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| AUSTRALIAN BUSINESS INDUSTRIAL |
| ANNUAL WAGE REVIEW 2017-18 |
| SUBMISSIONS OF AUSTRALIAN BUSINESS INDUSTRIAL AND THE NSW BUSINESS CHAMBER Ltd |
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|  |

13 March 2018

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# About ABI and the NSWBC

Australian Business Industrial (ABI) is registered under the *Fair Work (Registered Organisations) Act 2009* and has some 4,200 members and the NSW Business Chamber Ltd (NSWBC) is registered under the (NSW) *Industrial Relations Act 1996* and is a State registered association recognised pursuant to Schedule 2 of the *Fair Work (Registered Organisations) Act 2009.* The NSWBC has some 20,000 members.

ABI comprises those NSWBC members who specifically seek membership of a federally registered organisation.

These submissions have been approved by the Council of ABI on behalf of its members and endorsed by the workplace policy committee of the NSWBC.

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# Part I — Introduction

ABI and the NSWBC (for brevity, collectively referred to as ABI) appreciate the opportunity to make a submission to the 2017-18 Annual Wage Review.

Under the *Fair Work Act 2009* (Act) the FWC, constituted by an expert panel (Panel), must undertake an annual wage review (AWR) each financial year. The Panel has as its statutory function the review of modern award minimum wages, which may or may not lead to their variation, and the national minimum wage order (NMWO). The review must give rise to a new NMWO, and the Panel must take account of the rate of the national minimum wage (NMW) it proposes to set in the NMWO in any determination to vary (or set or revoke) modern award minimum wages.

ABI considers that the 2016-17 increase was beyond the magnitude of what could be viewed as modest and it would have contributed to disemployment effects. With this in mind, ABI emphasises its recommendation for a more cautious approach than was taken in the 2016-17 decision and recommends an increase of not more than 1.9 per cent.

The need for a cautious approach is heightened due to the cumulative impact of successive minimum wage increases which have been well in excess of broader wages growth. Early feedback from NSWBC members indicates that the 2016-17 increase has resulted in reduced staffing levels with some reporting impacts to their viability.[[1]](#footnote-2) This exacerbates the impact of earlier increases, which were also significantly higher than wages growth and inflation, such that real minimum wage increases of a similar magnitude would have even greater negative consequences than before.

In this respect, ABI recommends the Panel be guided by broad measures of price movements in the economy (including consumer prices, wages and other price measures) to minimise the risk that any determined increase will sub-optimally balance the statutory considerations.

ABI also cautions the Panel from relying on improving macroeconomic variables as capable of underwriting minimum wage increases. Improvements in labour market conditions are not broad-based with four out of the five most award‑reliant industries still exhibiting elevated levels of underutilisation. This risks reducing the attractiveness of award-reliant employees, despite favourable labour market conditions overall, as firms become more attracted to higher-value added labour.

This is particularly important given sustained weakness in labour productivity, including negative productivity growth in the most award-reliant industries over the past decade and declining productivity growth over the past year (including a negative observation in the December quarter). A low productivity environment requires more moderate wage increases to help maintain competitiveness and employment growth.

ABI anticipates that the Panel will again consider disemployment effects associated with minimum wage increases. The 2016-17 AWR decision noted, with reference to international research, a view that the Panel’s past assessment of what constitutes a ‘modest’ increase may have been overly cautious in terms of its assessed disemployment effects.[[2]](#footnote-3) ABI is concerned about the extent to which this conclusion may have influenced the Panel’s decision given the magnitude of last year’s 3.3% increase relative to previous decisions with similar prevailing economic conditions.

ABI contends that a continued focus on observing disemployment effects across the labour market as a whole fails to properly account for the more specific impacts on vulnerable groups such as part time employees, youth and the long-term unemployed.

ABI considers that an increase of not more than 1.9 per cent would contain detrimental impacts discussed in this submission while balancing the statutory considerations.

The statutory scheme – this year’s AWR

The Panel’s annual task is to review modern award minimum wages and the NMWO, upon which it may make determinations setting, revoking or varying modern award minimum wages having regard to the NMWO, which it must make following its review.

The review of modern award minimum wages and any variation determinations which follow are subject to the objects of the Act, the minimum wages objective and the modern awards objective. Whereas the modern awards objective applies to the Commission’s award powers generally the minimum wages objective only applies when the Commission is sitting as the Panel or when the Commission is determining to set, vary or revoke minimum wages in modern awards under Part 2-3 of the Act. Broadly speaking the AWR is an annual review of minimum wages in the award system as a whole whereas processes under Part 2-3 of the Act are directed towards minimum wages in individual awards.

The objects of the Act include requiring the workplace relations framework to “…*ensure[…] a safety net of fair, relevant […] minimum terms and conditions through the National Employment Standards, modern award and national minimum wage orders*” [s 3(b)] and the modern awards objective requires the Commission to “…*ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions*…” [s 134]. Of this, in the context of the 4 yearly review of modern awards, the Commission has said:

*Fairness in this context is to be assessed from the perspective of the employees and employers covered by the modern award in question. ‘Relevant’ is intended to convey that a modern award should be suited to contemporary circumstances.*[[3]](#footnote-4)

Modern award minimum wages comprehend wage rates in awards, casual loadings and piece rates [s 284(3)], but do not include other components of pay such as bonuses and commissions, nor other forms of remuneration permitted in modern awards such as overtime rates, penalty rates, allowances or loadings such as leave loadings [s 139]. This definition is somewhat misleading, however, because it understates the labour cost consequences of increases to award minimum wages. Apart from increases triggered to external costs such as superannuation guarantee contributions and workers’ compensation premium, it obscures the fact that allowances for responsibility or skills not captured within the award’s classifications and allowances for disabilities associated with the task, location or conditions increase with an increase to an award’s standard classification rate. That movement also triggers the review of reimbursement allowances.

Nonetheless, the statutory position is that the AWR is a review of modern award minimum wages generally and it is confined to modern award minimum wages as defined.

Part II — A framework for examining economic conditions

ABI has previously endeavoured to review the underlying economic context of each year’s decision. This submission will follow this same broad approach, however it will also endeavour to make some more acute statements on how ABI considers the Panel should approach its own assessment of the economic environment before addressing contemporary economic developments in Part III.

Economic conditions are relevant to the AWR process due to the statutory considerations that must be taken into account by the Panel.

The economic context is relevant in a number of key ways. When considering whether to vary (set or revoke) minimum award wages the economic factors to be taken into account are those referenced under the minimum wages objective, the modern awards objective and the general matters prescribed under the object of the Act*.* To summarise, the Panel must take into account the performance and competitiveness of the national economy and the likely impact of any exercise of modern award powers on business, while the broader objects of the Act include the promotion of productivity and economic growth for Australia’s future economic prosperity.

Similarly, social factors are also referenced under the minimum wages objective, the modern awards objective and the objects of the Act. This includes, but is not limited to,taking into account the relative living standards and the needs of the low paid. The need to encourage enterprise-level collective bargaining is also accommodated under the statutory framework provided for by the Act. Each of these considerations is affected by or underpinned by economic circumstances existing within the entire economy or those that impact on particular sub groups. The need to examine economic conditions is therefore both an explicit and implicit requirement borne out of the statutory framework.

Before examining contemporary economic conditions, ABI seeks to make a number of observations about how economic conditions should be reconciled with the statutory considerations.

Treating award-reliant employees as a sub-group within the broader economy

The award-reliant workforce makes up only a subset of the entire workforce. The impact of minimum wage increases may be unobservable in macroeconomic data even though an increase to award minimum rates may have a significant impact on the award-reliant workforce or parts of the economy. This is a challenge that empirical methodologies have largely been unable to overcome, though it does suggest that the Panel ought to the extent possible be focussing attention where data is more likely to offer insight (such as industries with higher rates of award-reliance) instead of macroeconomic data that is diluted by developments unrelated to the AWR.

Macroeconomic data (such as GDP and labour force indicators) take a high-level view of the economy and are unlikely to be particularly useful in assessing the impact of a change to the NMW. While they are instructive on broader risks that may face award-reliant employees, they cannot describe specific impacts.

