



**IRC No. 103 of 2008
State Wage Case 2008**

OUTLINE OF SUBMISSIONS ON BEHALF OF THE AUSTRALIAN FEDERATION
OF EMPLOYERS AND INDUSTRIES (AFEI) AND ITS AFFILIATED
ASSOCIATIONS, THE AUSTRALIAN RETAILERS ASSOCIATION, (NSW)
BRANCH

AFEI
Australian Federation of
Employers & Industries

CONTENTS

	PAGE
The Economic Environment	6
The NSW Economy	10
Inflation and Interest Rates	11
Inflation and Wages Growth	11
Comparisons with Average Wage Increases	14
Increase in Enterprise Agreement Rates and Coverage Has Slowed	19
Productivity	20
Lower Growth in Low Skilled Employment.....	22
Occupations	23
Job Growth in Industries with High Concentrations of Low Wage Earners	26
Participation Rates.....	29
Underemployment.....	32
Alternative Mechanisms for Addressing the Needs of the Low Paid	33
Increases in the Minimum Wage and Earnings Inequality...	35
Flat Rate or Percentage Increase	40
Merit	41
Response to Submission of CCER 21 April 2008	43
Lagging Awards	44

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF NEW
SOUTH WALES**

No. IRC 103 of 2008

RE: STATE WAGE CASE 2008

**OUTLINE OF SUBMISSIONS ON BEHALF OF THE AUSTRALIAN
FEDERATION OF EMPLOYERS AND INDUSTRIES (AFEI) AND
ITS AFFILIATED ASSOCIATIONS, THE AUSTRALIAN
RETAILERS ASSOCIATION, (NSW) BRANCH**

1. Unions NSW has made an application to the Industrial Relations Commission of NSW for a State Decision increasing award rates of pay and allowances under NSW State Awards. The Unions NSW application seeks a 4.5% increase in award rates of pay and allowances, upon application to the Industrial Relations Commission of NSW.
2. The NSW Government has, in broad terms, supported the Unions NSW application, but puts instead that the increase awarded should be a flat \$20 per week, across all classifications under State Awards.
3. AFEI, and its affiliates, oppose the changes sought to award rates by both Unions NSW and the State Government, though in doing so, proposes that an increase of \$10.00 per week be available, upon application, to State awards.

4. This Commission, it is submitted, should give prime consideration when assessing the need for an increase in award rates, to the current inflationary and uncertain economic circumstances confronting employers in this State and the flow- on effects of increases in NSW awards to wage levels in the labour market generally. This effect is likely to be more pronounced in a tight labour market.
- 5 Award wage increases raise labour costs. These increases are not related to productivity or other offsetting changes at the workplace. When excessive, they lead to price increases or reductions in employment (or a combination of both).
6. Whilst the number of employers directly affected by wage decisions of this Commission is relatively small and the estimated direct wages cost to the State economy is consequently estimated to be small, this is not a complete measure of the cost of increases in award rates. Minimum increases determined by this Commission, and other wage setting bodies, frequently provide the benchmark floor for wage increases sought throughout the labour market. This flow on potential has a major impact on wage costs throughout the economy.
7. The Crown observes the impact on non award reliant employees:

“..it is often the case that wage increases awarded in the State Wage Case, form the benchmark for contractual arrangements outside the formal bargaining process¹ “

¹ NSW Government Submission NSW State Wage Case 2008 paragraph 64

8. Whilst difficult to quantify the effect in aggregate terms, by providing the benchmark floor, award wage increases influence wage increases paid to above award employees and contribute to growth in wages across the economy. Award wage increases are used as a reference point in negotiations. Award rates feed into market determined rates being both overaward and formal agreement rates which include premiums for skill, scarcity and other determinants of above award rates.
9. The Commission should also have particular regard to the circumstances of the employers who will be directly affected by such an increase and the particular vulnerability of these employers, and as a consequence those employers' employees, to changes in their employer's labour costs.
10. Apart from the Public Sector, those employers who employ workers under NSW State awards are primarily small unincorporated employers in the retail and hospitality sectors, and the community services sector.
11. The effect of any movement in State award rates will be particularly felt in the retail, hospitality and community service sectors of the State's economy. These sectors are labour intensive with wage costs relatively high as a proportion of total costs.
12. Significantly, these are predominantly small employers, particularly in the retail sector, whose levels of output and profit levels do not match those of larger retailers.

