards an adequate understanding of the incidence of effective tax rates on low-income wage and salary earners. Ai Group does not question the results of the NATSEM paper as far as they go, but we do dispute the conclusion drawn in the ACTU submission.

[15] See para 7.88-7.101 of the ACTU submission

4.15 The NATSEM findings as far as low-income earners are concerned can be summarised by looking at the average of effective marginal tax rates faced by individuals with earnings in the lowest three deciles of the family income distribution. These, together with the Average Benefit Ratios discussed above, are summarised in the following table.

TABLE 2: AVERAGE OF MARGINAL TAX RATES FACED BY INDIVIDUALS IN THE LOWEST DECILES OF THE FAMILY INCOME DISTRIBUTION[16]

Decile of Household Income	**Average of effective Marginal tax rates for individuals in this decile**	**Actual Benefit Ratio at this effective marginal tax rate**
1	30%	53.8%
2	36%	49.2%
3	36%	49.2%

4.16 In short, for individuals with earnings in the lowest three deciles in the family income distribution, around half will receive a benefit that is less than half what it costs the employer.

4.17 Two factors should be borne in mind when interpreting the NATSEM results.

- As the examples in Annexure J show, many low-income households have effective marginal tax rates well above the averages derived from the NATSEM study. Of households with some earnings from wages and salaries, those with high marginal tax rates are among the most in need of income support (sole parents, part-time workers and low income families with children for example). For these households, the Actual Benefit Ratios are even lower than those indicated in Table 2.

[16] Source: Gillian Beer, *Work Incentives Under A New Tax System: The Distribution of Effective Marginal Tax Rates in 20*02, NATSEM, November 2002, p.16.

- The NATSEM data do not adjust the income distribution to take into account the different composition of different households.[17] There is, for example, no adjustment for the fact that some households with earnings are single-person households, some are sole parent families and others are made up of a couple with seven children. If such an adjustment were made, one would expect the average effective marginal tax rates to rise due to an increase in the proportion of the lowest three deciles made up of low-income households with children. As NATSEM note, families with children are the largest single group with effective marginal tax rates above 60%.[18] For these households the Actual Benefit Ratios are again even lower than those indicated in Table 2.

4.18 In summary, the benefits of safety net wages increases actually received in the pockets and purses of low-income households are not an effective way of delivering income assistance to low-income families. The benefits actually received by these families are diluted considerably when measured against the costs to employers of paying these increased wages:

- Low-income households with wage earnings will receive between zero and 76.9% of the cost to the employer.
- Of these households, many of those most in need of income support (sole parents, part-time workers and low income families with children), will be subject to marginal tax rates in excess of 60% and **will receive less than 30% of the actual cost to the employer**.
- Based on the findings of the NATSEM study, **on average, low income households with earnings will receive around half of the extra costs imposed on employers as a result of any safety net wage increases.**

[17] In the NATSEM paper, the importance of such an adjustment is recognised and in fact such an adjustment is undertaken for all individuals but not for individuals with earnings (i.e. the relevant population as far as this submission is concerned). NATSEM noted than when this is done for all individuals "*the results are quite different*" from those for the unadjusted data (ibid at p.17).

[18] Ibid at p.25

The Role of the Income Support System in Delivering Assistance to Low-Income Households

4.19 Late last year the Commonwealth Government initiated a substantial review of the income-support system to examine ways in which it can be reshaped to improve participation and self-reliance; to provide stronger incentives for paid work; and to better tailor the system to meet individual circumstances.[19]

4.20 It is clear from the orientation of the review that the Government remains committed to a national approach to income support providing publicly funded assistance targeted to those with relatively low levels of private income.

4.21 Unlike wage increases flowing from the Safety Net Wage Case, the income support system provides different levels of assistance depending on the specific circumstances of the household. The income support system takes into account, for example, the level of household income, the number and ages of any dependent children in the household, the amount (if any) of rent paid by the household and the amount (if any) of child care expenses paid by the household.

4.22 The major elements of the income support system also have a high degree of integration both with other elements of the income support system and with the income tax system. For instance, most of the extra payments that reflect the particular material circumstances of households are not taxable and are not included in the income tests for other layers of assistance. These include the Family Tax Benefit, Rent Assistance and Child Care Benefit.

4.23 As a result, the income support system is a much more effective way of delivering assistance to low-income households than is the wages system. An extra dollar of disposable income delivered to a low-income household in the form of a higher Family Tax Benefit, for instance, costs the taxpayer an extra dollar. Compare this with the average of the two dollars it costs employers to deliver a similar increase in disposable income to low-income households.

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[19] Annexure I – Ministerial Consultation Paper, "*Building a Simpler System to Help Jobless Families and Individuals",* Commonwealth of Australia, 2002 and accompanying media release.

4.24 As shown in the ACTU submission,[20] assistance provided through the income support system is adjusted periodically to take into account changes in consumer prices.[21] These adjustments apply both to the levels of assistance paid and to the thresholds at which various income tests apply.

4.25 Ai Group agrees with the ACTU submission that these periodic changes in the income support system should be taken into account by the Commission when considering the purposes, and impacts of, safety net wage increases. These periodic adjustments to the amounts and conditions of income support payments raise the disposable income of low-income households eligible for assistance. This reduces the strength of arguments for wage increases based on the needs of low-income families.

4.26 This can be illustrated with reference to the changes in family support arrangements following last year's Case. Between February 2002 and February 2003, the income support arrangements available to families with children have been adjusted in a number of respects. These are summarised in Table 3.

TABLE 3: CHANGES IN FAMILY INCOME SUPPORT ARRANGEMENTS: FEBUARY 2002- FEBRUARY 2003[22]

Family Tax Benefit A	Changes between February 2002 and February 2003
Age of Child	Increase in maximum payment per child ($pa)
Aged under 13 years	98.55
Aged 13-15 years	127.75
Aged 16-17 years	32.85
Aged 18-24 years	43.80

20 See para 7.77 to 7.85 of the ACTU Submission

21 More correctly, changes to the income support system are based on a combination of changes in consumer prices and wages.

