

Fair Work Commission

Fair Work Act 2009

Annual Wage Review 2016-17

Submission by the

Australian Catholic Council for Employment Relations

regarding the proposal to adopt a

Medium-term target for the National Minimum Wage

10 October 2016

Table of Contents

	Paragraph
A. Introduction	1
B. The United Voice submission	4
C. ACCER's response to the issues	12
D. ACCER's proposal for a medium-term target	61

A. Introduction

1. This submission by the Australian Catholic Council for Employment Relations (ACCER) is in response to an application by United Voice which is to be heard as a preliminary matter in the Annual Wage Review 2016-17 conducted by the Fair Work Commission (FWC).
2. The application was first made in the Annual Wage Review 2015-16 when United Voice asked the FWC conduct a separate process of submissions and hearings in relation to setting a medium-term target as an “additional tool to assist it in the performance of its annual obligations” (United Voice submission, 30 March 2016, page 5). United Voice drew attention to the setting of minimum wage rates, especially the National Minimum Wage (NMW), and their declining relativity to various measures of community-wide earnings.
3. The application to conduct a preliminary hearing into whether the FWC should adopt a medium-term target for the NMW was held over to be dealt with as part of the Annual

Wage Review 2016-17; see *Annual Wage Review 2015-16, Decision* [2016] FWCFB 3500 (the May 2016 decision), paragraphs 108-9. The matter has been set for hearing on 24 October 2016.

B. The United Voice submission

4. The United Voice submission is introduced by some commentary about a graph which plots changes in the relative levels of the NMW, including its predecessors, and measures of average earnings since the early 1980s. The NMW's loss of relativity is stark. The submission continues:

“There is, in our submission, a clear and obvious trend. However this is a trend that has never been the subject of explicit decision nor an acknowledged policy, and has effectively continued under at least four different wage-fixing regimes.” (Page 5)

5. In later references to this trend the union observed:

“A labour market economist who examined the data on the trajectory of Australia’s minimum wage but was unfamiliar with Australia’s policy settings, would likely conclude that in the early 1990’s a deliberate policy decision had been made to reduce the relative value of our minimum wage, to have a much lower minimum wage “bite”. She might further conclude and that such a policy had been reaffirmed, or at least not been significantly adjusted, in the subsequent 25 years. And yet, as we know, no such decision was ever explicitly made.” (Page 10)

“We submit that an ever-widening gap between low-paid workers and the rest of the workforce is inconsistent with the Act. The precipitous, long-term decline in the relative earnings of low-paid workers is not consistent with the maintenance of a fair and relevant safety net. In our view, the annual setting of minimum (and Award rates) has produced a trend (or what might look to impartial observers like a target or intention of some kind) without ever determining what that trend should be.” (Page 12)

6. The substance of the material upon which United Voice relies is the change in the relativity between minimum wages, in particular the NMW and its pre-2010 predecessor, the Federal Minimum Wage (FMW), to measures of average minimum wages or median wages. This concern is illustrated by the fact that the NMW, as a proportion of Average Weekly Ordinary Time Earnings, has fallen from 51.6% in 1997 (when the FMW was first set) to 43.8% at November 2015; see the submission by the Australian Council of Trade Unions (ACTU) to the Annual Wage Review 2015-16, March 2016, paragraph 220. This kind of disconnection has caused a fall in the relative living standards of low income minimum wage-dependent workers, whether they be employed on the NMW or on minimum rates set by awards.

7. The union's submission sets out some basic questions regarding its proposal:

"United Voice submits that the Panel should determine to conduct a separate process of submissions and hearings in the relation to the following sequential questions:

- (a) Is the Panel able to adopt a medium-term target (or target range) for the NMW in relation to its relative value or absolute quantum?
- (b) If the Panel can do so, should it adopt such a target (or target range) as a matter of discretion?
- (c) If the Panel should do so, then what is the appropriate target (or target range)?
- (d) What is the function and role of a target (or target range) in relation to the annual obligations of the Panel in respect of the NMW and broader modern award rates?
- (e) If the Panel adopts a target, how often should that target (or target range) itself be the subject of reconsideration and using what process?" (Page 6)

8. The submission suggests ways in which a target or target band might be set:

"By way of illustration only, we offer the following examples of how a target (or target band) might be set:

- (a) A target or band defined by reference to the "bite" (that is the NMW expressed as a percentage of median wages);
- (b) A target or band set by reference to a goal in relation to a level of low-paid work (that is the NMW & other award wages set by reference to the OECD definition being less than two thirds of median wages);
- (c) A target or band set in nominal dollars for the NMW; or
- (d) A hybrid of these approaches." (Page 14)

9. The medium-term proposed is "a period of around 5 years" (paragraph 38).

10. The evident concern by United Voice about these figures is the decline in relative living standards of minimum wage-dependent workers, whether they are employed on the NMW or on an award wage rate. Furthermore, the reduction in the relative value of safety net rates has had a depressive effect on the union's ability to bargain for rates that can provide its members with a decent standard of living. The deleterious impact of inadequate minimum rates is not limited to those workers who are employed on them because it extends to those who are on formal and informal agreements providing for higher wage rates.