13. In terms of cost implications, the principle focus of the Commission should not be solely on the estimated small impact on the entire NSW wages bill but the impact of cost increases on the employers directly affected, and the wider inflationary ramifications of an increase.

The Economic Environment

14. Evidence presented by Mr Ray Bennett will demonstrate that in recent months a number of economic developments give cause for some concern. These include a slowing in growth, further increases in interest rates and inflation, and declines in business and consumer confidence.
15. Leading indicators suggest labour market conditions are changing with the outlook for jobs growth for the remainder of 2008 less clear.
16. In addition there is a high level of uncertainty in a number of key factors that will affect the economy and business over the next twelve months, including the extent to which:
 - the global credit shortages emanating from the United States, sub prime lending and poor lending practices generally play out
 - the US economy continues to slow down and moves further into recession
 - world financial market problems flow through to Asia
 - oil prices continue to rise
 - early concerns about inflation and slowing growth in China impact the planning and expectations of investors and companies globally.

17. As Mr Bennett observes at paragraph 14 of his Affidavit:

“Australia is facing an unusual situation. At the same time as Federal and State governments, the Reserve Bank, other institutions and of course most business people have to determine what actions to take in the light of the identified global problems and growth slowdown, Australia is, paradoxically, having to manage the effects of too much growth over the last few years. The Australian and NSW economies are consequently facing the pressures from slower world economic growth and financial market turmoil at the same time as coping with tight labour markets, high interest rates, inflation pressures and a depressed housing market. There are a number of developments that could affect the NSW economy over the next twelve months.²”

18. If economic conditions decline, the low paid and low skilled will be most immediately and severely affected through reduced hours, employment and opportunities to improve their relative position in the workforce.

19. Economic surveys are increasingly pointing to the divide in our economy, with continued strong demand predicted for the resources sector but other sectors considerably less certain and under increasing pressure from rising costs and interest rates and reduced demand³.

20. The conflicting signals and uncertainty in the economy have been noted by the Reserve Bank of Australia (RBA):

² Ray Bennett Affidavit State Wage Case 2008 para 14

³ Ray Bennett Affidavit NSW State Wage Case 2008 para 14.4 and 14.5

“Given the nature of the forces at work, it’s important to note that there are significant uncertainties in both directions. The global economic situation is one important source of uncertainty, as is the situation in world and domestic financial markets. Another is the risk that the recent rise in inflation feeds back into wage and price expectations⁴”

21. The RBA has noted that demand is slowing:

“We do think, however, that demand growth in Australia is now in the process of moderating. The demand for credit by households has also been weakening over recent months. Measures of confidence have declined. While those measures can provide false signals, our assessment is that a change in trend is occurring, and we are hearing that from businesses we talk to. A tightening in financial conditions, lower share prices and heightened concerns over the global financial problems will all have played a part in this change.⁵”

22. There has been no uncertainty in the RBA’s concern with the level of inflation. The RBA has made it very clear that it’s concerned about the mounting inflationary pressures in the economy:

“The current rate of inflation is clearly uncomfortably high, and were expectations of high ongoing inflation to take root, it would be even more difficult to reduce inflation again.⁶”

⁴ Malcolm Edey Assistant Governor (Economic) Reserve Bank The Evolving Economic Outlook Address Sydney 5 March 2008

⁵ Glenn Stevens Governor Reserve Bank Opening Statement to House of Representatives Standing Committee on Economics Sydney - 4 April 2008