22 Source: Centrelink, *A Guide to Commonwealth Government Payments*, 1 January–19 March 2002 and 1 January–19 March 2003 editions.

Increase in the threshold at which the income test begins to apply	By $949 to $30,806
Family Tax Benefit B	
Age of youngest child	Increase in maximum payment ($pa)
Less than 5 years	83.95
5 years and above	58.40
Increase in the threshold at which income test begins to apply	By $73 to $1,752
Rent Assistance	Increase in maximum payment ($pa)
Couple with 1 or 2 children	76.65
Couple with 3 or more children	87.60

4.27 The extent to which households benefited from these changes varied according to the circumstances of different households. Families may benefit both from the changes in the level of benefits paid and from the changes in the thresholds at which the income tests begin to apply.

4.28 As the ACTU submission shows, these changes interact with any increases in award wages. In general, a safety net wage increase will erode the additional income support the family would otherwise receive from the changes summarised above. Table 4 below illustrates the interactions between last year's $18 per week Safety Net Wage Decision and entitlements to the increases in income support set out above.

4.29 The Table looks at a single income family with two children less than five years old and eligible for Family Tax Benefit A, Family Tax Benefit B and Rent Assistance. The Table sets out for such families at various levels of income prior to the 2002 Safety Net Wage Case:

- the total change in disposable income due to the combination of the $18 per week wage decision and the changes in income support;
- the extent to which disposable income would have changed in the

absence of the safety net wage increase (i.e. the increase in income support payments that would have been received if there had been no safety net wage increase);

- the increase in total disposable income due to the wage increase of $18 per week (the difference between the two amounts above).

TABLE 4: WAGE AND NON-WAGE CONTRIBUTIONS TO FAMILY DISPOSABLE INCOME 2002-03

(Single income family with two children under five years old and eligible for maximum Rent Assistance)

Initial Income		Increase in Disposable Income:		
		In total (including the wage increase)	Without the wage increase	Due to the wage increase
$pw	**$pa**	**$pw**	**$pw**	**$pw**
350	18250	21.80	6.86	14.94
400	20857	19.46	6.86	12.60
450	23464	19.46	6.86	12.60
500	26071	19.46	6.86	12.60
550	28679	17.25	6.86	10.39
600	31286	18.86	12.32	6.54
650	33893	19.25	12.32	6.93
700	36500	19.25	12.32	6.93
750	39107	19.25	12.32	6.93
800	41714	19.25	12.32	6.93

4.30 For example, for a single-income household with two young children, eligible for rent assistance and with an income of $650 per week ($33,893 annually):

- the total increase in disposable income due to the combination of the $18 wage increase and the changes in income support arrangements was $19.25 per week;
- if there had not been a safety net wage increase, this family would have received $12.32 per week in additional income support;
- the benefit of the wage increase of $18 per week actually received by the household was, therefore, $6.93 per week.

4.31 In sum, Ai Group maintains that the role of the income support system in delivering increases in disposable income should be taken into account when determining safety net wage increases. Income support levels and the thresholds of income tests are adjusted periodically and their contribution to raising the disposable income of households should be reflected in Safety Net Wage Decisions.

The Implications of the Interactions between the Award Safety Net and the Social Safety Net in Weighing the Benefits and Costs of Safety Net Wage Increases

4.32 There are three main conclusions flowing from the preceding discussion of the interactions between the wage, income support and income tax systems.

- The income support system is specifically designed to deliver increases in disposable income to needy low-income households. The income support system does this in a cost-effective way by taking into account the particular circumstances of different households and by periodic adjustments to the level of basic benefits and additional allowances such as those paid for children, rent assistance and child care. These increases should be taken into account when deciding on safety net wage increases.
- Because of the income testing of the income support system, safety net wage increases and income support payment increases pull in opposite directions. Safety net wage increases are subject to taxation and also trigger the income tests in the income support system. As a result, the value of the periodic increases in the income support system tends to be undermined by the impacts of safety net wage increases. This should also be taken into account when setting safety net increases.
- Because of these interactions, and in combination with the additional labour costs faced by employers in meeting safety net wage increases, such increases represent a very poor 'bang for the buck'. On average for low-income households, the cost to the employer is around twice the level of the actual increase in the household disposable income of the employee.

4.33 Ai Group maintains that the interactions between the wage, tax and income support systems should be taken into account when weighing the costs and benefits of potential safety net wage increases.

4.34 Safety net wage increases impose additional costs upon employers. As the evidence set out below illustrates, [23] these extra costs detract from the ability of employers to employ more workers and tend to reduce the rate of growth of employment opportunities – particularly for the lower skilled workers who are most directly impacted by the safety net decisions. At the same time, the safety net wage increases also deliver benefits – particularly to low-income households - in the form of higher disposable incomes.

4.35 The net impact of safety net decisions on low-income households is therefore a delicate balance between the costs of lower employment opportunities for such households and the benefits of higher disposable incomes. The interactions between the Safety Net Wage Decision and the tax and social security systems intrude fundamentally on this weighing of costs and benefits.

4.36 In this year's case, the Commission is again required to balance a range of social, economic and industrial considerations in arbitrating any possible wage adjustment (such as the current state of the economy and its outlook, the need to encourage workplace bargaining and the needs of the low paid). Ai Group submits that the Commission should also weigh up the relative costs and benefits for low-income households of any possible arbitrated wage adjustment specifically arising from the interaction between the award safety net and the broader social safety net. Weighing the costs and benefits when a $1 increase in costs to the employer implies a $1 increase in disposable income to the employee produces an assessment of net costs and benefits that will be very different from an assessment in which an extra $1 cost to the employer only delivers $0.50 in additional disposable income to the employee.

4.37 To illustrate with reference to the large $24.60 per week increase proposed by the ACTU:

[23] See section 5 of this submission.

