

Reply Submission by:

United Voice

To:

Fair Work Commission

**Annual Wage Review 2016-2017
(Re proposal for a medium term target)**

C. 2017/1

17 October 2016



This submission is made by United Voice. We seek an opportunity to address the Panel in relation to this submission during the consultation hearings.

A handwritten signature in black ink, appearing to read "Jo-Anne Schofield". The signature is written in a cursive, flowing style.

Jo-Anne Schofield
National Secretary

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Introduction.

- (1.) This submission to the Fair Work Commission Expert Panel ("the Panel") Annual Wage Review ("the AWR") is the response of United Voice to material filed on 10 October 2016 concerning our proposal to establish a medium-term target for the National Minimum Wage ("the NMW")¹.
- (2.) At the Consultation scheduled for 24 October, we anticipate the need to provide an additional response to submissions due to the Panel on 17 October.

General Response to Opposing Submissions.

- (3.) A range of submissions² in opposition to a target mischaracterise the Panel's yearly obligation under the Act so that it is said to preclude the adoption of a target. Such an approach artificially and inappropriately seeks to limit the range of matters the Panel can consider. To rebut the case for a target, these submissions seek to give the annual procedural requirement to conduct a review a significance in relation to the Panel's discretion that the statute does not support.
- (4.) The Parliament has determined that the Panel must conduct a review each year – this does not prevent, and has not prevented, the Panel (and the parties) from considering multi-year trends. We note that each of the parties contending, in effect, that each year's AWR must stand in isolation have relied on data and analysis of longer-term trends in their previous AWR submissions. The relevance of longer term data to the Panel's annual task is not the subject of challenge in any of the submissions.
- (5.) The Panel's own description of its process is sufficient to dispose of the submissions that the annual requirement for an AWR requires a blindness to multi-year analysis and precludes a medium-term target:

*"In taking into account available economic and social data, the Panel's approach is to assess the changes in these data over the past year and to consider longer-term trends in order to determine how they inform the statutory criteria."*³

¹ Unless otherwise noted, all references to submissions are to material filed on 10 October 2016.

² See Ai Group Submission at page 3, AFEI Submission at Para 4, ABI Submission at section 3, ACCI Submission page 5, Australian Government Submission at page 2.

³ [2016] FWCFB 3500 at para 7

- (6.) We note that the position now adopted by, for example, the Ai Group on the Panel's power to indicate a target subject to further decision is contrary to the one they adopted in earlier proceedings.⁴
- (7.) Given our submissions⁵ concerning the function and operation of a target, the various submissions⁶ arguing that a target would prevent the Panel dealing with annual economic data, a severe crisis, or changes in Government policy can be disregarded. These submissions would have substance only if a binding target and inflexible mechanical approach was proposed. They are objections to a proposal we do not advance, not the one we do.

Specific Issues.

Use of UK Real Wage Data and PPP rates

- (8.) The Ai Group makes a submission concerning the real value of the UK minimum wage and uses an international PPP comparison of the NMW.⁷ We submit that none of this material is relevant to the matter before the Panel on the following basis;
- The submission about the fall in the real value of the UK minimum wage fails to note it came in the context of the largest fall in real wages generally in the country in more than 100 years.
 - A PPP comparison (which measures the relative purchasing power of a minimum wage in a specific economy) is irrelevant as it does not address the considerations set out in the Act for the Panel to consider.
 - Tellingly, the submission does not deal with the evidence concerning the minimum wage bite – the generally accepted metric in relation to the relative position of a minimum wage in the wage distribution. This effectively ignores that the LPC process in the UK is now directed to a target that is a function of relative wages (as we propose here).

⁴ United Voice Submission at Paragraph (40) ff.

⁵ United Voice Submission at paragraph (29)-(71).

⁶ See Ai Group Submission page 4-5.

⁷ Ai Group Submission at p 7-8

- The submission conflates the nominal (or PPP) values of minimum wages in different jurisdictions – which are not relevant to this process - with the potential decision making frameworks – which are relevant.

Timing of Determination.

(9.) The Ai Group submits⁸ that the Panel should only determine the threshold question of whether or not to adopt a target at this point, and defer any consideration of its definition until substantive submissions for the 2017-18 AWR.

(10.) We reject that submission. We repeat the view indicated in our March 2016 submission that a target and its definition is a specific issue that warrants discrete consideration from an annual decision. We submitted that:

“procedural fairness, administrative convenience, and the nature of our request itself (raising an issue of principle that transcends the annual decision by its very nature) supports our preferred approach.”⁹

(11.) The submission to not determine these matters in full should be rejected. The Panel has convened this process for exactly that purpose. Further, we reject the submission of Ai Group that additional time is required to consider the issue, noting that all parties have been on notice since March 2016 of the intention of United Voice to pursue these issues. Ai Group offer no explanation as to why an additional 18 month period is required. We also note that other employer groups and the Australian Government have agreed with the approach of United Voice.¹⁰

Relative Wages & the Nature of the Safety Net.

(12.) The ACCI submission includes argument about the relevance of the minimum wage bite and nature of the safety net.¹¹ ACCI states that a target would see “the annual wage review applied improperly as a tool for wage distribution”. This statement appears to misunderstand the very nature of any minimum wage and the NMW and the Panel’s task in particular.

(13.) In our submission, the combined effect of the Statutory object that the safety net be “fair” and “relevant” and the Minimum Wage objective requirement that the Panel consider “relative living standards and the needs of the low paid” make such

⁸ Ai Group Submission at p 9.

⁹ United Voice Submission 30 March 2016 at Para [71]

¹⁰ See ACCI Submission at section 4.2

¹¹ See ACCI Submission at section 2.1, Australian Government Submission at Page 3.

considerations central to the panel's task. They also support adoption of a medium-term target as the real significance of such factors is necessarily judged over periods beyond a single year.

Effect of the tax transfer system.

- (14.) The Australian Government, AI Group, AFEI and ACCI argue that the tax-transfer system rather than the NMW is the appropriate method to deal with the issues of relative decline in the bite of the NMW identified in our submission. This is contrary to the wishes of Parliament who have explicitly instructed the Panel to set a NMW that takes into account, inter alia, "relative living standards and the needs of the low paid". Were the Panel to rely on the tax transfer system to address relative living standards and the needs of the low paid then it would be abrogating the responsibility given to it by Parliament.
- (15.) Moreover, the effect of the tax transfer system is uneven. The Panel's consistent position has been that the "appropriate reference household for the purposes of setting minimum wages is a single-person household rather than the couple household with children".¹² This is because the tax transfer system is weighted towards couples with children. As the Panel noted in its 2015 decision, since 2010: "for full-time NMW earners without children, all the rise [in disposable income] came from the increase to the NMW, whereas for NMW earners with children it came predominantly from changes to the tax-transfer system."¹³
- (16.) We acknowledge that the tax transfer system must feature in the Panel's annual consideration, however it does not prevent that Panel making a decision to increase the minimum wage in order to meet the minimum wages objective. Were significant changes to occur to the tax transfer system to be made that are relevant to the Panel's task, these can be into account of in the course of the AWR each year. We note that any such changes are likely to be a function of the Federal Budget – an event specifically accommodated in the Panel's standard AWR process.

¹² [2015] FWCFB 3500 at para 337

¹³ Ibid at para 45. Also see Annual Wage Review 2015-16 [2016] FWCFB 3500 at para 412 .