⁶ Malcolm Edey Op cit

23. The RBA has noted that the data on wages is at the *“high end of the range of recent readings”* and that they receive widespread comments from businesses that there are upward pressures on labour costs.⁷
24. The Reserve Bank has signalled that labour costs are moving beyond a level consistent with keeping inflation within the target band, noting that while there is volatility in the measure of average earnings in the national accounts, the underlying trend appears to have picked up in recent quarters:

*“Overall these data suggest that there has been somewhat more pressure on wages and benefits than indicated by the growth of the wage price index, and that growth in labour costs has been running at a higher level than is consistent with inflation remaining near the centre of the target range”.*⁸

25. The assertion that a wage increase of 4.5% is within the Reserve Bank’s target rate for inflation is contentious. Firstly, the Reserve bank has been cautious about specifying precise rates for wages growth. Wage increases without productivity offsets will over time present an inflationary threat. The Reserve Bank has raised concern that inflationary expectations may feed into wage expectations, thus making the task of bringing inflation back into the target range more difficult.

⁷ Reserve Bank appearance before the House of Representatives Economics Committee, 21 February 2007

⁸ Reserve Bank Statement on Monetary Policy – February 2008

26. If there is a slowing in the economy as a consequence of Reserve Bank measures to dampen demand and the effect of the negative economic developments outlined above, this slow down will be most marked in the sectors of the economy where there is a higher proportion of the low paid workers — retail and wholesale trade, manufacturing, business services, personal services areas.
27. With emerging uncertainty in economic and therefore business conditions, 2008 is a time for caution in wage determination.

The NSW Economy

28. The evidence presented by Mr Bennett demonstrates that the relative position of the NSW economy has not been as strong as elsewhere in Australia.
29. Evidence is put by Unions NSW that the NSW economy will rebound strongly in 2007/08 on the basis of forecast strong investment being the key driver of economic growth, solid consumer spending, recovery in housing construction and depreciation of the Australian dollar.⁹ Gross State Product is expected to grow by 3.1% in 2007/08¹⁰, having been forecast in 2007 to grow by 3.4% and outperform the national economy.¹¹

⁹ Gelber Affidavit State Wage Case 2008 paragraphs 56, 57 65.

¹⁰ Gelber Affidavit State Wage Case 2008 paragraph 56

¹¹ Gelber Affidavit State Wage Case 2007 paragraph 45

30. Similar forecasts have been made in previous State Wage Cases. For example, forecast growth in Gross State Product for 2006/07 was 2.4%.¹² Actual growth was 1.8%.¹³
31. The Commission should view with caution predictions of significant improvements in the NSW economy, particularly at a time when a number of negative economic developments are apparent, notably a significant rise in inflation, the impact of high interests rates, tighter financial conditions, and a drop in business confidence.
32. The short-term economic situation in NSW is, it is contended, uncertain enough for the impact of any cost pressure likely to affect the employment decisions of NSW business to have the potential to be seen as another signal that inflation and higher costs, plus lower demand, are becoming more of a problem.
33. Whilst it is possible that the factors outlined by Mr Bennett will slow down but not stall the NSW economy, there are enough negatives emerging which should give rise to caution in decision-making by this Commission and other bodies whose decisions affect outcomes in the Australian and NSW economies.

¹² Gelber Affidavit State Wage Case 2007 paragraph 63

¹³ ABS Australian National Accounts State Accounts 5220.0

Inflation and Interest Rates

34. Headline inflation rose 4.2% through the year to March quarter 2008. The March quarter 2008 increase was 1.3%, compared with a rise of 0.9% in the December quarter 2007.¹⁴
35. Wages should not chase inflation. A wage setting regime which links wage increases to movement in the CPI creates a cycle of inflationary price increases following inflationary wage increases. We have learnt from this experience in the past and it should not be repeated.
36. Inflation on this measure is well above the RBA target band of 2-3 %. As a consequence of previous, lesser increases the RBA raised official interest rates by 0.25 % points to 7.25 % in March 2008. This was the highest interest rate since June 1996.
37. Rising interest rates do not just affect individuals and households. Small business operators covered by the NSW State Wage Case decisions already face greater pressure from the growing credit squeeze and higher input prices.¹⁵

Inflation and Wages Growth

38. Private sector wage increases, as measured by the Wage Price Index (WPI) (seasonally adjusted) have recorded the highest annual increase since the series commenced in 1997, now measuring 4.3% when measuring the change from the

¹⁴ ABS, Consumer Price Index, Cat No 6401.