- When additional labour costs of 30 per cent are taken into account, the extra cost to employers of such an increase would be $31.98 per week. This extra cost would detract from the ability of employers to increase employment. In particular, by making low-skilled workers more expensive, the extra cost of $31.98 per week would reduce the range of situations under which an employer could justify the employment of an additional low-income worker.[24]
- At the same time, the analysis of the earlier sections shows that the increase in disposable income of low income households from a safety net increase of $24.60, while costing the employer $31.98, would deliver an increase in disposable income of around $16.00 on average to households in the lowest three deciles in the income distribution (roughly half of the cost to the employer).

4.38 Ai Group submits that this intrusion of the interactions between the wage, tax and income support systems changes in a fundamental way the balance of costs and benefits of the safety net wage increases. Rather, it is the **imbalance** between costs and benefits that should be taken into account in any decision to increase safety net wage levels.

4.39 A lower wage increase, such as the $11 per week proposed by Ai Group while still imposing a sizeable cost on employers of $14.30 per week for each employee, would have a noticeably less detrimental impact on the prospects for employment of members of low-income households. At the same time, it would deliver an average increase in disposable income to such households of around $7.15 per week. In Ai Group's view, this balance of costs and benefits is much less likely to result in a net detriment for low-income households than the prohibitive claim of the ACTU.

[24] This is confirmed by the evidence set out in Section 5 of this Submission.

5. IMPACT OF THE ACTU CLAIM

5.1 Throughout the ACTU submission, it is asserted that last year's very large safety net increase had no negative economic impact and that this time around the Commission can safely award the ACTU claim without any appreciable negative economic effects (such as lower employment levels). The argument put by the ACTU runs something like this:[25]

- safety net increases are limited to a declining minority of the employed workforce - nowadays safety net increases only directly apply to the wages of around 23 per cent of the workforce;
- indirect costs for employers are limited;
- the Commission can therefore award a large increase without having to worry too much about any negative effects on aggregate wages, inflation and employment (including in those sectors of the economy in which a high proportion of workers are award-reliant).

5.2 However, the evidence presented in this section casts considerable doubt upon these propositions. The evidence shows that an increase in the order of $18.00 per week, let alone $24.60 per week, cannot be granted without having damaging consequences for employment levels throughout the economy (and not just award-reliant sectors). Such an increase, whilst delivering benefits to some low income households, would result in an overall net detriment for both employers and low income earners, as well as the Australian community.

Survey on the Impact of the May 2002 Safety Net Review Decision

5.3 In October 2002, Ai Group sent out a survey to over 8000 member companies in order to ascertain the impact of the May 2002 Safety Net Review decision. The survey was directed at those companies who employed workers under federal awards.

[25] See, eg, para 1.4, 6.1-6.14 and 6.20-6.24 of the ACTU Submission. The submission of the Joint State and Territory Governments in favour of an $18.00 per week increase relies upon similar assumptions: see, eg, para 284 of the Joint Governments Submission

5.4 The survey accompanied the October 2002 edition of Ai Group's regular "Industry" magazine and was timed to coincide with the annual safety net wage adjustment process affecting member companies of Ai Group. A copy of the survey questionnaire is found at Annexure K.

5.5 The questionnaire was designed to elicit information in a non-leading manner. The questionnaire was divided into three main sections: Company Profile, Award Coverage and Safety Net Increases. The last section was designed to measure the incidence of award-reliant employees within respondent companies who are dependent on safety net increases, and the incidence of flow-on to over award and non-award employees. This section was also designed to ascertain how companies responded to last year's Safety Net Review decision, including the effect on employment levels.

5.6 By the end of the survey period, 606 completed questionnaires had been received, representing a response rate of 7.3 per cent. Although this response rate is low, a good sample size of over 600 companies was nevertheless achieved.

5.7 Coding of the questionnaires and data input was undertaken by Ai Group, in conjunction with an independent firm (Ad-Info Pty Ltd) specialising in statistical analysis. Respondents were filtered by award coverage with those not engaging employees under Federal awards deleted from further analysis. 484 companies (i.e. 79.9% of the total sample) engaged employees under Federal awards.

5.8 A report outlining the results of the survey has been prepared by Ai Group and is found at Annexure L.

Company Profile

5.9 According to the results of the survey dealing with the profile of respondent companies:

- 75.1% of respondents were engaged in the manufacturing sector (N=455). This is indicative of the broader membership base of Ai Group. Construction companies appeared as the second highest single category (4.6%, N=28).
- There were a significant proportion of small to medium sized firms among respondents. Results regarding employee numbers are set out in the Table below:

Number of Employees	**N**	**%**
1-15	166	27.4
16-50	182	30.0
51-100	52	8.6
101+	88	14.5

- The most commonly reported annual sales turnover of respondent firms was reported as between $1m and $10m (59.6%), followed by $10m to $100m (21.9%).
- Respondents were asked to gauge whether demand for their product/service had contracted, remained stable or declined. The majority of employers reported either stable demand (42.7%) or an expansion in demand (39.6%). However, small employers were less likely to experience an expansion in demand in comparison to larger firms (28.3% as compared with 45.7%). Smaller employers were also more likely to have experienced contracted product demand over the previous twelve months (21.7% as compared with 14.3% for larger employers).
- In assessing the degree of competition with respect to primary products/services, reported results were consistent across firm size. 48.2% of respondents (N=292) reported strong competition for their product.
- 44.7% of respondents assessed labour costs as comprising 21-40% of total costs, 29.2% assessed labour costs as contributing to between 41-60% of total costs.

- Occupational groups which tended to be present in the largest proportion of companies were Managers (88.8%), Sales, administrative & clerical (87.3%) and Labourers (69.1%).

Award Coverage and Incidence of Award-Reliant Employees

5.10 The survey focused upon those companies engaging employees under federal awards. To this end, survey respondents were asked to identify whether or not they engaged employees under federal awards and, if so, the extent of reliance amongst those employees upon minimum federal award rates. The results were as follows:

- Of the 79.9% of respondents engaging employees under any federal award (N=484), 52.7% of respondents engaged employees under the *Metal, Engineering & Associated Industries Award 1998*.
- Of those companies engaging employees under Federal awards, 33.9% (N=164) paid a proportion of their workforce the minimum award wage. This figure was higher for small firms, with 44.2% paying a proportion of their workforce the minimum award rates.