11. The United Voice submission addresses the question of whether or not the setting of a medium term target is consistent with the FWC's statutory obligation under the *Fair Work Act 2009* to undertake an annual review of wages and to do so by taking into account the matters specified in section 284(1) of the Act. The submission sets out the reasons for the consistency of a medium-term target, as explained in the submission, with the FWC's statutory obligations.

C. ACCER's response

12. ACCER supports the establishment of the kind of process proposed by United Voice and supports the submission by United Voice that its proposal for a medium-term target is consistent with the terms of the *Fair Work Act*.
13. ACCER agrees with the observations in the above quoted passages from pages 5, 10 and 15 of the United Voice submission. The trend to which it refers has been substantial and sustained over a long period of time, but at no stage has a tribunal set out any justification for it. It is as if there has been an implicit policy objective that has underpinned the reduction in the relative value of minimum wage rates and, therefore, the relative living standards of low paid workers and their families. No justification has been given for the increases in poverty and inequality brought about by this trend.
14. United Voice has identified several ways in which a target or a target band may be set; see United Voice at page 14 of its submission, quoted above. ACCER proposes that the target or target band should be set “by reference to a goal in relation to the level of low-paid work” and that this goal should be the making of a substantial reduction in the level of poverty being experienced by low paid minimum wage-dependent workers. To this end, the process should include the use of measures of poverty and of relative living standards. These measures would take into account the impact of income taxation and transfer payments on the living standards of low paid workers and their dependents. The FWC uses and publishes measures of poverty and relative living standards that can be used in this process; see, for example, the FWC’s *Statistical Report*, 20 May 2016, Table 8.2, at page 30.
15. The setting of a medium-term target by reference to a measure of poverty is needed because there is an unacceptable level of poverty among low income minimum wage-dependent working families even when those families have a full time breadwinner.
16. In support of this proposed focus for wage-setting, ACCER relies on views expressed by the FWC in past annual wage review decisions and which appear in the May 2016 decision at paragraphs 55, 352 and 428-9. Combining the critical words of those paragraphs, the following summarises the basic objective of the FWC’s wage setting function:

Full time workers have a reasonable expectation of a standard of living that will be in excess of poverty [see paragraph 429] and one which will enable them to purchase the essentials for a “decent standard of living” and engage in community life, assessed in the context of contemporary norms [see paragraphs 55, 352].

17. ACCER submits that this formulation expresses the fundamental purpose of the setting of the NMW and award wage rates and that the FWC has an obligation to provide it, subject to the proper consideration of the other factors that the *Fair Work Act* requires it to take into account.
18. The balancing of these factors will depend on the weight given to each of them. Poverty and living standards must be given great weight, in accordance with the fundamental purpose of minimum wage setting. We expect that the FWC would give special attention and priority to the protection of wage-dependent families against poverty and treat this as a step towards the attainment of a decent standard of living. We also expect that the FWC's concern for children living in poverty in wage-dependent families to be manifest and to see in its reasons the way in which it seeks to address this most pressing issue.
19. There has been an inconsistency between the FWC's formulation of a fundamental purpose of the *Fair Work Act* and the outcomes of wage setting decisions. Despite this formulation, wage setting decisions under the *Fair Work Act* have failed to alleviate poverty among minimum wage-dependent low paid workers and their families and have failed to improve their ability to achieve a decent standard of living. The setting of medium-term targets, consistent with the statutory obligations, is required.
20. ACCER proposes that the initial medium target be based on the alleviation of poverty. It has to be recognised, however, that the alleviation of poverty is a necessary but not sufficient requirement for the setting of wages, consistent with the FWC's views and the foregoing formulation. The standard of living has to be something more than freedom from poverty; it has to be a standard at which workers and their families can achieve a decent standard of living. In common parlance, a “living wage” is needed for this purpose.
21. Nor is the mere escape from poverty consistent with recognised human rights regarding minimum wages in the *Universal Declaration of Human Rights*, and the *International Covenant on Economic, Social and Cultural Rights*. The Declaration recognises that everyone who works has “the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection” (Article 23(3)). The Covenant recognises a universal right “to the enjoyment of just and favourable conditions of work which ensure, in particular: ... Remuneration which provides all workers, as a minimum, with ... Fair wages and... A decent living for themselves and their families.”