¹⁵ Ray Bennett Affidavit NSW State Wage Case 2008 paragraph 59

corresponding quarter of the previous year ¹⁶ When bonuses are included the annual growth is 4.6% (original data).

39. The private sector WPI for NSW to the December quarter 2008 measured 3.8% whilst for the same period the All Groups CPI increased by 2.4%.¹⁷
40. The National Accounts measure of average non-farm compensation per employee (average earnings from the national accounts or AENA) was 4.6% higher through the year ending December 2007, the highest in a decade.¹⁸ This is the broadest measure of wages reflecting wage premiums paid for skill shortages, demand factors for high skill/remuneration employment, rates of promotion and compositional changes.
41. Over the past year, trend average weekly full time earnings have risen 5.0%, and the ordinary time earnings of adults (AWOTE) are up 4.9%.¹⁹
42. On all measures, wages growth is running at levels which are of inflationary concern, particularly when low labour productivity levels are taken into account (see paragraph 56 of this submission).

¹⁶ ABS 6345.0 - Labour Price Index December 2007

¹⁷ ABS 6401.0 - Consumer Price Index, Australia, Dec 2007 Table 2

¹⁸ ABS 5206.0 - Australian National Accounts: National Income, Expenditure and Product, December 2007

¹⁹ ABS 6302.1 - Average Weekly Earnings November 2007

43. The NSW Award Review Classification Rate already reflects the highest "minimum" award wage in Australia (Table 1) whilst over the same time period this State's employment and output growth has lagged other states.

Table 1 Interstate Award Review Classification Rates or the Equivalent

	SWC 2004 Amount \$	SWC 2005 increase \$	Amount \$	SWC 2006 increase \$	Amount \$	SWC 2007 increase \$	Amount \$	% increase 2004- 2007
NSW	467.40	17.00	484.40	20.00	504.40	27.00	531.40	14%
SA	467.40	17.00	484.40	17.00	501.40	10.25 (under \$700pw) 5.30 (over \$700 pw)	522.15 (Min Wage)	12%
QLD	467.40	17.00	484.40	19.40	503.80	24.60	528.40	13%
WA	467.40	17.00	484.40	20.00	504.40	24.00	528.40	13%
TAS	467.40	17.00	484.40	20.00	504.40	22.70	527.10	13%
FEDERAL	467.40	19.00	484.50	27.36*	511.86	10.26*	522.12	12%

* AFPC Increases

Comparisons with Average Wage Increases

44. Unions NSW claim a 4.5% increase to match wage increases it is said are already paid throughout the economy and that a further 4.5% increase is within the RBA target range for wages growth in keeping inflation below 3%.
45. Movements in the WPI, AWOTE and AENA are based on wage movements for the entire employed population. AWOTE and AENA reflect wage premiums paid for skill shortages, demand factors for high skill/ remuneration employment and compositional changes. All measures reflect increases already paid to award rate only employees throughout 2006-07.

46. Wages growth in WA and QLD have made the major contribution to overall wages growth with their wage price index growing faster than the national index nearly every quarter since June 2006. This effect has been noted by the Reserve Bank:

“Over the past two years, wages growth was strongest in the resource-rich states of Queensland and Western Australia, where labour markets were also tightest; they have the lowest unemployment rates and business surveys and the Bank’s liaison program indicate that skilled labour shortages are particularly prevalent in these states. The relatively high wages growth has been fairly broad-based across industries in these states. In contrast, wages growth has been lower across most industries in New South Wales and Victoria, moderating national WPI growth.”²⁰”

47. Wages in Tasmania have also been pushed higher by wage rises in mining and utilities. There is no sound economic reason to increase NSW award wages by a similar magnitude to increases driven by the resources boom. Employees in the NSW award rates only labour market are predominantly low skilled and are employed in industries which have not had the same demand pressure which has generated higher wage rises elsewhere.