5.11 The survey also found that a significant number of employees were direct beneficiaries of last year's safety net increase within respondent companies:

- 213 respondent firms (44%) reported that employees had received an $18 per week increase as a **direct** result of the 2002 decision.
- 55.3% of respondent companies who passed on the safety net increase as a direct result of last year's case passed on such an increase to between 1-15 of their employees, followed by 28.6% of employers who passed on the increase to between 16 to 50 employees.
- The most likely categories of employees to receive the $18.00 per week increase were Labourers, Tradespersons, and Plant and Machine Operators.

Flow-On to Over Award and Non-Award Employees

5.12 The survey also sought to examine the impact of the May 2002 Safety Net Review decision upon non-award employees, and those receiving over-award payments. The key results are set out below:

- Despite having the ability to absorb the increase against over-award payments, a significant proportion of companies (29.5%) reported passing on the increase to employees paid above the award.
- A larger proportion of smaller employers passed on the increase to those paid over the award (33.6%), as compared to larger employers (28.7%).
- 55.3% of respondent companies passed on the increase to between 1-15 over award employees. 30.8% passed on the increase to between 16-50 employees
- 13.8% of firms passed on the $18 per week increase to non-award staff. Larger firms were more likely to pass on the increase to non-award staff than smaller firms.
- In assessing the movements of over-award payments over the preceding three year period, 64.8% of total respondents reported a tendency for payments to either decline or remain stable over this period. Smaller firms were more likely to have experienced a decline or stabilisation (70.5%) in over award payments, as compared with 61.4% of large employers.

Company Responses and the Impact upon Employment Levels

5.13 Finally, respondents were asked to assess their response to the 2002 Safety Net Review decision with respect to a number of indicators, including employee numbers, workforce composition and other commercial indicators.

5.14 The table within the report outlining the responses taken by respondent firms is extracted below:

Impact	*Small Firms* **(N = 122)**	*Large Firms* **(N = 272)**	*All Firms* **(N = 484)**

	N	**%**	*N*	**%**	*N*	**%**
Increase number of employees	2	1.6	14	5.1	23	4.8
Decrease number of employees	21	17.2	18	6.6	49	10.1
Increase number of full time employees	3	2.5	19	7.0	28	5.8
Decrease number of full time employees	20	16.4	19	7.0	49	10.1
Increase number of casual employees	14	11.5	23	8.5	44	9.1
Decrease number of casual employees	7	5.7	19	7.0	30	6.2
Increase number of part time employees	6	4.9	6	2.2	13	2.7
Decrease number of part time employees	5	4.1	4	1.5	11	2.3
Invest more heavily in technology	18	14.8	47	17.3	83	17.1
Accept lower profits	68	55.7	77	28.3	184	38.0
Engage more contractors	14	11.5	27	9.9	51	10.5
Reduce job advertisements	21	17.2	27	9.9	60	12.4

5.15 The report makes the following findings:[26]

"The most significant impacts of the 2002 Safety Net Review Decision among respondents was the necessity of accepting lower profits (38%), a heavier investment in technology (17.1%), a reduction in job advertisements (12.4%) and a reduction in overall employee numbers (10.1%).

In addition to these commercial indicators, a significant number of employers noted that the 2002 Safety Net Review Decision had a fairly stagnant impact upon employment levels and the hiring of new staff with 87.6% of survey respondents experiencing no increase to employee numbers as a result of the 2002 decision. Equivalent responses were recorded from respondents when asked about the impact on permanent forms of employment as a result of the 2002 decision with 86.8% experiencing no increase in full time employee numbers and 88.2% of respondents experiencing no increase in part time employee numbers.

[26] Annexure L

Overall, small employers were more likely to report a negative response to the 2002 Safety Net Review decision. Some 55.7% of small employers reported a need to accept lower profits as a result of the 2002 decision as compared with 28.3% of larger employers and 38.0% of employers overall.

Smaller employers were also more likely to report a negative impact upon employment levels and workforce composition as a result of the 2002 decision.

Significantly, 17.2% of smaller employers responded to the impact of the 2002 decision by decreasing the number of employees overall, as compared with only 6.6% of larger employers.

Smaller employers were also more likely to respond to the increase by reducing the number of full time employees (16.4% as compared with 7.0% for larger employers), increasing workforce casualisation (11.5% as compared with 8.5% of larger employers), and were also less likely to invest more heavily in technology in response to the increase (14.8% as compared with 17.3% of larger employers)."

Conclusion

5.16 The results of the survey challenge the assertions put forward by the ACTU that *"last year's safety net adjustment had no negative economic impact".*[27] Further, they lend strong support for the view that the Commission in this case cannot award a wage rise of the same magnitude as last year's $18.00 per week increase without any negative economic impact, especially in light of the weaker economic conditions facing 2003.

5.17 According to the results of the survey:

- Respondent firms were predominantly engaged in the manufacturing sector (engaging employees under the federal *Metal, Engineering &*

[27] Para 1.4 of the ACTU Submission

Associated Industries Award) and recorded experiencing moderate to strong product competition consistent across business size, with labour costs commonly representing between 21-40% of total company costs.

- A significant number of respondents (N=164 or 33.9%) reported paying a proportion of their workforce the minimum award wage. This result was higher for smaller employers than for larger employers (44.2% as compared with 33.1%).
- A significant proportion of employers (N=213 or 44%) reported passing on the $18 per week increase to employees as a **direct** result of the 2002 Safety Net Review decision. This increase was predominantly passed on to the employee categories of labourers, tradespersons, and plant and machine operators.
- Notwithstanding the ability of employers to absorb the $18.00 per week increase against over-award payments, 29.5% (N=143) of respondents elected to pass on the increase to all employees, including non-award employees and those receiving over award payments. This occurred to a higher extent in the case of over award employees.
- Over half of these respondents passed on the increase to between 1-15 over award employees. Almost a third passed on the increase to between 16-50 employees.
- Smaller employers were generally more likely to have experienced a stabilisation or decline in the level of over award payments over the preceding three years than larger employers.
- Employers reported accepting lower profits, investing more heavily in technology, reducing job advertisements and lowering overall employee numbers as a response to the 2002 Safety Net Review decision.
- Smaller employers were more inclined to report a negative impact, particularly with respect to reduced profits and lower employee numbers as a direct result of the decision.
- A significant proportion of employers (87.6%) also noted that the decision had a stagnant impact upon employment levels and the hiring of new staff, with almost 1 in 9 companies experiencing no increase in employee numbers as a result of the decision.