(Article 7(a)). Having ratified the Covenant, Australia is obliged to observe this right and, consistent with this obligation, one of the stated objects of the *Fair Work Act* is the establishment of a framework for workplace relations that "take[s] into account Australia's international obligations"; section 3(a). This imposes a very important obligation on the FWC: it is the only Australian tribunal or institution that can give effect to these human rights regarding employment.

22. ACCER accepts the FWC's observation at paragraph 338 of the May 2016 decision that "It is not possible for changes in the NMW and modern award minimum wages to ensure that every employed family, whatever their composition, has sufficient income to meet their material needs." The FWC has not identified the employed families who can expect an income that is sufficient to meet their material needs, and achieve a decent standard of living. However, minimum wage-dependent families of a couple with one or two children and sole parents with one or two children, as well as single workers without family responsibilities, are entitled to expect a standard of living in excess of poverty and one which will enable them to purchase the essentials for a "decent standard of living" and engage in community life, assessed in the context of contemporary norms. The provision of that standard of living will, of course, assist larger families and those families in which the breadwinner is unable to obtain the equivalent of full time employment.

The FWC's figures show poverty and inequality have increased

23. On the FWC's own figures, over the five years to December 2015 the disposable incomes of full time NMW-dependent workers with family responsibilities have fallen relative to the 60% of median poverty line; see *Statement* [2016] FWCFB 5046, 26 July 2016. The Table in the Attachment to that statement, which shows, for example, that the NMW-dependent single breadwinner family of two adults and two children fell from 11 percentage points below the poverty line in December 2010 to 12 percentage points below the poverty line in December 2015.
24. The Table in the Statement of 26 July 2016 corrects a major error in Table 5.7 of the May 2016. The erroneous data used in Table 5.7 had the same family as being at 19 percentage points below the poverty line, not 11 percentage points below, in December 2010 and increasing to 12 percentage points below in December 2015. Similar very striking figures appeared for other kinds of NMW-dependent households and similar kinds of households which were dependent on the C10 award wage rate. This is not a case of errors being buried in a set of figures and having no consequence. In fact, the

FWC drew attention to them. The FWC commented that Table 5.7 “shows that over the five years to December 2015, the disposable incomes of households with a member earning the C14 [an award rate equal to the NMW] or the C10 award rate has increased by between 7 to 12 percentage points as a proportion of the 60 percent median income poverty line” where there were children in the household and 2 to 7 percentage points where there were no children; see paragraph 436. The inference we draw from this commentary is that these erroneous figures were a significant factor in the FWC’s decision to award a uniform percentage increase to all minimum wage rates and not to award greater increases to low paid workers.

25. On seeing the erroneous figures, readers would have agreed with the earlier part of the FWC’s statement that its “overall assessment is that the relative living standards of NMW and award-reliant employees have improved a little over recent years, although the relative position of low-paid workers has deteriorated over the past decade”; May 2016 decision, paragraph 67. However, the corrected table in the Statement of 26 July 2016 shows that the deterioration had continued under the *Fair Work Act*, albeit at a lower rate than earlier, as we discuss later.
26. A corollary of this increasing level of poverty is that minimum wage-dependent workers and their families have suffered from increasing inequality. Wages have an economic and social function and increasing inequality, especially when it affects the most vulnerable, is especially detrimental to the promotion of social inclusion, which is one of the two stated principal objects of the *Fair Work Act*; see section 3.
27. The calculations relied on by the FWC to identify and track changes in poverty are based on data regarding the relative living standards of low paid minimum wage-dependent workers in contemporary Australia. The 60% relative poverty line is a line set at 60% of median equivalised disposable household income (MEDHI). The level of and changes in the relative living standards of the low paid and their dependents can be assessed by reference to a comparisons between their disposable incomes and MEDHI. We can, therefore, convert the figures in the revised table in the Statement of 26 July 2016 into figures that compare the level of and changes in relative living standards.
28. We can also track changes in living standards over a longer period by reference to similar data in earlier minimum decisions of the Australian Fair Pay Commission (AFPC). The use of the 60% of median relative poverty line, and its underlying calculation of MEDHI commenced with the AFPC’s *Wage-setting Decision and Reasons for Decision* of July 2008 (at Table 4.5). These kinds of calculations have

continued under the FWC. They are revised from time to time as relevant data is released by the Australian Bureau of Statistics (ABS). Because of a lag between the collection of the data and publication and the fact that data collection is carried out every second year, it is necessary to have a means of estimating MEDHI at particular points in time. The most recent revision based on ABS data followed the release by the ABS of *Household Income and Wealth, Australia, 2013–14*, Catalogue No. 6523.0. The updating by the AFPC and the FWC of the ABS figures has been made on the basis of changes in Household Disposable Income, per head, as published by the Melbourne Institute of Applied Economic and Social Research in its quarterly publication *Poverty Lines: Australia*. The figures produced in this process are robust and are appropriate for use in minimum wage setting that takes into account the living standards of wage-dependent workers and their families and changes in those living standards over a period of time.