ABI accepts that the Panel must consider the impact of minimum wages on the national economy, but contends the Panel ought to consider the performance of parts of the economy most affected by changes in minimum wages as its primary consideration. These impacts not only better identify the “economic” impact of Panel decisions but also its “social” effects (such as social inclusion) as well. For example, if award‑reliant segments of the economy were performing poorly, strong economic conditions in other parts of the economy ought to be of only limited influence to the Panel’s deliberations.

Similarly, if labour market conditions were strong among the broader labour force then this is only relevant if it delivers improved conditions to the award-reliant labour force. While this may often be the case, employment demand (and supply) is very rarely uniform across industries.

Overreliance on national level macroeconomic data leaves analysis vulnerable to logical fallacies such as a false equivalence. For example, the Panel noted in the 2016-17 AWR that the real value of the NMW and modern award rates grew by half the rate of labour productivity.[[4]](#footnote-5) This was presented as a factor supporting the appropriateness of the 3.3 per cent increase. Comparing the wages growth of a subset of the labour force with the productivity performance of the entire labour force does not provide insight on the sustainability of a minimum wage increase or the impact on labour.

Similar observations can be made about how the Panel regards the importance of delivering higher minimum wage increases in order to satisfy social considerations and the needs of the low paid. In this regard, it is important to temper the perceived benefits of delivering higher increases in the minimum wage because of the distribution of award-reliant employees who are not in low income households. When viewed through a cost-benefit lens, the marginal gains from delivering even bigger minimum wage increases may be offset by more substantial economic costs, including the potential for disemployment effects that harm award-reliant labour (including individuals not currently in employment).

Prices growth in the economy

It is noteworthy that what are by historical standards low rates of wages growth are not confined to Australia. “Low wages” growth is an international phenomenon in part driven by the earlier expansion of productive capacity which fuelled Australian economic growth. Indeed, Australian wages growth over the last decade has been at the high end among comparable countries internationally.

A low inflationary environment suggests limited opportunity for firms to accommodate increasing labour costs. In this environment firm revenues cannot adjust as readily (such as through price increases that the market is able to bear) to fund wage increases. Firms must absorb labour costs that increase at a faster pace than inflation leading to negative consequences for labour demand, business competitiveness and viability, and employment growth.

The RBA reports, via its liaison with the business community, that businesses are reluctant to raise prices due to the competitive landscape and are therefore reluctant to grant wage rises given this is one of their most important costs.[[5]](#footnote-6) ABI notes that this consistent with feedback from NSW Business Chamber members. As the RBA has observed, firms are instead relying on non-wage measures to attract and retain staff.[[6]](#footnote-7) This is a consequence of the competitive dynamics faced by firms.

A low inflationary environment also has implications for relative standards of living and the needs of the low paid. Where broader wages growth is relatively slow — at near record lows when measured by the Wage Price Index (WPI) — the minimum wage does not need to increase to the same extent to maintain (or improve) relative living standards. Stable prices helps retain the purchasing power of award-reliant with smaller increases capable of delivering improved living standards.

In previous decisions the Panel’s observations around the link between subdued inflation and its decision about the magnitude by which to increase the NMW have been limited to statements around risks to the macroeconomic inflationary environment.[[7]](#footnote-8) While the Panel has foreshadowed the real impacts of minimum wage increases awarded,[[8]](#footnote-9) this has not come with any significant discussion about how it might have acted in different circumstances. This is particularly striking because last year’s increase was the largest increase since 2011 when the Panel awarded a 3.4 per cent increase at time when inflation was 3.3 per cent — far higher than today.

Part III — The economic context of the 2017‑18 decision

Distilling the range of factors that must be considered by the Panel into a simple and clear strategy for approaching AWR decisions is not an easy exercise. The Act requires the Panel to weigh up the trade-offs presented by the inherent tensions in the statutory factors that it must take into account.

ABI proposed, in its submissions to the 2015-16 and 2016-17 reviews, that a reasonable starting point might be to compare contemporary economic indicators with the available data at the time of the previous decision.[[9]](#footnote-10) This proposition is reinforced by the Panel’s earlier confirmation that *“…if there were no change in the relevant considerations from one year to the next then, all other things being equal, a similar outcome would result*.”[[10]](#footnote-11) The Panel has subsequently restated this approach.

However, in its 2016-17 decision the Panel also said “…*In conducting a review, the Panel is engaged in a constant process of evaluating past assumptions and findings on the basis of contemporary data and the available evidence*.”[[11]](#footnote-12)

In its discussion about modest increases the Panel said

*Despite some assertions to the contrary, we judge there to be a widespread view that regular, modest increases will have little or no impact on employment but that excessive increases would likely result in losses of jobs and/or hours. This leaves the definition of ‘modest’ and ‘excessive’ as a major issue of contention when considering the appropriate quantum of each year’s decision. It has been accepted that these will vary depending on economic conditions, although the empirical evidence for this belief is not strong. When unemployment is high and rising, smaller increases are seen to be appropriate. In stronger economic conditions, somewhat larger increases have been determined.[[12]](#footnote-13)*

On this occasion, ABI considers the approach of identifying differences from the previous year’s prevailing factors is compromised to a degree because of the magnitude of the 2016‑17 AWR decision and the shift in analysis. Specifically, ABI’s starting proposition is that the magnitude of the 2016-17 review did not sit consistently with the prevailing economic conditions at the time.

Nonetheless, ABI seeks to provide a foundation for this submission by examining broader economic trends within the context of where they were at the time of last year’s decision.

As is usually the case, some macroeconomic indicators become favourable relative to the previous year’s decision while others become less favourable. Table 1 benchmarks a range of contemporary macroeconomic indicators against where they were at the time of the 6 June 2017 decision.

**Table 1 - Summary of selected macroeconomic indicators**

|  |  |  |
| --- | --- | --- |
| **Indicator** | **2017 decision** | **Contemporary** |
| GDP growth (tty)December quarter 2016 / December quarter 2017 | 2.4 per cent | 2.4 per cent |
| GDP growth forecast (RBA)year ending June 2018 / year ending June 2019 | 2¾–3¾per cent | 3.5per cent |
| GDP growth forecast (Treasury)year ending June 2018 / year ending June 2019 | 2 ¾ per cent | 3 per cent |
| GDP per hour worked (%chg, tty)December quarter 2016 / December quarter 2017 | 1.9 per cent | -1.0 per cent |
| GVA per hour worked – market sector (%chg, tty)December quarter 2016 / December quarter 2017 | 2.4 per cent | -0.9 per cent |
| real unit labour costs (%chg, tty)December quarter 2016 / December quarter 2017 | -5.2 per cent | 1.4 per cent |
| business-related bankruptciesyear ending December 2016 / year ending December 2017 | 4,354 | 4,172 |
| wages share of total factor incomeDecember quarter 2016 / September quarter 2017 | 52.3 per cent | 52.9 per cent |
| profits share of total factor incomeDecember quarter 2016 / September quarter 2017 | 26.5 per cent | 27.0 per cent |
| real net national disposable income (%chg, tty)December quarter 2016 / December quarter 2017 | 6.8 per cent | 1.5 per cent |
| real net national disposable income per capita (%chg, tty)December quarter 2016 / December quarter 2017 | 5.3 per cent | 0.0 per cent |
| headline CPI (%chg, tty)March quarter 2017 / December quarter 2017 | 2.1 per cent | 1.9 per cent |
| headline CPI forecast (RBA)year ending June 2018 / year ending June 2019 | 1½ - 2½ per cent | 2 ¼ per cent |
| underlying inflationMarch quarter 2017 / December quarter 2017 | 1.8 per cent | 1.9 per cent |
| underlying inflation forecast (RBA)year ending June 2018 / year ending June 2019 | 1½ – 2½ per cent | 2 per cent |

Source: ABS, ASFA, Treasury and RBA.
Notes: Data listed under the column “2017 decision” references data that was available at the time of the 2016-17 decision. Seasonally adjusted used where available.

Macroeconomic conditions and outlook

Economic data generally point to a strengthening of conditions when compared with those at the time of the 2016-17 decision. The December quarter’s GDP growth came in at 2.4 per cent. This is in line with the 2.4 per cent result recorded for the December quarter 2016, which was the most contemporary figure available at the time of the Panel’s 6 June 2017 decision.

There has been a turnaround in business investment owing to an improvement in non-mining capital expenditure while mining investment has held firm with asset depreciation offset by new investments. The turnaround in business investment means it is no longer weighing on growth (Chart 1 refers).