5.18 In awarding last year's $18.00 per week increase, the Commission made the following observations:[28]

"We accept that the increase we have decided upon may have some negative effects on employment in those sectors of the economy in which a high proportion of the workers are award reliant. Because safety net increases only directly apply to the wages of around 23 per cent of the employed workforce, the aggregate impact of the adjustment on employment will be small".

5.19 While it is true that last year's decision did not prove to be a wrecking-ball flattening the entire economy, the survey evidence demonstrates that the negative effects on employment arising from an increase in the order of $18.00 per week are not limited to those sectors in which a high proportion of workers are award reliant. Other sectors, such as the metal and engineering industry, where there is a relatively high incidence of both formal and informal over award arrangements are likely to suffer negative economic impacts, including lower employment levels.

5.20 The indirect costs of any safety net adjustment are not limited. The evidence demonstrates that there is a substantial flow-on of the increases to non-award and over award employees. Safety net increases are not limited to the 25 per cent of the workforce who are exclusively dependent on award rates of pay. The level of adjustment sets a minimum benchmark for movements across the entire Australian wages system.

5.21 This is a further reason as to why the Commission should go slow in awarding wage adjustment in the current weaker economic climate. The ACTU submission markedly understates the cost impact of the claim, and ignores the likely effect on employment levels, especially for the low skilled.

[28] (2002) 112 IR 411 at 458-459

6. NEED FOR AN AIRC SURVEY

6.1 As set out in section 5, Ai Group has conducted a survey to measure the impact of last year's SNA decision. Ai Group acknowledges the methodological limitations of its survey (e.g. the low response rate). In any event, the findings of the survey are limited to Ai Group's membership.

6.2 Despite this, the results of Ai Group's survey raise serious concerns about the impact of Safety Net Review decisions. For example:

- It appears that Safety Net Review Decisions significantly impact upon employment opportunities for low-income earners; and
- It appears that the costs to employers of Safety Net Review decisions are much higher than most parties believed given the practice of many employers to flow-on Safety Net Review decisions to over-award and non-award employees.

6.3 The results of Ai Group's survey seriously question the notion consistently put forward by the ACTU and the Joint Labour States that safety net adjustments only apply to the wages of around a quarter of the employed workforce, and therefore the aggregate impact on the wages bill and on employment levels is small. Ai Group's results suggest the opposite.

6.4 We submit that it would be very worthwhile for the AIRC to conduct its own comprehensive independent survey to inform itself of the impact of its Safety Net Review decisions. Such a survey would provide the following benefits:

- It would enable the AIRC to have a deeper understanding of the impact of its Safety Net Review decisions;
- It would enable the AIRC, together with parties and interveners in future Safety Net Review proceedings, to have a body of material upon which they could draw informed conclusions and assumptions;

- It would enable the AIRC to make better decisions in Safety Net Review Cases;
- It would assist Governments to better understand the implications of safety net adjustment decisions in addressing the needs of the low paid and would highlight any necessary policy changes to address relevant deficiencies in the current wages, social security and taxation systems.

6.5 The proposed AIRC survey would assist in answering key questions which need further analysis, including:

- Are safety net increases going to those most in need of them?
- Do the increases result in an inequitable burden on employers?
- Are safety net increases the best means of addressing the needs of the low paid?
- Are the increases really benefiting low paid employees?

6.6 Without a deeper understanding of the above matters, the AIRC and those who appear before it are likely to continue to have difficulty in accurately assessing what level of safety net increases would lead to optimal economic and social outcomes.

6.7 The AIRC is the most appropriate body to conduct the comprehensive survey which we propose. Surveys conducted by industrial parties are very often criticized by opposing industrial parties. Surveys conducted by Governments are often subject to Opposition criticism. An AIRC survey would be unquestionably independent. The official nature of the survey would assist in achieving a high response rate.

6.8 A decision by the AIRC to conduct a survey on the impact of safety net adjustment decisions would be consistent with s.110(2)(b) of the Act which enables the AIRC to "*inform itself in such manner as it considers just*".

6.9 The proposed survey would also be consistent with arbitral practice. For example, in the following matters, the AIRC decided to conduct surveys to better inform itself about the matters under consideration, including matters concerning junior rates of pay, supplementary payments, labour hire and the telecommunications sector.

6.10 Consistent with the AIRC's past approach when it has conducted surveys, it is proposed that the Commission invite views from major employer, union and Government parties before finalising the questionnaire and survey methodology.

7. OTHER FACTORS SUPPORTING AI GROUP'S POSITION

7.1 There are a range of other factors supporting Ai Group's proposal for a $11.00 per week increase in award rates, as set out below:

Impact upon Enterprise Bargaining

7.2 When adjusting the safety net, the Commission is required to exercise its discretion in a way that encourages fair and effective agreement-making at the workplace or enterprise level: s.88A(d)(i) of the Act. See also ss.3(e) and 88B(1).

7.3 This year's case will be very important in the context of enterprise bargaining for two main reasons:

- the Commission's decision to award a safety net increase will have a significant bearing upon wage claims and, more importantly, wage outcomes under enterprise bargaining, in particular concurrent bargaining negotiations across the manufacturing sector;
- a large increase (like that awarded in last year's case) will act as a further disincentive to bargaining.