29. Tables 1 and 2 demonstrate the deleterious changes in poverty levels and relative living standards by reference to calculations in decisions of the AFPC and the FWC and, for December 2003, by reference to calculations by ACCER (see notes to Table 1).
30. Table 1 presents changes in the disposable incomes relative to the 60% poverty line of the NMW-dependent single worker and the NMW-dependent single breadwinner family of a couple and two children.

Table 1
**Comparison of 60% median income poverty lines (PLs) with disposable income
(DI) of selected National Minimum Wage-dependent households**

DI as a ratio of PL

	December 2003 (ACCER)	December 2007 (AFPC)	December 2008 (AFPC)	December 2010 (FWC)	December 2015 (FWC)
Single adult, no children	1.26	1.21	1.17	1.15	1.13
Single-earner couple, two children	0.97	0.93	0.90	0.89	0.88

Notes

For the years before 2010 the figures are based on the rate set by the FMW, the predecessor of the NMW. The initial rate set for the NMW was the rate last set for the FMW.

The figures for December 2003 are based on calculations by the ABS of median equivalised disposable household income for the 2003-04 year and published in *Household Income and Income Distribution, Australia, 2013-14*, cat. no. 6523.0, at Table 1.1. As the published figure for 2003-04 is in 2013-14 prices, the figure for 2003-04 has been re-calculated in accordance with the disclosed price adjustments in Table 1.1. The median equivalised disposable household income in 2003-04 prices was \$499.98 per week. The poverty lines are 60% of the re-calculated figure for December 2003 and take into account the equivalence scales used by the ABS. The poverty line for the single adult was \$299.99 per week and the poverty line for the couple with two children was \$629.97 per week. The calculations of disposable income at December 2003 are taken from the Table 28 of the March 2016 submission by ACCER to the Annual Wage Review 2015-16. The disposable incomes in Table 28 are at January 2004, but there was no change from December 2003. Table 30 of ACCER's submission presents the same kind of data for C10-dependent workers. The family's disposable income at December 2003 was \$677.84 per week, with median equivalised disposable household income at \$1,049.96 per week.

The figures for December 2007 and December 2008 are respectively taken from decisions of the Australian Fair Pay Commission, *Wage-setting Decision and Reasons for Decision*, July 2008 (Table 4.5) and *Wage-setting Decision and Reasons for Decision*, July 2009 (Table 5).

The figures for December 2010 and December 2015 are taken from the Table in the *Statement [2016]* FWCFB 5047 issued by the Fair Work Commission on 26 July 2016.

31. Table 2 re-calculates each comparison of disposable income to the relevant poverty line in Table 1 to produce a comparison of disposable income to MEDHI for each of the two households.

Table 2
**Comparison of median equivalised disposable household income (MEDHI) with
disposable income (DI) of selected National Minimum Wage-dependent
households**
DI as percentage of MEDHI

	December 2003 (ACCER)	December 2007 (AFPC)	December 2008 (AFPC)	December 2010 (FWC)	December 2015 (FWC)
Single adult, no children	75.6%	72.6%	70.2%	69.0%	67.8%
Single-earner couple, two children	58.1%	55.8%	54.0%	53.4%	52.8%

32. Tables 1 and 2 focus on NMW-dependent households, but the same kind of pattern occurs with other workers on low paid award classifications. For example, the FWC's

Statement of 26 July 2016 shows that the C10-dependent single breadwinner family of a couple and two children had a one percentage point decline in its living standard over the five years to December 2015: from three to four percentage points below the poverty line. Yet in December 2003 this family was 7.6% above the poverty line (see notes to Table 1 below)

33. Tables 1 and 2 demonstrate that over the 12 years to December 2015 there was a very disturbing fall in the living standards of minimum wage-dependent workers and their families. Poverty increased and relative living standards fell.
34. This is particularly concerning because a clear and well-understood objective in the enactment of the *Fair Work Act* in 2009 was to return fairness to the wages setting system by replacing the *Work Choices* legislation under which the AFPC operated. A significant change in the national legislation was the obligation imposed on the new national tribunal to “establish and maintain a safety net of fair minimum wages, taking into account [among others] … relative living standards and the needs of the low paid...” (section 284(1)). The *Fair Work Act* has failed to deal with the increasing poverty levels and inequality suffered by low paid minimum wage-dependent workers and their families.
35. We note that in the Statement of 26 July 2016, after acknowledging the error in Table 5.7 of the May 2016 decision, the FWC stated that “it had regard to a range of other factors” in reaching its “overall assessment” that the relative living standards of NMW and award-reliant employees have improved a little in recent years. We submit that the FWC’s own data show that, at least for the five years to December 2015, there was no improvement in the relative living standards of NMW and award-reliant employees and that there were no other measures of the changes in living standards before the FWC that would contradict this submission.