Public investment in major infrastructure projects has contributed to growth over recent quarters. While residential construction has softened in recent months, building approvals increased in the second half of 2017 and the pipeline of yet to be completed projects is particularly strong in Victoria and New South Wales. Favourable conditions due to low interest rates and Australian dollar continue to support growth relative to previous periods.

**Chart 1 – Contributions to GDP growth (tty)**



Source: ABS
Note: ‘Other’ is comprised of changes in inventories and statistical discrepancy

Overall ABI observes that despite a modest strengthening of economic conditions since the last decision, the persistence of low wages growth points to a continued conservative bias among the household and business sectors. Strengthening business investment may support improving conditions for households, though forward plans appear to rest on wage stability with limited scope to increase prices over the near term.

As ABI has previously maintained, including in periods of weaker growth, the performance of the national economy does not directly translate into a case for a higher or lower minimum wage increase. In line with the framework presented in Part II, ABI contends the improvement in macroeconomic conditions does not justify additional scope to increase the NMW. This is because the drivers of improving economic conditions do not suggest strength in the parts of the economy most impacted by changes to the NMW. Conditions in the most award-reliant industries will be examined later in this submission.

Sustained low prices growth in the Australian economy

While inflation has been well managed in Australia since at least the mid 1990s, prices growth in the post global financial crisis economy has been particularly subdued. Headline and underlying measures of inflation have trended down since 2008, while living cost indices, producer prices and wages growth have also been persistently low (Chart 2 refers). Most of the key price measures including the Consumer Price Index (CPI), Producer Price Index (PPI) and underlying measures of inflation have gravitated to a focal point of just under 2 per cent.

More recently it appears that there has been a bottoming out with some price measures starting to increase modestly from 2016. These price increases are not broad-based with the *Housing*, *Alcohol and Tobacco* and *Transport* groups accounting for around 77 per cent of the increase in CPI between June 2016 and December 2017 (Chart 3 refers).

**Chart 2 – Measures of prices in the Australian economy (%chg, tty)**

 

Source: ABS
Notes: CPI is used for headline inflation, the average between the trimmed mean and
weighted median of CPI are used for underlying inflation, LCI is employee household series, WPI is private sector series, PPI is final products series.

**Chart 3 – Contribution to CPI change between June 2016 and December 2017
(index points)**



Source: ABS, ABI calculations

The low inflationary environment, when broadly conceived to include all prices within the economy, is also evident in the low levels of wages growth seen in recent times. The WPI has grown at the slowest pace in the history of the series with the private sector series growing at under 2 per cent (tty) since September 2016. While average weekly ordinary time earnings (AWOTE) has edged up slightly relative to last year, ABI remains of the view that the WPI is a better indicator of relative wage movements as it measures underlying increases in labour costs and excludes compositional changes.

Given the Panel has previously emphasised the importance of actual economic data (rather than forecasts or single data points)[[13]](#footnote-14) it is worth noting that a low inflationary environment has been sustained for a prolonged period of time. As a result, the Panel should have confidence the 2017-18 decision will be made within a similar inflationary environment as has persisted in recent times.

Consistent with the framework identified in Part II, ABI considers that low levels of prices growth in the economy ought to anchor the Panel’s AWR deliberations. This is because the likely impact of the AWR decision will be amplified by the low levels of prices growth evident in the economy.

Productivity

Any minimum wage increase beyond productivity gains contributed by award-reliant employees will increase labour costs and have broader consequences on firms, labour demand and economic competitiveness. For this reason the Panel should consider the extent to which recent developments in wages growth and productivity are able to support an increase in the minimum wage.

Labour productivity trended down over the past year (Chart 4 refers). The latest results in the December quarter revealed GDP per hour worked fell by 1 per cent while Gross Value Added (GVA) per hour worked in the market sector fell by 0.9 per cent (tty).

**Chart 4 – Measures of productivity growth and business insolvencies**



Source: ABS, AFSA
Note: Average of previous four quarters used except for Business insolvencies which is the sum of the previous four quarters

ABI supports the view that care should be taken when interpreting movements between periods, though productivity growth remains lower in more recent years than in the period between 2011 and 2013. It is particularly concerning that this trend was reinforced with both market sector GVA and GDP per hour worked being negative in the December quarter. Recent productivity trends suggest the scope for productivity dividends to underpin minimum wage increases has reduced relative to previous years.

Real unit labour costs have bottomed out and are now increasing due to moderating productivity. While real unit labour costs have been contained over the past decade, ABI notes this has primarily been the result of low wages growth among non award-reliant employees with minimum wage increases exceeding the WPI over recent years (Chart 5 refers). Award-reliant employee wages account for only a subset of all wages and the broader implications associated with contained labour costs do not necessarily apply to award-reliant segments of the labour force. Given the disparity of wage increase spread, real unit labour costs are likely increasing for firms that more intensively engage award-reliant employees, despite overall wage restraint across the labour market as a whole.

**Chart 5 – Difference between WPI and minimum wage increases**



Source: ABS
Private sector WPI used

It is particularly relevant that labour productivity gains over the past decade have not been broad-based or evenly spread. The more award-reliant industries, including *Accommodation and food services*, *Administrative and support services*, and *Other services* have each recorded negative labour productivity growth over the past decade. This is consistent with ABI’s contention that productivity gains are generally the result of processes that allocate labour toward higher value‑added activities with fewer opportunities to do so among the award-reliant workforce.

Labour productivity gains over the past decade, which can be described as modest at best (and negative in the December quarter), have largely been driven by gains outside the most award-reliant industries.

Even if it is assumed that any productivity gains are broad-based, the fact that recent minimum wage increases have been significantly higher than WPI increases over recent years should guide the Panel’s assessment on how this relates to minimum-wage setting.

Business profits

A recent contention made by some parties and commentators has been that business profits have been soaring while wages have flat lined. Some go further to suggest that interventionist approaches are needed to achieve a rebalancing of wages and profits. At the outset, ABI states its rejection of both of these assertions.

Improved profitability is not evenly distributed. Company gross operating profits among the most award‑reliant industries have grown at a much slower pace (or even recorded negative growth) relative to those in the rest of the economy in recent times. Business profits aggregated at the macro level cannot be relied on to infer the capacity of firms to deliver higher wages to award-reliant employees.

Further, patterns of business profitability need to be seen within a longer run context. In the short to medium term profits’ share of income tends to be highly affected by movements in Australia’s terms of trade rather than any underlying structural factors related to Australia’s workplace relations system.

The most recent uptick in profits’ share of income from 2016 coincides with a recovery in Australia’s terms of trade. As the RBA noted in its February Monetary Policy Meeting:

*Stronger growth in the world economy had contributed to higher commodity prices over 2017, although supply factors and policy measures in China had also been important. Members noted that higher-than-expected commodity prices had supported Australia's terms of trade over 2017 and that the forecast of the terms of trade had consequently been revised a little higher for the near term. Nonetheless, the terms of trade were still expected to decline over the following two years, partly reflecting prospective increases in low-cost supplies of bulk commodities.*

*Minutes of the Monetary Policy Meeting of the Reserve Bank Board – 6/2/2018
https://www.rba.gov.au/monetary-policy/rba-board-minutes/2018/2018-02-06.html*

The increase in profits’ share of income has pared back a broader trend of declining profits evident from around 2011 which was largely due to a falling terms of trade. When viewed in this medium-term context, profits are merely consistent with trend levels.

Labour market conditions

Employment indicators have strengthened since the time of the 2017 decision (Table 2 refers). Improving labour market conditions have been underwritten by strong employment growth. Employment grew by 3.3 per cent in the year to January 2018 (Chart 6 refers). The unemployment rate has fallen while underemployment is no longer increasing. Overall labour market utilisation is improving, though the underutilisation rate sits slightly higher than the average over the past decade (Chart 7 refers).