7.4 Within the manufacturing sector, there are over 1100 enterprise agreements expiring in the first half of 2003. The AMWU is a party to approximately 700 of these agreements. The key expiry dates are: 31 March 2003 and 30 June 2003. Within Victoria alone, there are approximately 400 agreements expiring on 31 March 2003 and a further 400 expiring on 30 June 2003.

7.5 According to figures supplied by the Department of Employment and Workplace Relations *Workplace Agreements Database* (WAD), the breakdown of manufacturing agreements expiring over the first six months of 2003 (on a State-by-State basis) is as follows:[29]

[29] Annexure M based on data supplied from WAD.

- Victoria 800 agreements
- New South Wales 220 agreements
- Queensland 100 agreements

7.6 The common expiry of such a large number of enterprise agreements poses the significant risk of disruption across the manufacturing sector. Recent examples of enterprise bargaining related stoppages include the Tristar and Walker disputes in August 2001 and March 2002 respectively. Both these disputes brought the entire Australian vehicle industry to a standstill and are estimated to have cost the industry several hundreds of millions in lost production, and caused damage to its international reputation.

7.7 Over coming months (as this year's case is being heard before the Commission), it will be vital for Australia's interests that the parties to the enterprise bargaining process within the manufacturing sector reach productive outcomes which provide sustainable benefits to employers and their employees. The potential to inflict damage on the Australian economy is quite apparent.

7.8 At the present time, various manufacturing unions are pursuing claims for wage increases of six per cent per year. Such wage claims are excessive. A wage increase of this magnitude would impede the ability of companies in the traded goods sector to compete in contested markets where there is little pricing freedom.

7.9 Such claims are also not compatible with Australia's inflation rate, nor average enterprise agreement wage outcomes. Headline inflation for the year to December 2002 was three per cent. The underlying rate of inflation for the same period was 2.87 per cent. Headline inflation is forecast to be 2.65 per cent for calendar year 2003.[30]

[30] Annexure C – *The Age,* Business, 6 January 2003 at p.2

7.10 The WAD data identifies the average annualised wage increase for all federally registered enterprise agreements. The following figures relate to agreements certified in the September 2002 quarter:

- All enterprise agreements 4.1 per cent
- Private sector 4.0 per cent
- All manufacturing 4.0 per cent
- Metals manufacturing 4.0 per cent
- Non-metals manufacturing 4.0 per cent

7.11 The December 2002 report from the Agreements Database and Monitor (ADAM) of the Australian Centre for Industrial Relations Research and Training (ACIRRT) identifies the following average annualised wage increases for agreements certified in the September 2002 quarter:

- All agreements 4.0 per cent
- Private sector 3.6 per cent

7.12 In Ai Group's view, a large safety net increase awarded by the Commission in this case would fuel both excessive wage claims and unrealistic wage outcomes at the enterprise level. This is not only because the timing of the Commission's decision would coincide directly with negotiations and settlements in workplace and enterprise bargains throughout the manufacturing sector. The evidence also highlights that the Commission's decision has the potential to impact upon wage claims brought by unions or employees in their enterprise, and consequent levels of wage settlements.

7.13 According to the results of Ai Group's survey, 5.5% of respondent companies reported an impact on wage claims as a direct result of last year's Safety Net Review decision. Although this figure is quite low in absolute terms, this may be readily attributed to a number of agreements (particularly within the manufacturing sector) still being within their currency at the time of the survey. In addition, it was

not possible for the survey to capture any indirect effects upon wage claims (as these will usually be beyond the scope of the employer's knowledge).

7.14 Moreover, the survey results show that just over 1 in 10 companies found that last year's Safety Net Review decision had a direct impact upon wage outcomes in negotiated collective agreements with unions and/or employees. As the survey report notes:[31]

"As for the previous question with respect to wage claims, the limited number of respondent companies experiencing an effect on wage outcomes may be attributable to a significant number of collective agreements within the manufacturing sector still being within their currency. Nonetheless, it is still significant that just over 1 in 10 relevant companies indicated that the decision had a direct impact upon wage outcomes under a collective agreement".

7.15 According to Ai Group's survey, the most common impact on enterprise bargaining wage outcomes reported by respondent companies was increased wages adopting the safety net increase as a minimum floor (42.1% of relevant respondents), followed by higher overall operating costs as compared to budget (21.1% of respondents).[32] This is consistent with the notion that large safety net increases can drive the cost of labour significantly upwards in the context of workplace and enterprise bargains. In Ai Group's submission, the risks of such an approach are considerably magnified in circumstances where there are literally hundred of agreements expiring simultaneously across the manufacturing sector.

7.16 Contrary to the assertions of the ACTU and Joint State Governments, the results of Ai Group's survey outlined in Section 5 above also reveal that safety net increases do not just apply to the wages of award-reliant employees – they also affect to a significant extent the wages of non-award and over award employees who may be covered by enterprise agreements. In other words, the evidence clearly establishes that Safety Net Review decisions have a tangible impact upon

[31] Annexure L
[32] Annexure L

wage outcomes for employees who are not exclusively dependent upon the award system and who also may fall within the formal bargaining stream of the Act.

7.17 In Ai Group's view, the potential for the Commission's decision to impact upon enterprise-level wage outcomes is clearly heightened in circumstances where the workplace parties are about to enter into a new major bargaining round. How the scenario will unfold in the manufacturing sector over the next six months is not yet clear. However, it is evident that the process of renewing agreements in the first half of 2003 raises considerable risks for the economy and the Australian community as a whole.

7.18 In light of the delicate bargaining situation confronting the manufacturing sector and the potential for it to affect the entire Australian economy, Ai Group submits that the Commission should adopt a cautious approach in adjusting the safety net. As the evidence strongly suggests, a large safety net wage increase would raise the levels of settlements reached in future enterprise bargaining. In turn, this could have a destabilising effect upon an already uncertain and potentially volatile situation in the manufacturing sector.