Poverty is a scourge and inequality is corrosive

36. It is beyond question that there is a high and unacceptable level of poverty in Australia. In his address to the National Press Club on 24 August 2016, the Federal Opposition Leader, Mr Bill Shorten, said "Inequality is worsening, 2.5 million Australians live below the poverty line and 625,000 are children". This echoed a speech given earlier in the year. On Australia Day 2016, Mr Shorten, said: "As long as 2.5 million Australians live below the poverty line, and one out of every four are children ... We cannot say the fair go belongs to all".

37. The Australia Day 2016 speech prompted a public discussion about the accuracy of the claim which was taken up by the Australian Broadcasting Corporation's Fact Check unit in *Fact check: Are 2.5 million Australians in poverty and are one quarter of them children?* The verdict on Mr Shorten's claim was:

"Mr Shorten's claim checks out.

The basis for the Opposition Leader's claim comes from a 2014 report commissioned by the Australian Council of Social Service which suggests that 2.55 million Australians live in poverty, with 23.6 per cent of them children.

Whilst other research from NATSEM and HILDA found slightly more Australians under the poverty line, with fewer of them children, these reports measure poverty and define children differently, and the numbers are still comparable with data in the report which Mr Shorten uses as the basis for his claim.

Experts say that whilst the different reports make slightly different assumptions, all are sound in their methodology.

They also said that there are many ways to measure poverty, and there's an element of arbitrariness involved."

38. We stress that many of the children living in poverty are living in families in which there is a full time worker. The Australian Council of Social Service report to which the Fact Check refers showed that among households with fulltime workers 4.7% of full time workers were below the 50% poverty line and at the 60% poverty line the percentage of full time workers living in poverty rises to 8.1% (page 31). Looking at the profile of those living in poverty, the report found that 20.5% of those living below the 50% poverty line were in, or relied on, full time employment and that the figure rose to 22.2% at the 60% poverty line (page 32). The estimated numbers of those living in poverty in households where there is full time employment were 522,138 at the 50% measure and 891,343 at the 60% measure (page 16).
39. These figures about the number of working families living in poverty and, in particular, the number of children who are living in poverty should raise very serious concern in annual wage reviews and substantial and evident consideration in wage setting decisions.
40. The FWC and its predecessors have allowed a fall in relative living standards and an increase in poverty levels to such an extent that large numbers of children are living in poverty even though they live in families where there is a full time worker. We are not talking about the unusual cases, but the ordinary and expected cases, as Table 1 demonstrates. A full time wage is not sufficient to lift families out of poverty.
41. The best way out of poverty is a fulltime job that pays a living wage; but a full time job in Australia does not provide a pathway out of poverty. This fact and the growing

inequality in Australian society between higher income earners and minimum wage-dependent workers impacts on the body politic. The neglect of this issue in Australia and in similar economies is corrosive. Worse still, the situation is not being taken seriously. The implications of the unacceptable level of poverty and inequality have not been addressed in annual wage reviews.

42. This corrosiveness of inequality on society was discussed by Graham Richardson, a former Senator and Federal Minister, in a recent article published in *The Australian* (30 September 2016, page 12), entitled *Leaders ignoring our disgruntled masses*, the summary point of which was “Society’s ‘have-nots’ are angry that their most basic needs are not being met”. The writer introduces the article with: “It is no secret that millions of Australians feel unhappy with their lot. They are disgruntled and they have good reason to be restless or hostile towards their government and politicians in general.” The writer also endorses the point that “you can’t cut the benefits that families receive, such as Family Tax Benefit A or B, when their incomes are static or falling”. The social safety net that is so important to families is under threat.
43. Among advanced economies this kind of situation has been emerging for some years. In many countries the social safety nets that have protected families in the past have been weakened, particularly so since the Global Financial Crisis of 2008. Similarly, the capacity of unions to pursue and deliver fair wages has been weakened. The forces working against social safety nets and fair wage outcomes were discussed by Pope Benedict in *Caritas in Veritate* in 2009. It is a very perceptive assessment of what is happening and why.