**Table 2 – Labour market indicators**

|  |  |  |
| --- | --- | --- |
| **Indicator** | **2017 decision** | **Contemporary** |
| employment growth (%chg, tty)April 2017 / January 2018 | 1.3 per cent | 3.3 per cent |
| growth in hours worked (monthly) (%chg, tty)April 2017 / January 2018 | 1.3 per cent | 0.5 per cent |
| unemployment rateApril 2017 / January 2018 | 5.8 per cent | 5.5 per cent |
| participation rateApril 2017 / January 2018 | 64.8 per cent | 65.6 per cent |
| youth unemployment rateApril 2017 / January 2018 | 12.8 per cent | 12.3 per cent |
| long-term unemployment ratioApril 2017 / January 2018 | 24.1 per cent | 23.4 per cent |
| average weekly ordinary time earnings (full time) (%chg, tty) November 2016 / November 2017 | 2.2 per cent | 2.4 per cent |
| wage price index (private sector) (%chg, tty)March 2017 / December 2017 | 1.8 per cent | 1.9 per cent |

Source: ABS
Notes: Data listed under the column “2016 decision” references data that was available at the time of the 2016-17 decision and does not include any subsequent revisions. Seasonally adjusted figures used where available.

**Chart 6 – Labour market conditions**



Source: ABS

**Chart 7– Underutilisation of the labour force**



Source: ABS

Underemployment is also a more profound challenge among five most award-reliant industries (compared with other industries) with only the *Other Services* category performing in line with all industries (Table 3 refers). A trend of increasing underemployment over the past decade is evident in the five most award-reliant industries (Chart 8 refers). Across these industries the underemployment ratio is between around 2 and 6 percentage points higher than it was a decade ago.

**Table 3– Underemployment by industry (average over year to November 2017)**

|  |  |  |
| --- | --- | --- |
| **Industry** | **% award-reliant non-managerial employees (May 2016)** | **Underemployment ratio** |
| Accommodation and food services | 42.7 per cent | 20.9 per cent |
| Administrative and support services | 42.1 per cent | 14.1 per cent |
| Health care and social assistance | 28.8 per cent | 10.4 per cent |
| Other services | 34.3 per cent | 8.8 per cent |
| Retail trade | 34.5 per cent | 17.1 per cent |
| All industries | 24.5 per cent | 9.0 per cent |

Source: ABS

**Chart 8– Underemployment in award-reliant industries**



Source: ABS
Note: Data is the average of previous four quarters

In addition, ABI notes that youth and long term unemployment remain at elevated levels (Chart 9 refers). While youth unemployment has declined in line with more favourable labour market conditions, it remains significantly higher than for the broader population.

Regional disparities in employment indicators remain a concern. To illustrate, 23 out of 88 SA4 regions have youth unemployment rates above 15 per cent with some recording rates of close to or more than 30 per cent (Table 4 refers). This suggests that even if conditions were interpreted to be more accommodative in the broader economy, pinch points exist within the labour market both geographically, as well as within certain subsets of the labour force. When deliberating on the impact of a potential minimum wage increase on employment outcomes, the Panel should consider potential outcomes as they are experienced at the national and the regional level.

Minimum wage increases beyond those which are affordable by firms will necessarily have a disproportionate impact on the most vulnerable members of the workforce. Whether it makes good business sense to hire a new employee will, in terms of decision-making at the margin, depend on whether that firm expects the additional output generated by that employee to exceed the additional cost of wages and on-costs. The extent to which the minimum wage acts as a barrier to employment depends on both historical and proposed increases. As the Productivity Commission has noted:

*“Arguably, the FWC should care somewhat more about the risks of overshooting in its minimum wage increases (with the consequences this has for unemployment) and change its decisions to reflect this. (An analogy is that, when catching a train, it is best to arrive earlier than the expected departure time since the cost of a little waiting is much less than the cost of missing the train.)*”[[14]](#footnote-15)

**Chart 9 – Youth and long term unemployment**



Source: ABS

**Table 4 – Youth unemployment rates (SA4 regions above 15 per cent)**

|  |  |  |
| --- | --- | --- |
| **Region** | **Youth Unemployment Rate** | **Unemployment Rate** |
| Queensland - Outback | 55.9 per cent | 13.0 per cent |
| Southern Highlands and Shoalhaven | 28.9 per cent | 7.3 per cent |
| Wide Bay | 27.7 per cent | 8.9 per cent |
| Tasmania - South East | 21.8 per cent | 6.8 per cent |
| Murray | 21.5 per cent | 8.7 per cent |
| Coffs Harbour - Grafton | 19.8 per cent | 8.9 per cent |
| Melbourne - West | 18.7 per cent | 8.9 per cent |
| Central Coast | 18.6 per cent | 6.4 per cent |
| Adelaide - North | 18.4 per cent | 7.7 per cent |
| Townsville | 18.1 per cent | 8.3 per cent |
| Mandurah | 17.7 per cent | 7.0 per cent |
| Melbourne - North West | 17.5 per cent | 7.6 per cent |
| Adelaide - West | 17.0 per cent | 7.4 per cent |
| Logan - Beaudesert | 17.0 per cent | 7.0 per cent |
| Adelaide - South | 16.9 per cent | 6.3 per cent |
| New England and North West | 16.6 per cent | 5.8 per cent |
| South Australia - South East | 16.3 per cent | 4.8 per cent |
| Bendigo | 16.2 per cent | 6.9 per cent |
| Perth - North West | 16.0 per cent | 6.7 per cent |
| Moreton Bay - North | 15.6 per cent | 7.9 per cent |
| Launceston and North East | 15.4 per cent | 6.0 per cent |
| Perth - North East | 15.1 per cent | 6.0 per cent |
| Melbourne - South East | 15.1 per cent | 6.6 per cent |

Source: ABS
Note: average of the 12 months to January 2018

Conditions in award-reliant industries

ABI has noted that a lack of targeted indicators means there is some difficulty in assessing the broader economic impact of AWR decisions. The direct impact of AWR decisions will be less easily observable because award-reliant employees are only a subset of the Australian workforce. As discussed in Part II, broader macroeconomic data may be able to offer only limited insight and it must be recognised that favourable economic conditions do not necessarily give rise to favourable conditions in the parts of the economy that are most directly impacted by AWR decisions.

One approach, which assists to focus attention on where AWR decisions are likely to be felt most, is to examine industries with a high degree of award reliance. ABI expects the Panel will give more detailed consideration to the conditions faced in these industries. The factors accounting for their performance are unique to each industry and do not necessarily reflect the vulnerabilities that award-reliant workforce may face. Given the significance of previous decisions which have increased minimum wages above inflation, the Panel ought now to be considering how the cumulative impact of recent minimum wages might affect the relative attractiveness of award-reliant employees in the labour market.

While the award-reliant industries have made modest gains over the past year in-line with the broader economy, this comes off the back of weaker performance in the preceding period. For example, as already noted, underemployment is higher in the award-reliant industries and so gains in employment growth over the past year need to be seen within this context. The productivity performance of the award-reliant industries is also weak compared with the rest of the economy.

ABI also notes that there are specific pockets of stress in some parts of the award‑reliant industries. For example:

* Company gross operating profits fell by more than 15 per cent in the *other services* industry.
* Employment in the *administrative and support services* industry fell by 7.4 per cent.
* *Administrative and support services* and *Other services* industries are performing much weaker than the broader economy on a gross value added basis.

Data relating to the award-reliant industries should temper the Panel’s assessment to the extent that more positive indicators in the broader economy, such as an improvement of business profits, might otherwise suggest capacity to deliver minimum wage increases.

Survey data on business responses to varying minimum wage increases

NSWBC conducts a quarterly Business Conditions Survey[[15]](#footnote-16) to assess the economic environment facing its members.[[16]](#footnote-17)

ABI notes the Panel’s previous statements about the challenges of using survey data.[[17]](#footnote-18) As it did in its submission to the 2016-17 AWR, ABI acknowledges that responses to the NSWBC’s Business Conditions Survey are not completely representative of the Australian business population due to geographic reach but again notes that the survey provides anecdotal evidence, at least at the firm level, as to how businesses respond to minimum wage increases.

ABI notes the Panel’s specific feedback on survey results presented as part of ABI’s submission to the 2016-17 AWR.[[18]](#footnote-19) The survey question presented in the submission invited respondents to indicate how their firm would respond to minimum wage increases of varying magnitudes. The Panel noted deficiencies in this approach because it relates to business’ perceptions of how they will respond to future events rather than how they responded to an actual minimum wage increase.[[19]](#footnote-20)

In the light of this, NSWBC posed a question which asked respondents to indicate how the 3.3 per cent increase commencing 1 July 2017 impacted their business. This question was asked only of businesses that indicated they engaged employees whose wages are affected by changes to the minimum wage. Demographics of these survey respondents are indicated at **Attachment A**.

