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2020-21 Annual Wage Review

Reply Submission — Post March National Accounts

8 June 2021

Australian Chamber of Commerce and Industry

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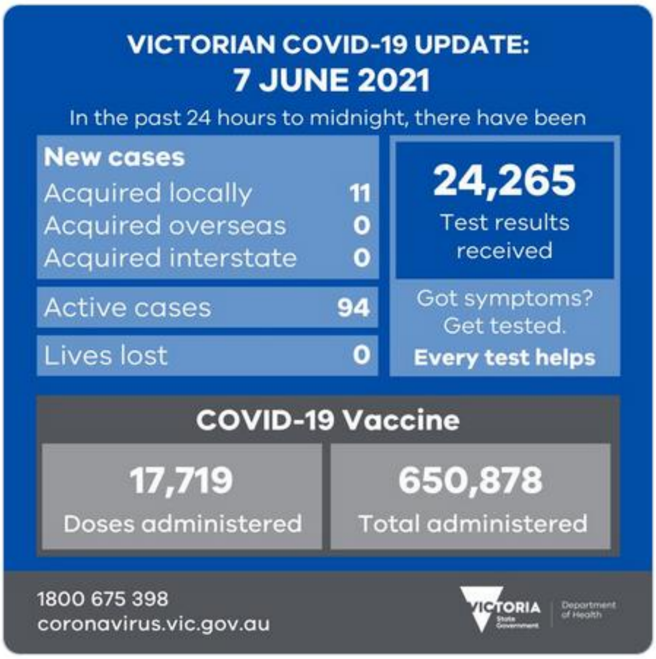
RECENT COVID DEVELOPMENTS IN VICTORIA

1. The first section of ACCI's 4 June 2021 submission highlighted the impact of further lockdowns in the State of Victoria as a very serious, proximate and current challenge for doing business and retaining staff, in particular for enterprises that are most award reliant and that will be required to immediately and directly increase wages following this review.

2. We raised the latest lockdown as a pressing point of adversity for award-reliant small businesses and for employment and as an urgent and significant factor that should further compel caution and moderation in determining this matter, and as a further illustration of the multi-speed, inconsistent recovery across Australia, and of ongoing uncertainty and risk.

3. Since last Friday, 4 June, there is no basis to assume or conclude Victoria will necessarily end its lockdown and restrictions on 10 June. It is now clear that events, such as AFL matches and the flow-on benefits they bring for the hospitality, accommodation, and retail sectors will not return to Melbourne for some time. Regional businesses may be suffering lesser operating restrictions, but tourist and metropolitan custom to the regions has been severely restricted, again with no clear end in sight. Going into the Queen's Birthday long weekend travel to and within Victoria is set to be curtailed significantly.

4. In the 24 hours to Monday 7 June, 11 new cases were announced in Victoria. This is just one case off the daily case peak in Victoria for 2021. Whilst there were fewer cases today, 8 June and many of the 11 appear traceable there is still considerable uncertainty on how the virus has been spread and what the risks of ongoing transmission are.



FWC Information Notes

5. We thank the Panel and the team within the Fair Work Commission for the two information notes on COVID-19, circulated on Monday 7 June 2021. However, the above assessment of the circumstances in Victoria is far more up to date, having been finalised on the day of lodging this further submission. We view the information notes as less immediate and up to date, and of differing relevance to this review than the more up to date information.

Assessment

6. For Australia's second largest economy and labour market:

   a. The current lockdown continues to be highly damaging and open-ended. As it protracts, there is even less certainty as to when it will end, and how viable a number of Victorian businesses and jobs can be. As we write, it may end this weekend, or it may not, again it depends on the numbers and what we can know about risks of transmission.

   b. The greatest impacts are again on areas of award reliant employment such as hospitality and much of the multi-speed retail sector – it's again those most directly impacted by these decisions, employers and employees that are most impacted by lockdown. They will also remain the most impacted if lockdown were to give way to gradually tapering down trading / drinking / dining restrictions.