“From the social point of view, systems of protection and welfare, already present in many countries in Paul VI's day, are finding it hard and could find it even harder in the future to pursue their goals of true social justice in today's profoundly changed environment. The global market has stimulated first and foremost, on the part of rich countries, a search for areas in which to outsource production at low cost with a view to reducing the prices of many goods, increasing purchasing power and thus accelerating the rate of development in terms of greater availability of consumer goods for the domestic market. Consequently, the market has prompted new forms of competition between States as they seek to attract foreign businesses to set up production centres, by means of a variety of instruments, including favourable fiscal regimes and deregulation of the labour market. These processes have led to a downsizing of social security systems as the price to be paid for seeking greater competitive advantage in the global market, with consequent grave danger for the rights of workers, for fundamental human rights and for the solidarity associated with the traditional forms of the social State. Systems of social security can lose the capacity to carry out their task, both in emerging countries and in those that were among the

earliest to develop, as well as in poor countries. Here budgetary policies, with cuts in social spending often made under pressure from international financial institutions, can leave citizens powerless in the face of old and new risks; such powerlessness is increased by the lack of effective protection on the part of workers' associations. Through the combination of social and economic change, trade union organizations experience greater difficulty in carrying out their task of representing the interests of workers, partly because Governments, for reasons of economic utility, often limit the freedom or the negotiating capacity of labour unions. Hence traditional networks of solidarity have more and more obstacles to overcome. The repeated calls issued within the Church's social doctrine, beginning with *Rerum Novarum*, for the promotion of workers' associations that can defend their rights must therefore be honoured today even more than in the past, as a prompt and far-sighted response to the urgent need for new forms of cooperation at the international level, as well as the local level." (Paragraph 25, emphasis added, footnote omitted)

44. This assessment has been borne about by more recent events. These economic forces have been exacerbated by the "globalisation of indifference", as Pope Francis has written:

"To sustain a lifestyle which excludes others, or to sustain enthusiasm for that selfish ideal, a globalization of indifference has developed. Almost without being aware of it, we end up being incapable of feeling compassion at the outcry of the poor, weeping for other people's pain, and feeling a need to help them, as though all this were someone else's responsibility and not our own. The culture of prosperity deadens us; we are thrilled if the market offers us something new to purchase. In the meantime all those lives stunted for lack of opportunity seem a mere spectacle; they fail to move us." (*Evangelli Gaudium*, 2013, paragraph 54)

45. There appears to be a damaging element of resignation on the part of some policy makers that these changes are inevitable: that, in effect, the vulnerable workers of each country will beggar the vulnerable workers of the countries with which they trade. There olicy makers in each of these countries might accept this attitude by cutting the wages of their own workers rather than promoting the interests of vulnerable workers. Rather than collectively cutting wages and creating a race to the bottom, the relevant national bodies should be protecting their own workers. This requires in all economies a commitment to basic human rights, especially to a decent standard of living, by the institutions that set wages.

The Australian social safety net is under attack

46. For decades minimum wage increases in Australia have been discounted because of increases in various kinds of family payments. Despite substantial increases in these payments inequality and poverty have increased because of minimum wage decisions. The improvements over the last few decades in the "social wage", comprising cash

transfers and improved services for low income families, are now being reversed, with clear implications for wage setting.

47. The removal of the Schoolkids Bonus from the start of 2017 will cut the incomes of working families by \$430.00 per year for each primary student and \$856.00 per year for each secondary student. These are substantial cuts in living standards, particularly when we take into account the fact that the *pre-tax* increases in the NMW in the last two annual wage decisions have been \$31.80 per week. A family with a child at each level of education will lose \$24.65 per week (at 52.18 weeks per year). Taking into account the marginal tax rate of 19 cents in the dollar, the net wage increase of \$25.76 barely makes up for the cut in family support.
48. This cut in living standards will be further exacerbated if legislation currently before Parliament is enacted. The *Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016* seeks to cut Family Tax Benefits for low income (and other) families. The Bill proposes that the Family Tax Benefits Parts A and B annual supplements be withdrawn (after some phasing out) by 1 July 2018 and be replaced by an increase in the fortnightly Part A payment equal to \$5.04 per week for each child. In a two child family, this will amount to a loss of \$17.76 per week in the Part A entitlement and a further loss of \$6.79 per week in the Part B entitlement for those families where one of the parents stays at home in order to care for the children.
49. In the family situation illustrated in Tables 1 and 2, from 1 July 2017 the loss in disposable income will be \$24.65 per week. If the changes proposed by the Bill are enacted, when they are fully implemented on 1 July 2016 the further weekly loss would be \$24.55 per week. The total of \$49.20 per week represents 5.0% of the disposable income of the family at January 2016; see ACCER submission, March 2016, Table 28.
50. These prospective and potential changes in family payments call for closer attention to be given to the way in which poverty among low paid workers and their families can be alleviated, how their relative living standards can be restored and what wage level is required to enable them to purchase the essentials for a “decent standard of living” and engage in community life, assessed in the context of contemporary norms.