²⁰ Reserve Bank Statement on Monetary Policy – February 2008 p. 51

Table 2

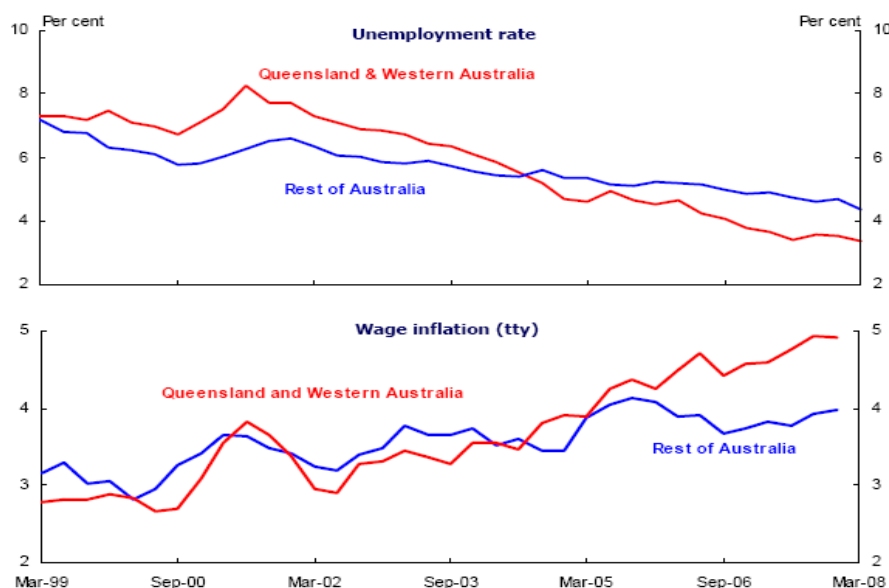
**WAGE PRICE INDEX: TOTAL HOURLY RATES OF PAY EXCLUDING BONUSES
All Sectors Original**

Period	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	Australia
CHANGE FROM CORRESPONDING QUARTER OF PREVIOUS YEAR (%)									
2005									
December	4.3	3.9	4.3	3.7	4.2	4.4	5.1	3.7	4.1
2006									
December	3.8	3.5	4.5	3.7	4.6	4.2	3.5	4.1	4.0
2007									
December	3.9	3.9	4.3	4.9	5.9	4.2	3.9	4.4	4.2

Source: ABS Labour Price Index 6345.0 December 2007

48. The Federal Treasury has also noted that in the resource rich states of WA and QLD, unemployment has fallen faster and further than the national level of around 4.0% -to 2.8 % in WA and 3.6 % in Queensland. However these unemployment rates have been accompanied by unsustainably rapid wage growth in those states ²¹.