   c. The notion of a return to normal, and of for example mass return to CBD Melbourne is being delayed or complicated not just by the immediate impact of the lockdown in further days of trading and employment lost, but also by its cumulative impact on confidence to return towards 'normal'. For many, the further outbreak will take them backwards in their capacity to get back to work, to recover lost custom etc.

   d. The accumulation and frequency of lockdown, and perceptions/experiences of exposure in the State of Victoria are factors which increasingly threaten the viability of enterprises and jobs. The impact of the latest lockdown is as the fourth in a series of infection control failures which is significantly threatening confidence to do business and employ in Victoria.

      i. The impact of the latest lockdown is not only on revenues versus expenditures for businesses but also on their confidence to keep persevering and keep pushing through for a fourth time.

      ii. There is no confidence or certainty in Victoria this will be the last outbreak or lockdown – very far from it.

7. For all the debate about particular causes of outbreaks in Victoria, with the changing epidemiological environment globally and the ongoing movement of persons in and out of the country, all states and territories are potentially exposed to comparable outbreaks and the damage they cause to enterprises, jobs, confidence and communities.

8. There is not yet consistency and predictability in either the course of the virus, or in how various states and territories are going to respond to potential exposures or infections. This inconsistency and unpredictability of approach has serious implications for jobs and small businesses staying in business.

9. These should be germane factors for the Expert Panel's consideration of the economy and labour market in which any increases in minimum and award wages will take effect.

10. Changeable developments in Victoria, concurrent with the finalisation of this review and your determination of any increase, underscore the need for moderation and caution in this review.

RESEARCH REPORT BY PROFESSOR BORLAND

11. ACCI appreciate the work of Professor Borland in revising the industry clusters and in general, supports the revisions.[1]

12. However, we reiterate our comments from our 3rd Submission where we question the downrating of Administrative and Support Services and Retail Trade in Version 3 of the Borland report (which has been carried through to version 5). We also disagree with the decision to downrate Arts and Recreation Services in Version 5 of the Borland report.

13. **ACCI recommend that Arts and Recreation Services remain in the upper cluster (lagging recovery classification); Administrative and Support Services be uprated to the upper cluster (lagging recovery classification); and Retail Trade remain in the middle cluster (almost recovered classification).**

14. We recognise there has been a notable improvement in employment and economic activity overall in 2021. However, along with the 3 sectors Borland has identified as lagging the recovery, employment and/or economic activity in the Arts and Recreation Services, Administrative and Support Services and Retail Trade sectors also remain behind where they were at the beginning of the COVID crisis in March 2020.

15. As noted in ACCI's 4th Submission, based on the ABS Weekly Payroll Jobs and Wages data for the fortnight ending 8 May 2021 employment in the Arts and Recreation sector remained down 2.3% below its level of 14 March 2020,[2] while the National Accounts showed Gross Value Added (GVA) down 0.8% in March 2021 relative to March 2020.[3] Given both employment and economic activity remain below their pre-COVID level, ACCI calls on the Expert Panel to retain the Arts and Recreation sector in the upper cluster / lagging recovery classification.

16. We also note that lockdown and restrictions in Victoria are leading to further losses in the Arts and Recreation Services sector, and that the impact of those loses is on the commerciality of tours across the country. Uncertainty as to further lockdowns makes it difficult to confirm further tours, events, concerts, showings etc which are the path back to commerciality and commercial and employment sustainability.

17. While employment in Administrative and Support Services was up 2.3%, economic activity in the sector remains severely depressed, with the National Accounts showing GVA down 10% year-on-year to March 2021. Given economic activity remains heavily depressed (in fact the slowest to recover of all sectors), the Administrative and Support Services sector should be uprated to the lagging recovery classification.