The FWC needs to protect vulnerable workers

51. The facts of increasing poverty, declining relative living standards and increasing inequality among minimum wage-dependent workers and their families demonstrates that successive wage setting tribunals have given insufficient attention to protecting

low paid and vulnerable workers. Yet that is the fundamental purpose of laws and institutions providing for and determining minimum wages. Clearly, the setting of wages has to be done by reference to a range of economic and social factors, which have to be weighed individually and balanced collectively. The failure to protect the vulnerable and low paid against poverty and rising inequality, especially over a period of increasing national wealth, suggests that the successive tribunals have not fully appreciated the hardship caused to families by poverty and the social consequences of increasing inequality. That such an obvious error occurred in the contents of Table 5.7 of the May 2016 decision and in the FWC's commentary on that table suggests that the alleviation of poverty had been given insufficient attention.

52. This is evidenced by the failure to provide any wage increases that respond to the fact that the lowest paid have the greatest need for financial support to free them from poverty and achieve a decent standard of living. Wage decisions have not favoured the neediest. All six wage decisions since 2011 have provided for a uniform percentage wage increase. In percentage terms, the low paid got no more than the highest paid. In each of the six cases the ACTU had claimed a flat dollar increase for low paid workers, up to the C10 award rate, and a percentage increase beyond that, with the percentage value of the dollar increase being greater than that sought for higher paid workers. The claims were intended to provide more to the neediest. In each year the claim for this very modest way of helping the low paid was rejected by the FWC without any reasons being given.
53. Decisions should start from the view that those objectives are fundamental to the wage setting function. ACCER accepts that the achievement of the objectives of a standard of living in excess of poverty and, beyond that, a decent standard of living, can only be realised over time. We accept that, from time to time, there may be factors that impinge on the FWC's ability to adjust the wage safety net; but where that does happen, transparency in the reasons for decision is required.
54. The challenge of responding to poverty and deprivation is not the product of deteriorating living standards over just the past decade or so. Nor is it the result of the loss of relativity since the FMW was first set in 1997. This is evident in the decision of Vice President Ross (as he then was) in the *Safety Net Review-Wages-April 1997*, (1997) 70 IR 1.

“... I agree with the submission by ACOSS that as the proportion of wage earning families with children that is actually living in poverty has increased in recent

years there is a role for the HPL or similar poverty benchmark in checking whether minimum wages, together with income support payments, are at least sufficient to prevent poverty in these households.” (Page 128)

“Low income can lead to a substantial reduction in equality of opportunity for large numbers of people. There is strong evidence that both health status and educational attainment is influenced by socio-economic status, with children in low income families more likely to have lower educational outcomes, and with people on lower incomes more likely to experience serious health problems. Given the importance of both health status and educational attainment in influencing a person’s economic future, the impact of growing up in a low income family can be a substantial compounding of disadvantage in the longer term.” (Pages 140-1)

“I agree [with Bishop Challen of the Brotherhood of St Laurence] that wage fixation in Australia has reached a ‘fork in the road’. We can allow the living standards of low paid workers and their families to drift further below community standards, or we can set clear objectives for maintaining and improving them.” (Page 187)

“If we are to begin to address the problems confronting low paid employees and the widening gap between award and market wages we must do more than simply maintain the real wages of the low paid. Such a response simply preserves the status quo. A status quo in which income inequality is increasing and many low paid workers and their families have to go without food or clothing, is neither fair nor acceptable.” (Page 188)

55. ACCER agrees with the views expressed in these paragraphs. Unfortunately for the low paid, the fears have been realised:

- living standards have drifted below community standards;
- there are no clear objectives in recent wage decisions;
- inequality has increased; and
- childhood poverty, with all its damage to personal development and future prospects, has increased.

56. It should be noted that the shortcomings in wage setting identified in 1997, i.e. rising inequality, falling relative living standards and childhood poverty, was linked to the absence of clear objectives for the improvement of the living standards of low paid workers and their families.

57. ACCER submits that the setting of targets or a target range that focuses on poverty and living standards is an appropriate way address and overcome poverty and inequality among low paid minimum wage-dependent workers. The progressive improvement of the NMW and award wage rates will have a direct benefit for those who are employed on those rates and will help all other workers who are unable to bargain for a wage that will free them from poverty and provide them with a decent standard of living. The

FWC should, we submit, set itself the target of a progressive and substantial reduction in poverty among low income wage-dependent families.