A total of 22.4 per cent indicated negative impacts, including 5.6 per cent that indicated their viability was harmed and that they have or are considering scaling down their operations (Table 5 refers). These results indicate substantial negative impacts when viewed within the context of the magnitude of the minimum wage increase. If part of the purpose of delivering a larger minimum wage increase is to increase overall remuneration to award-reliant employees then both price and quantity effects need to be considered. With the proportion of businesses reporting negative impacts significantly higher than the percentage increase to the minimum wage, the survey results provide evidence of a substantial negative quantity effect. This is consistent with the possibility that the additional wages to employees may be less than lost wages due to disemployment[[20]](#footnote-21) effects. With 5.6 per cent indicating that viability was harmed, this holds even if a conservative view of the results is taken.

ABI notes the survey question was asked in December 2017 and so businesses had less than 6 months operating under the 3.3 per cent increase. It is plausible that additional survey respondents would have indicated negative impacts if they had a longer period in which to observe how the change impacted their business. In addition, responses related to the impact on total staffing levels so the concentrated impact on award-reliant employees may be higher than these results suggest.

**Table 5 – Survey results**

|  |
| --- |
| ***On 1 July 2017 employees on the minimum wage were awarded a 3.3% increase.  How did this change impact your business? (n=179)*** |
| ***Response*** | ***%*** |
| *My business employed more employees or gave more hours than we had expected prior to the size of the increase being known* | *3.4%* |
| *My business absorbed this increased without affecting our forward plans* | *74.3%* |
| *My business employed fewer employees or gave fewer hours that we had expected prior to the size of the increase being known* | *16.8%* |
| *The size of this increase harmed the viability of our business and we have, or are considering, scaling down our operations* | *5.6%* |

Turning to prospective increases, respondents were also asked to indicate how they would adjust their staffing decisions in response to different specified minimum wage increases (Table 6 refers). This question was consistent with the survey results presented ABI’s submission to the 2016‑17 AWR submission.

While survey respondents were slightly more optimistic about their ability to respond to varying minimum wage increases than they were in December 2016, many of the same inferences can be made about what might constitute an optimal minimum wage increase.

As in December 2016, the survey suggests that more modest increases of between 0.5 and 1.5 per cent could be relatively easily absorbed with around seven out of ten respondents indicating they would not change their forward plans for increases within this range. A modest number of respondents indicated they would increase staffing levels for increases within the range of 0 to 1 per cent though only a very small percentage indicated they would increase staffing levels for minimum wage increases of 1.5 per cent and above. At the other end of the spectrum only 35 per cent of respondents would absorb a minimum wage increase of 3 per cent, though this was slightly higher than recorded in December 2016. Around 62 per cent of respondents indicated that a 3 per cent increase would result in reduced staffing levels or would harm their firm’s viability.

Consistent with the December 2016 survey, the results suggest that there is an optimal range within which minimum wage increases will deliver gains to award-reliant employees without severely impacting on employment outcomes (including hours). For example, a minimum wage increase of between 1.5 and 2 per cent would contain the number of businesses reporting negative impacts while at the same time maintaining the real living standards of award-reliant employees. This is illustrated in Charts 10 and 11 which demonstrate both the cumulative and marginal increase in respondents indicating negative impacts.

**Table 6 – Survey results**

|  |
| --- |
| ***"In thinking about employees affected by changes in the minimum wage, how would the following minimum wage increases affect your business' staffing plans (select those that apply)?" (n=179)*** |
| ***Increase*** | ***A — "Would employ more employees or give more hours than we would have expected"*** | ***B — "Would absorb this increase without affecting our forward plans"*** | ***C — "Would employ fewer employees or give fewer hours that we would have expected"*** | ***D — "Would harm the viability of our business and may need to scale down operations"*** |
| ***0.0%*** | 31.8% | 64.2% | 1.7% | 2.2% |
| ***0.5%*** | 16.2% | 74.9% | 6.1% | 2.8% |
| ***1.0%*** | 10.1% | 78.2% | 10.1% | 1.7% |
| ***1.5%*** | 6.7% | 71.5% | 17.3% | 4.5% |
| ***2.0%*** | 6.1% | 60.9% | 27.4% | 5.6% |
| ***2.5%*** | 4.5% | 48.6% | 38.5% | 8.4% |
| ***3.0%*** | 3.4% | 34.6% | 41.9% | 20.1% |
| ***3.5%*** | 3.4% | 24.0% | 43.6% | 29.1% |
| ***4.0%*** | 5.0% | 19.6% | 35.8% | 39.7% |

**Chart 10 – Respondents reporting negative impacts**

 

**Chart 11 – Marginal cost (increase in respondents reporting negative impacts)**

 

Part IV – The Penalty rates decision

The 2016-17 AWR decision discussed whether and the extent to which the Panel should take account of the *Penalty Rates decision* ([2017] FWCFB 1001) in determining any increase to the NMW and award minimum wages. The first variation arising out of the *Penalty Rates* decisionand the subsequent *Transitional Arrangements* decision ([2017] FWCFB 3001) was to take effect from the same date as any variation determination that the Panel might make would come into operation.

It is not entirely clear where the Panel landed on the question as to whether and the extent to which it should take account of the *Penalty Rates decision*. The Panel concluded that

*[29]**The Penalty Rates decision will, over time, reduce the employment costs of some employers covered by the Hospitality and Retail Awards affected by the decision. It is not appropriate to take account of the decision in some quantifiable or mechanistic way to support a particular level of increase in the NMW or in modern award minimum wages. […].*

*[30]**The Penalty Rates decision does form part of the broad factual matrix against which the Review is conducted and, to that limited extent, we have taken it into account.*[[21]](#footnote-22)

The Panel adopted the conclusions in the *Penalty Rates decision* following the consideration of “…a fair and relevant minimum safety net of terms and conditions” undertaken by that bench*.* The Panel said

*[127]**We agree with the above observations* [made by the Penalty Rates bench] *and adopt them in our consideration of the modern awards objective. We are also of the view that the observations as to the meaning of ‘fair’ and ‘safety net’ in the modern awards objective apply with equal force to the meaning of those words in the minimum wages objective.*

*[128]**In giving effect to these statutory objectives* [a safety net of fair minimum wages and, with the National Employment Standards, a fair and relevant safety net of terms and conditions] *the Panel must take into account the particular considerations identified in ss.134(1)(a) to (h) (the s.134 considerations) and 284(1)(a) to (e) (the s.284 considerations). While the statutory considerations referred to must be taken into account it is important to bear in mind that these considerations inform the modern awards objective and the minimum wages objective, but they do not themselves constitute the relevant statutory objectives. The modern awards objective is to ‘ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions.’  The minimum wages objective is to ‘establish and maintain a safety net of fair minimum wages.’ These objectives are very broadly expressed and the notion of fairness is at the heart of both statutory objectives. As we have mentioned, fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW or the modern award in question.*[[22]](#footnote-23)

In the *Penalty Rates decision* the Commission determined that the existing penalty rates in the hospitality and retail awards did not provide a fair and relevant safety net in the requisite sense. The new rates it determined, mainly affecting some Sunday and public holiday rates, did.

That decision was confirmed by the Full Court of the Federal Court.

The 4 yearly review is a review at large.[[23]](#footnote-24) The *Penalty Rates* bench did not err in determining what was a relevant fair minimum safety net[[24]](#footnote-25), nor fail to properly give effect to the statutory considerations in coming to its conclusions. The *Penalty Rates* bench did not misconstrue the relative weight to be given to the needs of the low paid in its consideration of the existing penalty rates, in determining the transitional regime, nor in its characterisation of the relative role of this consideration in this 4 yearly review exercise compared with annual wage reviews.[[25]](#footnote-26) Nor was a subsequent error visited upon the decision or process by the *Transitional Arrangements decision*.[[26]](#footnote-27)

The newly determined penalty rates, not themselves minimum award wages, but compensation for disutility (expressed as additional percentages which retain their relative value following wage increases), provided a fair and relevant safety net of terms and conditions for the sub-set of award-reliant employees working those hours.