18. Employment in Retail Trade remained down 1.1%. Although GVA was up 3.6%, it needs to be recognised that there is a wide variation in the recovery of retail businesses. While many retail businesses in metropolitan and most regional areas are doing well on the strength of increasing

[1] Borland J (2021), *An assessment of the economic effects of COVID-19 – Version 5*, Fair Work Commission Research report 5/2021, 4 June 2021.
[2] ABS Weekly Payroll Jobs and Wages – Week ending 8 May 2021 – 25/05/21. https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/weekly-payroll-jobs-and-wages-australia/latest-release
[3] ABS Australian National Accounts – March 2021 – 02/06/21 https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/mar-2021

household consumption, retail businesses in CBDs and some regional areas continue to struggle. Ongoing state-based health restrictions and people's reluctance to return to the office (work from home arrangements) continue to constrain retail activity in CBDs and national border closures and metropolitan restrictions in Victoria are choking retail trade in major tourist destinations.

19. Given this wide variation in recovery of retail businesses, the Panel should take a cautionary approach to the classification of the Retail Trade sector, leaving it in the central cluster / almost recovered classification, rather than down rating it to the fully recovered classification as Borland proposed.

Commencement Dates

20. As previously noted, the Panel faces the same situation in 2021 as it did when it decided to apply a staggered approach to the wage increase for 2020. In fact, the multi-speed economy has become even clearer and more entrenched. Many of the sectors that were initially the most heavily impacted, continue to be constrained by international border closures and state-based health restrictions. While these sectors experienced some recovery from the extreme lows in May 2020, many within the aggregated sectors have not yet returned to their pre-COVID levels. In contrast, sectors that were less impacted by the lockdowns and state-based health restrictions at the beginning of the crisis, now appear to be faring better, with employment and economic activity above February 2020 levels.

21. The staggered approach in the 2020 decision had the wage increase for the lower cluster coming into effect on 1 July 2020, for the middle cluster on 1 November 2020 and the upper cluster on 1 February 2021. The Panel now faces a difficult situation for any attempt to realign industry sectors, or to apply the same start date for an increase in minimum and award minimum wages for all industry sectors. This is particularly problematic for businesses in the upper cluster / lagging recovery classification. ACCI does not consider a single operative date for increases in 2021 is merited or consistent with the considerations weighed in these matters.

22. Any further staggering in 2021 should be determined by applying the Panel's established approaches to balancing the statutory consideration set out in the Fair Work Act 2009, which cannot be overridden by a desire or intention to return to, or towards, a single operative date. If staggering again represents the best application of the balance of considerations in these matters to the circumstances of 2021 and the information before the Expert Panel, there should again be staggered operative dates. Returning to, or towards, a single operative date would be a matter for future reviews conducted in different circumstances of adversity and risk.

23. If the Panel were to apply a wage increase for all industry sectors from 1 July 2021, then businesses in the upper cluster (Accommodation and Food Services; Transport, Postal and Warehousing; Information, Media and Telecommunications; Administrative and Support Services and Arts and Recreation Services) that are lagging the recovery and continue to be constrained by international border closures and state-based health restrictions, would be significantly disadvantaged.

24. A further wage increase only 5 months after the last increase would compound the financial stress already on businesses in the upper cluster. Such an increase would also risk endangering jobs in these sectors.

25. A second wage increase in a very short period for the most vulnerable and adversely impacted businesses risks being unfair and irresponsible. It is likely to slow the economic recovery of businesses and reduce the rate of employment growth in these sectors, if not place jobs at risk, directly contrary to the statutory parameters for these reviews.

26. If the Panel is to apply an increase in the minimum wage and award wages in 2021, staggered commencement dates should again be applied. Any wage increase should be applied no less than 12 months after the last increase, which for the upper cluster would see the increase being applied from 1 February 2022.

27. If any different approach to staggering is under consideration, due care needs to be taken not to endanger jobs and businesses in the most vulnerable and negatively impacted sectors, suffering ongoing adversity at greatest levels and pervasiveness. This means:

    a. Exercising considerable caution in truncating the period between increases, particularly in the current climate of adversity and uncertainty.

    b. Erring towards 12 months between increases in any lesser period of months that may be under consideration.