58. In its 2013 submissions ACCER argued that the wage decisions under the *Fair Work Act* had failed low income workers:

"...we have now concluded that the *Fair Work Act 2009* has failed to achieve fair outcomes for low paid workers and their families: we argue that the *Fair Work Act* has failed workers employed on or near the rate set by the National Minimum Wage and that it has not reformed the minimum wage setting so as to overcome the systemic unfairness that has been evident since 2000 and earlier." (ACCER submission, March 2013, page 4)

59. The four decisions by the FWC since that submission was made have not caused us to qualify that judgment.
60. The setting of medium-term targets or a target range that focus on poverty and the progressive alleviation of poverty among low income wage-dependent families would provide a transparent and appropriate direction for wage setting. The alleviation of poverty would not be sufficient to realise the intention of the *Fair Work Act* to promote social inclusion and to provide a safety net of fair minimum wages. In due course new medium-term targets would need to focus on the achievement of incomes that would enable workers and their families to achieve a decent standard of living.

D. ACCER's proposal for a medium-term target

61. We have argued, on the basis of the FWC's own statements, that the following is the basic objective of the FWC's wage setting function:

Full time workers have a reasonable expectation of a standard of living that will be in excess of poverty and one which will enable them to purchase the essentials for a "decent standard of living" and engage in community life, assessed in the context of contemporary norms.

62. This basic objective applies to the setting of the NMW. The scheme of the *Fair Work Act* requires that increases in the NMW be determined before the adjustment of award rates, with award wage rates being set by reference to factors such as work value, skills and responsibilities. As a result of the failure to set the NMW at a level that avoids poverty and provides a decent standard of living, many workers on low paid award wage rates have been living in poverty, as have many whose bargained wage rates are influenced by the rates set by the FWC.

63. Table 1 shows the substantial increase in the extent and degree of poverty among NMW-dependent workers since December 2003. Those already in poverty fell into deeper poverty. For example, the NMW-dependent family of a couple and two children fell from 3% to 12% below the poverty line over the 12 years to December 2015. More award-dependent workers and their families have fallen into poverty. For example, the single breadwinner family of a couple and two children who rely on the C10 award rate fell into poverty over the same period: from 7.6% above the poverty line to 4% below the poverty line. So the alleviation of poverty requires attention being given to a range of award wage rates, and not just the NMW.
64. The reduction in the relative living standards of minimum wage-dependent workers (and those whose bargained rates are influenced by them) and the consequential increase in inequality suffered by them extends beyond those who are in living in poverty. The extent of this trend is illustrated in Table 2. NMW-dependent single workers have seen the relativity of their disposable income to median equivalised disposable household income fall from 75.6% to 67.8% over the 12 years to December 2015. This is a very substantial increase in inequality, with an impact on their relative living standards and social participation.
65. The alleviation of poverty among minimum wage-dependent workers must be addressed with some urgency and a medium-term target should be adopted to further this task. Furthermore, the cut in relative living standards and the increasing inequality suffered by minimum wage-dependent workers over more than the last decade needs to be reversed. Again, a medium-term target should be adopted to guide the response.
66. ACCER proposes that the medium-term target for the alleviation of poverty and the rectification of the cuts in relative living standards and increasing inequality be set by reference to the poverty levels and relative living standards recorded by the AFPC for December 2007 (the December 2007 target). Extracts from this are in Tables 1 and 2.
67. The data, analysis and calculations prepared by the AFPC and the FWC since 2008, when the December 2007 calculations were first published provide a robust and appropriate basis for the establishment of the target and a means by which progress towards that target can be measured and made.
68. The adoption of the December 2007 target would mean that over the medium-term (which should be five years) the living standards of, for example, the NMW-dependent family of a couple and two children could be lifted from 12% below the poverty line to 7% below the poverty line. It is possible that the changes in transfer payments over the

period since December 2007 would not permit the return to the same outcomes across the range of households identified by the AFPC in 2007. In these cases the focus should be on families with children.

69. ACCER also proposes that the medium-target include all minimum award rates. Tables 1 and 2 cover the position of NMW-dependent workers. Similar calculations to those prepared for NMW-dependent workers can be prepared for key award classifications, including the C10 rate.
70. The December 2007 target is, we submit, a realistic and appropriate target, which should be pursued in measured steps over the five years. We would like to see a higher target being set for the medium-term, but believe success in achieving the December 2007 target will enhance the prospects of progress beyond the medium-term. We accept that the extent to which the target can be advanced each year and achieved over the medium-term will depend on a range of factors. However, in the event that the FWC finds that there are constraining factors, it should give priority to the position of those most in need and the adjustment of those wage rates that have left workers and their families in poverty.
71. We stress that the December 2007 target for the medium-term adjustment on minimum wage rates is not sufficient. It is not sufficient to protect families against poverty and it is not sufficient to rectify the declining relative living standards and growing inequality of past years. These are matters to be addressed in the following years.