The transitional regime was itself a balance of matters to be taken into account, including the relative living standards and needs of the low paid, in giving effect to a fair and relevant safety net of terms and conditions. The transitional regime was determined having regard to the fact that variation determinations would come into operation each 1 July (as well as other matters such as length of notice of change before the first reductions). The transitional regime was not determined having regard to any quantum of annual wage review increase and nor could it have been. A future AWR cannot be bound by an earlier decision about outcome.[[27]](#footnote-28)

In its Transitional Arrangements decision the *Penalty Rates* bench said

*[43] […]The phased reductions in Sunday penalty rates that we intend to make will be implemented at the same time as the implementation of any increases arising from the Annual Wage Review decision. This will usually mean that the affected employees will receive an increase in their base hourly rate of pay at the same time as they are affected by a reduction in Sunday penalty rates. As such, the take home pay of the employees concerned may not reduce to the same extent as it otherwise would – but it is also important to acknowledge that they will receive a reduction in the earnings they would have received but for the implementation of the Penalty Rates decision. Accordingly, any Annual Wage Review increase cannot be said to ameliorate the impact of our decision. It is the phased implementation of the Sunday penalty rate cuts which provides a degree of amelioration*.[[28]](#footnote-29) (Emphasis added)

about which the Court said

*[90] […] In so doing* [reconsidering its decision on the basis of further submissions]*, it* [the Penalty Rates bench] *accepted that its decision to reduce penalty rates would negatively impact on the low paid in terms of their relative living standards and capacity to meet their needs. As explained at [43] it considered this negative impact would be ameliorated to some extent but not completely by transitional arrangements because the earnings of the affected employees would still be affected. It also accepted that any annual wage review cannot be said to have an ameliorative effect despite the fact that affected employees will likely receive an increase in their minimum rates of pay from an annual wage review at the same time that the reductions to penalty rates are implemented.*[[29]](#footnote-30)

In its AWR the Panel is required to review modern award wages so as to assess the extent to which they, modern award wages, are providing a safety net of fair minimum wages and together with the National Employment Standards provide a fair and relevant minimum safety net of terms and conditions. The determinations varying the relevant hospitality and retail awards give effect to the modern awards objective and they were not and cannot have been dependent on a given or minimum amount of award minimum wage increase. It is not clear how the determinations form part of the broad factual matrix against which the AWR is conducted.

Giving effect to a fair and relevant safety net of terms and conditions includes taking into account the relative living standards and needs of the low paid. This is one of a number of different matters which must be taken into account and there is no statutory primacy afforded any one of these considerations over others. However circumstances may impact weighting.

*[50]**Sections 134, 284 and 578 of the Act each direct the Panel to ‘take into account’ certain specified considerations in conducting and completing an AWR. A matter which the Panel is directed to ‘take into account’ is a relevant consideration in the Peko-Wallsend sense; which is those matters which the decision maker is bound to take into account and treat as matters of significance in the decision making process. No particular primacy is attached to any of the considerations identified in the modern awards objective (s.134(1)(a)-(h)) or in the minimum wages objective (s.284(1)(a)(e)). For our part we would observe that the weight to be attributed to a particular statutory consideration may vary from year to year depending on the social and economic context in a particular Review.*[[30]](#footnote-31)

Taking into account the “…relative living standards and needs of the low paid” is a single composite consideration which the Panel has described as being “*different, but related*”, to some extent distinguishing the focus of assessment of “relative living standards” and “needs”.

*[53] The assessment of relative living standards requires a comparison of the living standards of workers reliant on the NMW and minimum award rates determined by the AWR with those of other groups that are deemed to be relevant.*

…

*[55] The assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for a ‘decent standard of living’ and to engage in community life, assessed in the context of contemporary norms. In successive Annual Wage Reviews the Panel has concluded that a threshold of two-thirds of median full-time wages provides ‘a suitable and operational benchmark for identifying who is low paid’, within the meaning of s.134(1)(a).[[31]](#footnote-32)*

For these comparisons the low paid are those employees whose award minimum wage (or NMWO wage) is below two-thirds of full-time median ordinary time earnings. Defined award minimum wages are assessed against actual earnings. Other income, including that derived from other payments due under the relevant award, such as for working shifts, will show up in household income data, and in ordinary time earnings, and therefore sets the low-paid determinant, but non-minimum award wage income does not determine whether an employee is low paid or not.

There is nothing in the statutory scheme which suggests the hospitality and retail award penalty rate variations should exert weight on AWR variation determinations.

Part V - ABI submissions to the Panel

The multitude and make-up of factors that must be considered by the Panel make it difficult to determine adjustments through mechanistic approaches. Decision rules, such as real‑wage maintenance or index-targeted increases, do not appropriately reflect the diversity of statutory factors that the Panel must take into account. Even if more complex frameworks could be developed to give weighting to those factors, their relative impact on the decision may change depending on the prevailing circumstances.

Equally, though, the absence of a transparently objective basis for reaching a decision makes it difficult for parties to account for any quantification of changes they recommend to the Panel. This is underscored by last year’s decision to award a 3.3 per cent increase without a detailed explanation of how 3.3% is to be reconciled with earlier decisions. The decision advised that the Panel now considered that it has been ”overly cautious” in its regard for disemployment effects but did not account for the extent to which this resulted in a much larger increase than had been awarded in previous years.[[32]](#footnote-33)

Notwithstanding challenges faced by parties in attempting to quantify a recommended increase, ABI has given consideration as to the nature of any increase that would be broadly suitable to the conditions faced by employers and the needs of award-reliant employees. ABI submits that, within the contemporary context, broader price movements in the economy should anchor changes to the NMW. ABI is of the view this approach offers a useful foundation for determining a change to the NMW that optimises outcomes with respect to the statutory considerations. Upon assessing a broad range of price measures in the economy, ABI has come to a view that an increase of not more than 1.9% would be appropriate in the current economic environment.

To be clear, ABI does not argue that changes to the NMW should be mechanically linked to measures of prices growth such as CPI.

The key rationale for arriving at this recommendation is that a low inflation, low wages growth environment has persisted and this ought to bias toward more moderate increases. Additionally, improvements in labour market conditions are not broad-based with four out of the five most award‑reliant industries still exhibiting elevated levels of underutilisation. Further, the cumulative impact of successive minimum wage increased well in excess of broader wages growth has made it less likely that firms will hire award-reliant employees even though there may be favourable labour market conditions in other parts of the economy. This is because higher marginal returns can be made by hiring employees that can engage in higher‑value added activities. The absence of a favourable labour productivity environment, including negative productivity growth in the most award-reliant industries, hastens the potential of this occurring.

In its decisions the Panel typically identifies the review outcomes proposed by different parties.[[33]](#footnote-34) Whilst parties’ proposed outcomes might quantify for that year what is in their view “equitable”, “appropriate”, “modest” or “balancing the statutory considerations”, the Panel’s presentation of quantified proposed outcomes supports the practice. This in turn conduces to proposed outcomes which are nominated for their communication value and potentially reduces the decision’s focus on parties’ underlying arguments justifying their recommendations.

The role of quantified recommendations

As noted above ABI remains concerned about the lack of clarity for submitting parties about how the Panel comes to quantify the minimum wage increase that it considers provides the best-balanced outcome across the statutory considerations.

The Act requires the Panel to weigh up the trade-offs presented by the inherent tensions in the statutory factors that it must take into account. Viewed from this perspective quantified recommendations offered by parties would seem to offer very little value in terms of the Panel’s actual task of taking into account the statutory considerations in the circumstances prevailing at the time of review.

Highlighting parties’ proposals could be interpreted to imply that stakeholder recommendations (as opposed to broader aspects of their submissions) are a significant factor in the Panel’s deliberations.

ABI encourages the Panel to consider how it can reduce or mitigate the potential for ambit informing parties’ recommendations and to better explain what processes it undertakes to translate its assessment of the statutory considerations into a quantified increase.

Notes on international research

The relationship between minimum wage increases and employment effects is a perennial challenge for the AWR process. It is significant that the Panel has shifted in its thinking on this in response to research undertaken in the UK. In particular, in its 2016-17 decision the Panel formed the view that it has been overly cautious in the past.[[34]](#footnote-35)

The Panel’s view on the relationship between minimum wage increases and disemployment effects is underpinned by the truism that modest increases in the minimum wage have only a a small impact on employment. But of course, what constitutes “modest” is up for debate, especially because there is no firm empirical basis for observing disemployment effects whatever their magnitude might be.