28. The recovery of industry sectors in the upper and central clusters would need to be reassessed in the 2022 Annual Wage Review, to decide whether all industries have recovered enough to realign or start towards realigning commencement date(s).

29. Consideration could be given to the FWC convening a conference of the most interested and engaged parties, directly representing wage earners and wage payers, to canvass options to return to a single operative date when merited. This could be done separately to this 2021 review, perhaps around the time of the timetabling of the next review when hopefully there is also a higher proportion of vaccination and greater certainty epidemiologically and economically.

THE ACTU SUBMISSION

31. The ACTU's most recent supplementary submission (4 June 2021)[4] – despite its length (65 pages) – is based almost entirely on the premise that employment and economic conditions have returned to pre-COVID levels and businesses are achieving 'excessive' profits, thus justifying an 'extraordinary' increase in minimum and award minimum wages (far in excess of inflation and average wages growth [the WPI]).

32. The ACTU also continues to push the idea that minimum and award wages should somehow be used to pump-prime wages growth, given the Treasury, Reserve Bank and most leading economic forecasters expect wages growth to remain low for at least the next 2 to 3 years.

The Multi-Speed Recovery

33. ACCI reiterates that Australia is experiencing a multi-speed recovery from the COVID-crisis. While in aggregate the ACTU can generalise that employment and economic conditions have returned to pre-COVID levels, it needs to be recognised that this is not being felt evenly across the economy, nor is capacity to pay increased wages generalisable or homogenous. Sectors that continue to be constrained by international border closures and state-based health restrictions, or by consumer confidence, are lagging, while other sectors that have been able to adapt or are experiencing increased demand on the back of Government support measures, are surging ahead. Even within sectors, there is unevenness between states and regions, rural and urban, CBD and non-CBD operations.

34. It is also important to note that in this multispeed recovery, the most vulnerable and uncertain businesses are in customer-facing sectors, which typically have the highest share of award-reliant employees.

35. The rationale for the Borland report, classifying industry sectors as lagging the recovery, almost recovered or fully recovered, is that it is not possible to generalise the recovery in employment and economic conditions across industry sectors, as some sectors have bounced back quickly, while others remain constrained by government restrictions. [5]

36. Notably, the ACTU dismiss the current lockdown in Victoria as *not dissimilar in scale to those experienced elsewhere in Australia* and *within the range of events that can be expected to continue to occur periodically*.

    a. This fails to recognise the financial hardship faced by those businesses that are forced to close their doors for 14 days (or more), as well as the impact this will have on their employees.

    b. It ignores the fact that this is the fourth general lockdown being experienced by businesses in Victoria, particularly Melbourne. There is a cumulative economic and confidence impact that cannot be ignored.

[4] https://www.fwc.gov.au/documents/wage-reviews/2020-21/submissions/actu-supplementarysub-awr2021.pdf
[5] Borland J (2021), *An assessment of the economic effects of COVID-19 – Version 5*, Fair Work Commission Research report 5/2021, 4 June 2021.

c. This presents an interesting juxtaposition to the ACTU's public position that the situation in Victoria warrants the reintroduction of JobKeeper to protect employees over the lockdown period.[6] The ACTU maintains on the one hand that events in Victoria are dire enough to demand further Government financial assistance, but is then asking the Expert Panel to award the equal highest annual minimum wage increase in the past 10 years of these reviews, that would be more than three times the rate of price increases. This seems an inconsistent and incoherent from the ACTU.

'Excessive' Profits

37. As noted in ACCI 3rd Submission in response to the ACTU's earlier comments that businesses have achieved 'excessive' profits over the past 12 months, these profits are an anomaly given sales are sharply down over the period in question.

38. The profits (Gross Operating Surplus) achieved in the June and September quarters 2020 solely reflect the temporary support provided to businesses by JobKeeper, Government grants and the waiver or deferral of rent, interest on loans and payroll tax during the worst of the COVID restrictions and are largely responsible for the survival of many thousands of businesses throughout the crisis (i.e. delivering on their intended purpose).