7.19 Apart from the immediate impact upon future enterprise bargains in the manufacturing sector, it is also important to consider the ACTU claim against current wage outcomes prevailing under enterprise bargaining. The ADAM database shows that the average annualised wage increases for all agreements certified in the September 2002 quarter was 4.0 per cent and 3.6 per cent for private sector agreements. The ACTU claim for $24.60 per week represents an increase of 5.7% for the Federal Minimum Wage (C14), 5.5% for Level C13 and 4.7% for Level C10. These levels of safety net increase would be significantly in excess of bargaining outcomes.

7.20 Were the claim to be successful, the result would be a safety net adjustment which significantly outstripped current bargaining outcomes, and would thereby diminish the incentive for unions and employees to engage in bargaining. This

would be contrary to the objects of the Act, in particular ss.3(b) and 3(d)(i), and would also be inconsistent with s.88A(d).

Needs of the Low Paid and Consistency with Legislation

7.21 An adjustment of $11.00 per week will have the effect of maintaining real wages in the lowest paid classifications whilst taking into account the bounds of current economic conditions, in particular:

- weaker economic growth levels facing industry in 2003; and
- sharp deteriorations in labour productivity gains over recent quarters.

7.22 In addition, the low paid have benefited from the very large increase awarded by the Commission in last year's case, together with successive safety net adjustments over the previous six years totalling $82.00.

7.23 Under s.88B of the Act, the Commission is required to balance a range of competing elements in adjusting the safety net, including the needs of the low paid and the desirability of attaining a high level of employment. The proposal by Ai Group and EEASA achieves a proper balance and would at least maintain the purchasing power of the wallets and purses of low income earners, whilst having due regard to other economic factors including productivity levels and the need to avoid adverse employment outcomes.

Absorption

7.24 The application of the full absorption mechanism remains an essential pre-condition of Ai Group's proposal. Absorption is consistent with the clear statutory objective of ensuring that any increase in award rates is properly targeted to those who are genuinely reliant on the award safety net. In the absence of absorption against all over-award payments, we would be strongly against any adjustment at this time.

8. SKILLS-BASED CLASSIFICATION STRUCTURES AND RELATIVITIES

8.1 The Commission has not awarded a percentage adjustment to award rates since the April 1991 National Wage Case. Since that time there have been nine flat rate adjustments which have resulted in relativities being compressed. The effect of this can been seen from the Table below which relates to the classification structure in the *Metal, Engineering and Associated Industries Award 1998.*

8.2 Even though a flat increase will further compress the relativities within skills-based classification structures, it is submitted that a flat dollar increase of $11.00 per week represents an appropriate balance given the fundamental tension between the goals of:

- assisting the low paid; and
- protecting the integrity of award classification structures.

Ai Group does not propose any cut off point in respect of the award rates which such increase should be applied to.

8.3 Ai Group maintains that relativities between award rates have not eroded to such an extent as to be ineffective or unworkable. Support for this conclusion is found in the results of Ai Group's survey in which a majority of respondents (299 companies comprising 61.8% of total respondents) reported no negative impact upon relativities as a result of the 2002 Safety Net Review decision.[33] Only a minor proportion of respondents (6.4%) reported any negative impact – either manifest in terms of reduced margins between classifications, or employees of lower classifications being better paid.

8.4 These results undoubtedly reflect the operation of market factors on actual rates of pay within respondent companies. The incidence of over award payments in

[33] Annexure L

the industries represented by Ai Group and EEASA significantly reduces any detrimental impact arising from compressed relativities between award rates.

8.5 In addition, Ai Group's proposal for a flat $11.00 per week adjustment would produce significantly less distortion than the ACTU approach. As the Table below demonstrates, the ACTU proposal of applying a flat $24.60 per week increase to all classifications would exacerbate the compression of relativities between award rates relative to Ai Group's proposal.

TABLE 4: RELATIVITIES IN THE METAL INDUSTRY AWARD

Wage Group	1991 Relativities %	Current Weekly Award Rate $	Current Relativities %	Effect on Relativities – Ai Group Proposal %	Effect on Relativities – ACTU Claim %
C14	78	431.40	82.1	82.5	82.9
C13	82	448.10	85.3	85.6	85.9
C12	87.4	470.60	89.6	89.8	90.1
C11	92.4	491.50	93.6	93.7	93.9
C10	100	525.20	100	100	100
C9	105	546.10	103.9	103.9	103.8
C8	110	566.90	107.9	107.8	107.6
C7	115	585.80	111.5	111.3	111
C6	125	627.50	119.5	119.1	118.6
C5	130	648.40	123.5	123	122.4
C4	135	669.20	127.4	126.8	126.2
C3	145	710.90	135.4	134.6	133.8
C2(a)	150	731.80	139.3	138.5	137.6
C2(b)	160	771.50	146.9	145.9	144.8
C1(a)	180	855.00	162.8	161.5	160
C1(b)	210	980.10	186.6	184.8	182.7

8.6 The ACTU continues to maintain that, in an appropriate case, the Commission would be required to consider taking corrective action to address the problem of compressed relativities between award rates.[34] Whilst Ai Group would consider any application on its merits, it is difficult to identify any approach to addressing award relativities which would not represent a blatant attempt at "double counting" on the part of the unions.

8.7 For many years now, the ACTU has argued that the Commission should award flat dollar safety net adjustments in order to deliver a maximal increase to the low

[34] See para 4.5 of the ACTU Submission

paid. Such arguments have been accepted by the Commission and flat dollar increases have been awarded. It would be very unfair for employers to be required to increase middle and upper level award rates to correct the distortion which the ACTU has pursued over the last decade.

8.8 To this end, Ai Group welcomes the clear and unambiguous statement by the Commission in last year's case that changes in relativities brought about by safety net adjustments do not provide a basis for increases or changes in relativities in future Safety Net Reviews, including changes to restore pre-existing relativities.[35] Such attempts would be fraught with considerable difficulties and lead to unfairness. For example, any proposal to reduce or freeze the wage levels of the low paid would create unnecessary hardship and would not be socially acceptable to the Australian community. Alternatively, any proposal to dramatically increase award wages would be unfair toward employers and would negatively impact upon employees due to the economic effects, in particular through reductions in job opportunities.