It seems that a report by RAND Europe (hereafter the RAND Report)[[35]](#footnote-36) may have been influential in encouraging the Panel to be less cautious about what it considers to be “modest” increases in the minimum wage within this framework.

ABI notes findings from the research report, published for the 2017-18 Review, examining international research on the employment effects of the minimum wage and the implications for Australian research.[[36]](#footnote-37) This report reaffirms some of the challenges associated with attempting to observe disemployment effects in an Australian context. The research report further underscores the need for extreme caution when relying on international research to inform minimum wage setting in Australia.

The absence of an observable empirical relationship between two factors does not mean it does not exist. Indeed, when economic theory is suggestive of a relationship between two factors, then it ought to be the default view if there is no strong empirical evidence to the contrary. As already noted the impact of previous minimum wage increases on award-reliant employees is largely unobservable for methodological reasons.

ABI notes that a relatively small proportion of the workforce is affected by the UK minimum wage and so changes are less likely to impact on overall employment levels. ABI further notes that while the RAND Report did not find evidence of an overall adverse employment effect it did find adverse effects for specific labour market sub-groups including part time employees. Indeed, the RAND Report itself noted:

*“…the majority of existing empirical studies do not pay specific attention to potentially vulnerable groups. In order to better understand the heterogeneous employment impacts on these specific labour market subgroups, the LPC could place special emphasis on them in future research it commissions.”[[37]](#footnote-38)*

For some of the reasons outlined in Part II, ABI considers that this approach would be preferable to any specific focus on overall disemployment effects.

The cumulative impact of recent NMW increases

This submission has noted that recent NMW increases have been in excess of WPI, including last year’s increase of 3.3 per cent which was 1.4 percentage points higher than the private sector WPI. ABI considers that the cumulative impact of earlier minimum wage increases above WPI ought justify particular care as part of the 2017-18 AWR. Even if there were the view that the minimum wage bite should increase over time, a gradual transition would be crucial to protecting the interests of award-reliant employees.

When taking a short run view it is plausible that firms have chosen to absorb this increase without adjusting their immediate decisions around staffing levels. Inflexibilities in employment relations and longer-term decisions around investments and production mean that many businesses have no choice but to absorb the increase as other responses would be more costly.

The lack of an immediate response from business may induce an impression that firms have capacity to deliver higher wage increases without impact. However, longer run business decisions rely on assumptions about likely future cost structures. Previous increases that are much larger than anticipated will have a significant impact on firms’ longer term decisions. Further, if businesses expect the wages of award-reliant employees to increase at a much faster pace than other wage cohorts, then activities that rely on these employees are even less likely to attract investment supporting or creating their employment. This is because in relative terms, activities which rely on other wage cohorts will become more attractive.

The Productivity Commission (PC) emphasised this point in its report into Australia’s workplace relations framework. The PC suggested that the Panel’s proposition that “…*modest and regular increases in minimum wages have a small or even zero impact on employment*”[[38]](#footnote-39) was an unsurprising conclusion[[39]](#footnote-40) but also concluded that “…*large increases in the minimum wage bite would make lower-skilled, less experienced employees less attractive to employers and reduce employment on both an hours and headcount basis, particularly over the longer term*.”[[40]](#footnote-41)

ABI emphasises that this is not just a case of an individual business at a specific point in time deciding to substitute an award-reliant employee for an alternative means of producing output, but also occurs as part of a broader process of structural change from lower to higher value added activities. This impact may be more profound in the tradable sector where international competition exists. Wages growth has been subdued internationally and as a small open economy it is not unsurprising that this has also been Australia’s experience.

ABI notes that Australia sits around the OECD average in terms of growth in unit labour costs since 2010 and that minimum wage increases of the magnitude awarded last year will be detrimental to our competitiveness. The Panel therefore has an important role to play in managing future expectations about minimum wage changes.

## Making the NMWO and determinations about modern award minimum wages

ABI has recommended any increase to the current NMW and any variation determination affecting modern awards is cautious having regard to the current low inflation, low wages growth environment and also having regard to the skew of positive economic variables away from where award-reliant employment is most concentrated.

An increase of the magnitude of last year’s 3.3 per cent increase, or an increase approaching that quantum, would not represent an appropriate balance of the matters to be taken into consideration. Despite its misgivings about the practice of recommending identified increases, ABI has recommended that any increase to the current NMW be not more than 1.9 per cent.

### Implementation

ABI also proposes that the Panel apply the percentage of the proposed NMW increase to modern award minimum wages. Varying modern award minimum wages by the percentage rate of increase to the NMW is consistent with the Panel’s past practice[[41]](#footnote-42), and it is consistent with the Panel’s statutory obligations.

### The National Minimum Wage Order

Following its review the Panel must make a new NMWO[[42]](#footnote-43). Assuming that the *National Minimum Wage Order 2018* follows the format of the *National Minimum Wage Order 2017* ABI proposes that the *National Minimum Wage Order 2018* reads as follows

* The NMW weekly and hourly rates (Clause 4.1) be set to reflect the Panel’s decision;
* The casual loading (Clause 5.1) be set at 25 per cent;
* *Special National Minimum Wage* 1 (applying to employees with a disability whose productivity is not - affected Clause 6.2(a)) be set at the same rate as provided in clause 4.1;
* *Special National Minimum Wage 2* (applying to employees with a disability whose productivity is affected - Clause 7) be set in as in NMWO 2017. The rates prescribed in Appendix A, cll A.3.2 and A.8.3, be adjusted and set in the same way as the minimum amount payable under the Supported Wages System when that new rate becomes available to the Panel;
* *Special National Minimum Wage 3* (providing rates of pay for junior employees -Clause 8.2) be set as in NMWO 2017;
* *Special National Minimum Wage 4* (applying to apprentices -Clause 9) be set in as in NMWO 2017 with the rates prescribed in cl 9.3 set to reflect the determined increase to the proportionate classification rate;
* *Special National Minimum Wage 5* (applying to employees under a training arrangement which is not an apprenticeship - Clause 10) be set as in NMWO 2017.

### Determinations about modern award minimum wages

For the purposes of modern awards ABI makes the following proposals:

* Modern award minimum rates be increased by the same percentage as the determined increase to the NMW for the NMWO 2018;
* Each cell of the National Training Wage schedules in the relevant awards (including clause E5 Schedule E in the *Miscellaneous Award 2010*) be increased by the same percentage rate as the determined increase to the NMWO 2018;
* The minimum amount payable under Supported Wages System schedules (at cll X.4.2 and X.10.3) be increased to the new amount set as the income test threshold for the Disability Support Pension becomes available to the Panel.

**Casual loadings**

The casual loading in the *Business Equipment Award 2010* be increased to 23%, but the casual loading in all other modern awards not be increased and remain at 25%.

**The Equal Remuneration Order**

In its 2017 decision the Panel said

*[698]**We have decided that the increase we have awarded in modern award minimum wages should apply to those transitional instruments which remain in operation. That is the approach that has been taken in previous Reviews, and no interested party submitted that any different course should be taken.*

*[699]**A different approach applies in relation to copied State awards currently in operation. Given the absence of any submissions on this matter, we have decided that increases to these instruments should be consistent with the approach set down in previous Review decisions, and the following increases will apply to copied State awards:*

*● an increase of 3.3 per cent applies to wage rates in copied State awards that were not the subject of a state minimum wage decision that commenced after 1 July 2016 and before 1 July 2017;
● an increase of 1.65 per cent applies to wage rates in copied State awards that were the subject of a state minimum wage decision that commenced after 1 July 2016 and before 1 January 2017; and
● no increase applies to wage rates in copied State awards that were the subject of a state minimum wage decision that commenced on or after 1 January 2017 and before 1 July 2017*.[[43]](#footnote-44)

ABI proposes that the rates in the relevant transitional instruments be increased consistently with any increase determined for modern award minimum wages [item 12A(5) Schedule 3; items 10(1) and 20(1) Schedule 9].