Chart 1 Unemployment and Wage inflation²²



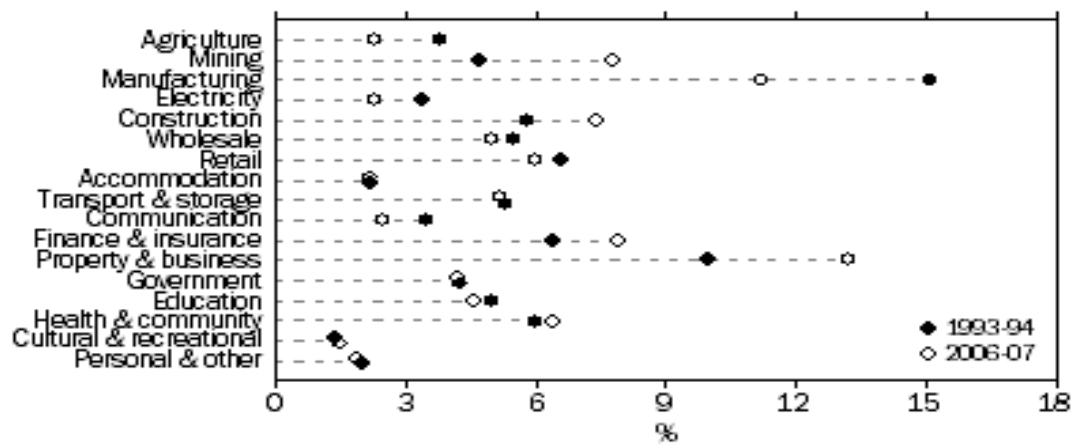
²¹ David Gruen The Treasury Address to Business Economists Sydney 5 January 2008

²² David Gruen Federal Treasury op cit

49. The industries which have experienced the greatest increases in wages growth have been the mining (5.1%) construction (4.6%) and property and business services (4.6%) industries.
50. These are also the industries which, along with manufacturing, have had the greatest share of GNP. (Chart 2)

Chart 2

Industry share of GDP, 1993-94 and 2006-07



Industry GVA at basic prices as a proportion of total GVA at basic prices excluding ownership of dwellings.

Source ABS 5204.0 - Australian System of National Accounts, 2006-07

51. The across the board nature of wage increases is apparent on an occupational basis:

Table 3**WAGE PRICE INDEX, Total hourly rates of pay excluding bonuses**

	PERCENTAGE CHANGE FROM CORRESPONDING QUARTER OF PREVIOUS YEAR		
	Dec Qtr 2005 %	Dec Qtr 2006 %	Dec Qtr 2007 %
Occupation			
Managers and administrators	3.8	4.3	4.4
Professionals	4.4	4.5	4.0
Associate professionals	4.2	4.0	4.3
Tradespersons and related workers	4.6	3.7	4.5
Advanced clerical and service workers	3.7	3.8	4.3
Intermediate clerical, sales and service workers	3.9	3.5	4.0
Immediate production and transport workers	4.3	4.1	3.6
Elementary clerical, sales and service workers	3.3	2.7	4.7
Labourers and related workers	3.6	3.3	4.2

ABS Australian Labour Market Statistics 6105.0 Apr 2008

52. The WPI measure includes award wage increases flowing from State jurisdiction wage cases, including this Commission's State Wage Cases and the increases provided by the Australian Fair Pay Commission (The AFPC). The AFPC impact is noted by the Australian Bureau of Statistics:

"The Australian Fair Pay Commission (AFPC) has had responsibility for setting Federal Minimum Wage rates since early 2006. The first decision by the AFPC had a date of effect of 1 December 2006 and it mostly impacted upon the March quarter 2007 wage price index figures. The second AFPC Federal Minimum Wage decision had a date of effect of 1 October 2007 and has mostly impacted the wage price index figures this quarter."²³

²³ ABS • Labour Price Index • 6345 . 0 • Dec 2007 P.5

53. This Commission awarded an increase of \$20 per week (\$27.00 in the award classification rate) in the 2007 State Wage Case which is already distributed throughout the labour market for award paid employees. In effect UnionsNSW is claiming a 4.5% increase to match increases in the current measures of wages growth which have already been afforded to these employees.

Increase in Enterprise Agreement Rates and Coverage Has Slowed

54. UnionsNSW contends that an award rate increase of 4.5 % is consistent with trends in increases received through bargaining. It is put that rates would be \$67.00 higher "simply because they are covered by a different type of industrial instrument"²⁴.

55. Agreements have some offsetting benefit to the business through productivity gains or other forms of trade-off. They are intended to more closely match the needs of the business with payments to employees and reflect the specific circumstances of the arrangement between the employer and the employee. There would be little incentive for employers to enter into such arrangements if the wages outcomes obtained through agreements are mirrored in award rates of pay.