[35] (2002) 112 IR 411 at 457

9. PRINCIPLES

9.1 Ai Group and EEASA support the retention of a set of Principles and do not propose changes to those adopted last year, other than those changes necessary to reflect the Commission's decision in this case.

9.2 However, we note that in last year's decision, the Commission amended Principle 10 so that it referred to applications for an operative date earlier than the date specified in Principle 8(a) (i.e. earlier than the normal 12 month period elapsing between relevant safety net adjustments).[36] Since this amendment was made, there have been numerous applications by unions seeking to apply safety net increases retrospectively (i.e. earlier than the operative date of the award). These applications have generally been dealt with by single members of the Commission, following consideration by the President of possible referral to a Full Bench.[37]

9.3 In some of these proceedings, controversy has arisen as to whether retrospectivity should be awarded in circumstances of delay caused by the ebbs and flows in the workload of the Commission. These disputes have unnecessarily diverted the scarce resources of the industrial parties, and have given rise to a significant degree of confusion and even inconsistency as to the operation of safety net wage adjustments.

9.4 For example, in *Re Brush and Broom Making Industry – Brushmaking – Award 2000* the Commission granted a retrospective safety net wage adjustment arising from delays occasioned in the processing of the union application by the Commission. Hingley C stated:[38]

"[4] I accept the submission made on behalf of the union in that exceptional circumstances exist which persuade me to grant the variations retrospectively as sought.

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36 (2002) 112 IR 411 at 461-462

37 See especially Principle 10(b): ibid at 476

38 PR919198 at para 4-5

[5] Those exceptional circumstances are that the applicant union lodged the applications on 10 May 2002, with the view to preserving the then existing time lapse between adjustments but as a result of the convenience of the Commission, were not listed until 5 June 2002".

9.5 By contrast, in *Re Liquor and Allied Industries Catering, Café, Restaurant Etc (ACT) Award 1998* the Commission ruled that delays arising from ebbs and flows in the workload of the Commission do not constitute "exceptional circumstances" warranting retrospectivity. Lawson C stated:[39]

"[7] In applying that test to the circumstances of the current application the Commission is not persuaded that the delays incurred between the filing and hearing of the applications constitute 'exceptional circumstances'. In my view the workload of the Commission at any given time – which fluctuates widely because of the variety of legislative categories of applications, industry and panel allocations and Commission resources – does not constitute sufficient grounds for varying the legislative limitation on operative dates of awards of the Commission.

[8] There is no specific legislative requirements for awards to be varied on the 12 month 'anniversary' of the previous safety net adjustment. Awards generally do not reflect a 'universal conformity with the exact 12 month date': (Safety Net Review decision paragraph 176).

9.6 In Ai Group's view, the statement of Lawson C above is undoubtedly correct. Moreover, it would be wholly unfair to saddle employers with the burden of retrospective wage increases where the relevant delay has been due to circumstances outside the control of employers (whether the delay is caused by the business of the Commission and/or the lack of a timely application brought by the relevant union).

[39] PR920036 at para 7-8

9.7 The provision of back-pay (through any retroactive wage rate increases) imposes considerable administrative burdens upon employers. It may even result in financial difficulties for some employers.

9.8 Ai Group submits that there is a compelling need for the Commission in this case to clarify the operation of Principle 10 in the context of union applications seeking retrospective wage adjustments where there has been a delay incurred between the date of filing and the conduct of hearing.

9.9 Ai Group does not propose any specific amendment to Principle 10. Rather, Ai Group submits that the Commission should include a statement of clarification in its decision to the effect that delays caused by the business of the Commission do not constitute exceptional circumstances warranting retrospective safety net wage adjustments. Further, as Lawson C noted above, there is no specific requirement either under the Act or the Principles for awards to be varied on the 12 month anniversary of the previous safety net adjustment.

9.10 Such a statement would be consistent with s.146 of the Act and relevant arbitral jurisprudence. The Commission and its predecessors have generally been reluctant to make award variations retrospective in operation unless exceptional and strong reasons exist to the contrary and, generally speaking, such reasons must be based on some action by a party of which the tribunal does not approve.[40] In circumstances of delay caused by fluctuations in the Commission's workload, there can be no suggestion that the employer parties are at fault.

9.11 Section 146 reinforces the general presumption against retrospectivity. The Commission will only grant retrospectivity in "*exceptional circumstances*" – namely, those circumstances that are *"'sufficiently rare and singular' to justify a conclusion that they are 'exceptional'".*[41] Consistent with the provision found in s.146 of the Act, the Full Bench in last year's case made it clear that there is no

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[40] *Outline of Industrial Law Industrial Information Digest*, eds Cullen, Peterson, Shaw and Wright, 1976, Law Book Company at p111 citing *Gas Industry Case* (1941) 48 CAR 85 at 137

[41] *National Engineering Pty Ltd v AMWU*, PR912582, 17 December 2001 per Munro J, Duncan SDP, Cargill C

power to award a retrospective wage increase unless the Commission is satisfied that there are exceptional circumstances.[42]

9.12 Above all, Ai Group submits that it is now necessary for the Commission, in the interests of avoiding further potential inconsistency and unnecessary disputation surrounding the operation of Principle 10, to clarify that delays occasioned by the normal ebbs and flows in the Commission's workload do not constitute "exceptional circumstances" warranting retrospective safety net wage adjustments.

[42] (2002) 112 IR 411 at 462

10. CONCLUSION

10.1 Ai Group urges the Commission to reject the ACTU claim on the basis that it is not reasonably sustainable in the current economic climate, it will deliver very little benefit to many low-income households once the interactions with the tax and income support systems are taken into account, and it will result in a net detriment for employees (especially low-skilled workers) through adverse employment outcomes.

10.2 In determining the level of a fair safety net increase, Ai Group submits that an $11.00 per week increase would properly reflect the tougher conditions facing Australian industry in 2003, and the shift toward down side risks around the outlook for the global and domestic economy. At the same time, Ai Group's proposal would have a noticeably less detrimental impact on the prospects for employment of members of low-income households.