Paragraph [699] of the 2016-17 decision deals with copied state awards. This part of the Panel’s decision was subject to further proceedings following which the Panel corrected an error and also advised a preliminary view about a different approach to copied state awards from the one determined in para 699 for parties to consider.[[44]](#footnote-45)

ABI makes no submissions about the variation of copied state awards arising from this review.

### Allowances in modern awards

As ABI has previously noted the Commission has adopted the practice of issuing drafts of the changes to allowances including reimbursement allowances and draft orders, and providing for comment. ABI remains a strong supporter of this practice and thanks the Commission for so doing.

Attachment A

### Demographics of survey respondents

|  |  |  |
| --- | --- | --- |
| **REGION** | **n** | **%** |
| Capital Far South | 7 | 3.9% |
| Central Coast | 9 | 5.0% |
| Central West Orana | 17 | 9.5% |
| Eastern Sydney | 25 | 14.0% |
| Hunter | 23 | 12.8% |
| Illawarra | 17 | 9.5% |
| Mid North Coast | 18 | 10.1% |
| Murray | 7 | 3.9% |
| New England North West | 14 | 7.8% |
| Northern Rivers | 15 | 8.4% |
| Riverina | 12 | 6.7% |
| Western Sydney | 15 | 8.4% |

|  |  |  |
| --- | --- | --- |
| ANNUAL TURNOVER | n | % |
| Unknown  | 1 | 0.6% |
| $0 to $250,000 | 12 | 6.7% |
| $250,001 to $500,000 | 12 | 6.7% |
| $500,001 to $1 million | 31 | 17.3% |
| $1.0 million to $2.0 million | 28 | 15.6% |
| $2.0 million to $5.0 million | 27 | 15.1% |
| $5.0 million to $10.0 million | 27 | 15.1% |
| $10.0 million to $20.0 million | 18 | 10.1% |
| More than $20.0 million | 23 | 12.8% |

|  |  |  |
| --- | --- | --- |
| BUSINESS SIZE | n | % |
| Non-employing | 1 | 0.6% |
| 1 to 4 | 33 | 18.4% |
| 5 to 20 | 64 | 35.8% |
| 21 to 50 | 31 | 17.3% |
| 51 to 100 | 20 | 11.2% |
| 101 to 200 | 14 | 7.8% |
| More than 200 | 16 | 8.9% |

|  |  |  |
| --- | --- | --- |
| INDUSTRY | n | % |
| Accommodation and Food services  | 31 | 17.3% |
| Administrative and Support services  | 2 | 1.1% |
| Agriculture, Forestry and Fishing | 9 | 5.0% |
| Arts and Recreation services | 4 | 2.2% |
| Construction | 4 | 2.2% |
| Education and Training | 2 | 1.1% |
| Electricity, Gas, Water and Waste services | 3 | 1.7% |
| Financial and Insurance services | 4 | 2.2% |
| Health Care and Social Assistance | 15 | 8.4% |
| Information Media and Telecommunications | 3 | 1.7% |
| Manufacturing | 20 | 11.2% |
| Other services  | 16 | 8.9% |
| Professional, Scientific and Technical services  | 15 | 8.4% |
| Public Administration and Safety | 2 | 1.1% |
| Rental, Hiring and Real Estate services  | 4 | 2.2% |
| Retail trade | 32 | 17.9% |
| Transport, Postal and Warehousing | 3 | 1.7% |
| Wholesale trade | 10 | 5.6% |

1. NSWBC survey results will be presented in Part III of this submission. [↑](#footnote-ref-2)
2. Para 92, [2017] FWCFB 3500 [↑](#footnote-ref-3)
3. Para 37, [2017] FWCFB 1001 [↑](#footnote-ref-4)
4. Para 91, [2017] FWCFB 3500 [↑](#footnote-ref-5)
5. # Three Questions About the Outlook, Luci Ellis (Assistant Governor Economic), Address to the ABE Conference, 13/2/2018, https://www.rba.gov.au/speeches/2018/sp-ag-2018-02-13.html

 [↑](#footnote-ref-6)
6. Ibid [↑](#footnote-ref-7)
7. Para 90, [2017] FWCFB 3500 [↑](#footnote-ref-8)
8. Para 93, [2017] FWCFB 3500 [↑](#footnote-ref-9)
9. That is, the data relied on to inform the decision though not necessarily the actual economic conditions (to the extent that they differed from complete data available after the decision). [↑](#footnote-ref-10)
10. Para 7, [2015] FWCFB 3500 [↑](#footnote-ref-11)
11. Para 14, [2017] FWCFB 3500 [↑](#footnote-ref-12)
12. Para 507, ibid [↑](#footnote-ref-13)
13. Para 8, [2013] FWCFB 4000 [↑](#footnote-ref-14)
14. p232, Productivity Commission (2015), *Workplace Relations Framework Inquiry Report*, Volume 1 [↑](#footnote-ref-15)
15. Primary contacts on the NSW Business Chamber membership list are invited to participate in the Business Conditions Survey and so interviewees are typically business owners or senior executives responding on behalf of their business. [↑](#footnote-ref-16)
16. See <http://www.nswbusinesschamber.com.au/Issues/Business-Surveys/Business-Conditions> for details. [↑](#footnote-ref-17)
17. Paras 438—442, [2013] FWCFB 4000 [↑](#footnote-ref-18)
18. Paras 535—538, [2017] FWCFB 3500 [↑](#footnote-ref-19)
19. Paras 535—538, [2017] FWCFB 3500 [↑](#footnote-ref-20)
20. Part II noted some of the reasons why disemployment effects may not necessarily be captured in the broader labour market data because of the difficulty in isolating how the award-reliant segment of the workforce is affected. [↑](#footnote-ref-21)
21. Paras 29 – 30, [2017] FWCFB 3500 [↑](#footnote-ref-22)
22. Paras 127 – 128, [2017] FWCFB 3500 [↑](#footnote-ref-23)
23. Para 45, [2017] FCAFC 161 following paras 28 - 29, [2017] FCAFC 123 [↑](#footnote-ref-24)
24. Para 61 – 63, [2017] FCAFC 161 [↑](#footnote-ref-25)
25. Paras 81, 83 and 93 [2017] FCAFC 161 [↑](#footnote-ref-26)
26. Para 71, [2017] FCAFC 161 [↑](#footnote-ref-27)
27. Para 45, [2017] FWCFB 1931 [↑](#footnote-ref-28)
28. Para 43, [2017] FWCFB 2955 [↑](#footnote-ref-29)
29. Para 90, [2017] FCAFC 161 [↑](#footnote-ref-30)
30. Para 50, [2017] FWCFB 1931 [↑](#footnote-ref-31)
31. Paras 53 and 55, [2017] FWCFB 1931 [↑](#footnote-ref-32)
32. Para 523, [2017] FWCFB 3500 [↑](#footnote-ref-33)
33. For example see Paras 187-211, [2017] FWCFB 3500 [↑](#footnote-ref-34)
34. Para 523, [2017] FWCFB 3500 [↑](#footnote-ref-35)
35. Hafner M, Taylor J, Pankowska P, Stepanek M, Nataraj S & van Stolk C (2016), *The impact of the National Minimum Wage on employment: a meta-analysis*, RAND Europe, a report for the UK Low Pay Commission, October [↑](#footnote-ref-36)
36. Borland J (2018), *A review of methods applied in international research on the employment effects of the minimum wage and implication for Australian research,* FWC Research report 4/2018 [↑](#footnote-ref-37)
37. P 32, Hafner M, Taylor J, Pankowska P, Stepanek M, Nataraj S & van Stolk C (2016), *The impact of the National Minimum Wage on employment: a meta-analysis*, RAND Europe, a report for the UK Low Pay Commission, October [↑](#footnote-ref-38)
38. Para 435, [2015] FWCFB 3500 [↑](#footnote-ref-39)
39. P 202, Productivity Commission (2015), *Workplace Relations Framework Inquiry Report*, Volume 1 [↑](#footnote-ref-40)
40. P 202, Ibid [↑](#footnote-ref-41)
41. Para 104, [2016] FWCFB 3500 [↑](#footnote-ref-42)
42. PR593544 [↑](#footnote-ref-43)
43. Paras 698 and 699, [2017] FWCFB 3500 [↑](#footnote-ref-44)
44. Paras 41 and 43, [2018] FWCFB 2 [↑](#footnote-ref-45)