39. These artificially high 'profits' have fallen sharply in the December quarter 2020 and again in the March quarter 2021. It is expected Gross Operating Surplus will return to normal or below normal levels in the second half of 2021, as government support (particularly JobKeeper) is wound back and deferred payments are recovered, at a time when some trading restrictions remain in place. These profits were always expected to be very temporary and cannot the basis for an ongoing increase in minimum and award minimum wages.

40. We recall that in the past the Panel has 'seen through' comparable transitional data to the true underlying position, as it did in the past when banana prices distorted the CPI basket of goods following storms in tropical Queensland.

41. More generally across developed OECD economies there is a multi-decade trend change in the profit share versus wages share of growth, which persists across economies with different approaches to collective bargaining, different levels of unionisation and centralisation of industrial relations, and different levels of real minimum wage growth versus minimum wage stagnation. The wages share of growth has declined as the affordability of consumer goods and living standards have increased markedly for wage earners. There is clearly something more complex and fundamental going on, which dictates that this observation alone is of little relevance to uprating minimum and award wages in 2021.

Using the Minimum Wage to Drive Wages Growth

42. ACCI reiterates our earlier submission that the minimum wage cannot and should not be used to pump-prime wages growth more broadly across the economy. To do so would be highly damaging to businesses (most often small businesses), and jobs, in sectors that continue to be

[6] https://www.skynews.com.au/details/_6256974237001

constrained by international border closures and state-based health restrictions.

43. As previously noted, businesses with the highest share of award-reliant employees are typically in customer-facing industries that are lagging the overall employment and economic recovery. An excessive increase in minimum and award-minimum wages would be counter-productive, as it would increase the financial pressure and either slow jobs growth or lead to job losses in these businesses with the highest share of award-reliant employees.

44. Further it is the youngest, least skilled and less experienced Australians that have benefited most from the strong employment growth coming out of the COVID recession. It is important the Panel take into account the important role of the minimum wage as a stepping-stone to higher paid employment, enabling young and inexperienced Australians to access the workforce and gain the experience necessary to build a career, and to maintain contact with the labour market, have references and an employment history notwithstanding recession and pandemic. A substantial increase in minimum and award minimum wages would adversely affect these Australians, employed, unemployed and underemployed, the most.

45. ACCI reiterates the point that we have made in previous submissions that the minimum wage should be set at a level that encourages business to employ more employees and maximises the opportunity for new employees to enter the workforce.

ACCI'S POSITION

46. ACCI reiterates that this has been a particularly difficult wage review for submitting parties and the Expert Panel. Reconciling inconsistency and heterogeneity of experience and risk of adversity is not easy.

47. While Australia's economy has bounced back strongly from the depth of the COVID recession, the recovery has been very uneven across industry sectors. Also, businesses face continued uncertainty from the risk of further outbreaks, as we are currently seeing in Victoria.

48. On balance, ACCI recommends the Panel take a cautious approach in awarding any increase in this Annual Wage Review and opt for **real wage maintenance** in 2021.

49. **ACCI does not oppose an increase in the Federal Minimum Wage and Award Minimum Rates of up to the rate of inflation measured to the most recent March quarter (1.1%).**

50. Further, **any increase awarded in 2021 should be subject to a continuation of the clustering of industry sectors**, as detailed in the research report prepared by Professor Borland, **and the staggering of operative dates**, based on the adversity facing employers and employees in particular sectors.

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We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, employing over 4 million Australian workers.

The Australian Chamber strives to make Australia the best place in the world to do business – so that Australians have the jobs, living standards and opportunities to which they aspire.

We seek to create an environment in which businesspeople, employees and independent contractors can achieve their potential as part of a dynamic private sector. We encourage entrepreneurship and innovation to achieve prosperity, economic growth and jobs.

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- ATIC – Australian Tourism Industry Council
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- AVA – Australian Veterinary Association
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