²⁴ Unions NSW Submission 2008 State Wage Case Affidavit Betty Frino p 5

56. Increases in agreements are already captured within the overall measures of wages growth, but would appear to have made a lesser contribution -- agreements wages growth is below the general pace in wages growth and the spread of employees has fallen from 248.4 in 2004 to 221.3 in 2007. (Table 4)

Table 4

FEDERAL WAGE AGREEMENTS - FORMALISED IN THE QUARTER, DECEMBER QUARTER 2004 - DECEMBER QUARTER 2007

	Dec-04	Mar-05	Jun-05	Sep-05	Dec-05	Mar-06	Jun-06	Sep-06	Dec-06	Mar-07	Jun-07	Sep-07	Dec-07
ALL INDUSTRIES													
AAWI(%)	4.0	4.3	4.0	4.0	4.5	3.8	4.4	3.7	3.8	3.7	4.3	3.9	3.8
Employees ('000)	248.4	158.6	220.2	167.7	261.0	249.4	171.0	202.7	224.8	100.2	118.0	133.6	221.3

Source: DEEWR Trends in Federal Enterprise Bargaining December QTR 2007

Productivity

57. Australia's labour productivity (GDP per hour worked, annual to December 2007) is running at just 0.7%. Over the current productivity cycle average growth has been just 1.1%.²⁵ This is far lower than underlying inflation at 3.6% (year to December 2007).
58. A lift in productivity growth would protect against the effect of labour costs becoming a major driver of inflation. The likelihood of increased productivity is uncertain and the accuracy of forecast growth rates is dependent upon the assumptions made and the productivity measure used. It is not a forgone conclusion.

²⁵ Ray Bennett Affidavit State Wage Case paragraph 50

59. Wage increases in excess of productivity to compensatory price increases. Such increases further fuel price growth in areas particularly where labour costs are a relatively high proportion of operating costs. Where there is productivity growth, the gains to the economy can be distributed through higher profits, higher wages or lower prices. Productivity gains are currently very low, in contrast to higher levels in the 1990's. Research from the Productivity Commission found that productivity gains from that time were mostly passed on in the form of lower prices, reducing inflationary pressure.²⁶
60. The Crown holds the view that an *"industrial relations system that suppresses labour costs reduces the incentive of business to focus on capital investment and other more sophisticated sources of competitive advantage"*²⁷
61. It is submitted that where employers of low skilled employees are required to pay a high minimum award rate to compensate for wage increases paid elsewhere or to increase their employees' share in general prosperity, unrelated to the employer's circumstances, there will be little incentive for those employers to invest in skills formation, improve training or enter into arrangements with employees which may result in more productive outcomes. Employers are more likely to reduce labour or increase prices. High minimum rates also reduce the scope for employers to pay higher rates for more skilled employees.

²⁶ Parham et al Distribution of the Economic Gains of the 1990s Productivity Commission Research Paper 2000

²⁷ NSW Government Submission NSW State Wage Case 2008 paragraph 137

62. It is the interaction of demand and supply in competitive product and factor markets which brings about economic efficiency including production at lowest cost.
63. Where wages are set at a level beyond the productive capacity of the employee, the likely impact will be a reduction in jobs for these employees and a reduction in opportunities for them to improve their position in the labour market, not a sharing in general prosperity. This effect is reflected in the slower (or negative) growth in jobs for low skilled employees. This is addressed in the next section.

Lower Growth in Low Skilled Employment

64. The Crown submits that a reasonable increase in award rates of pay "for these disadvantaged workers will help ameliorate their precarious labour market status"²⁸
65. We agree that the labour market position of these workers is indeed precarious, but would not be made more certain by increasing their wages cost in businesses with little ability to absorb those costs. While labour market conditions have remained strong overall, with continued skill shortages, and high participation rates, job growth and participation rates for those on or around the minimum wage have been less positive.

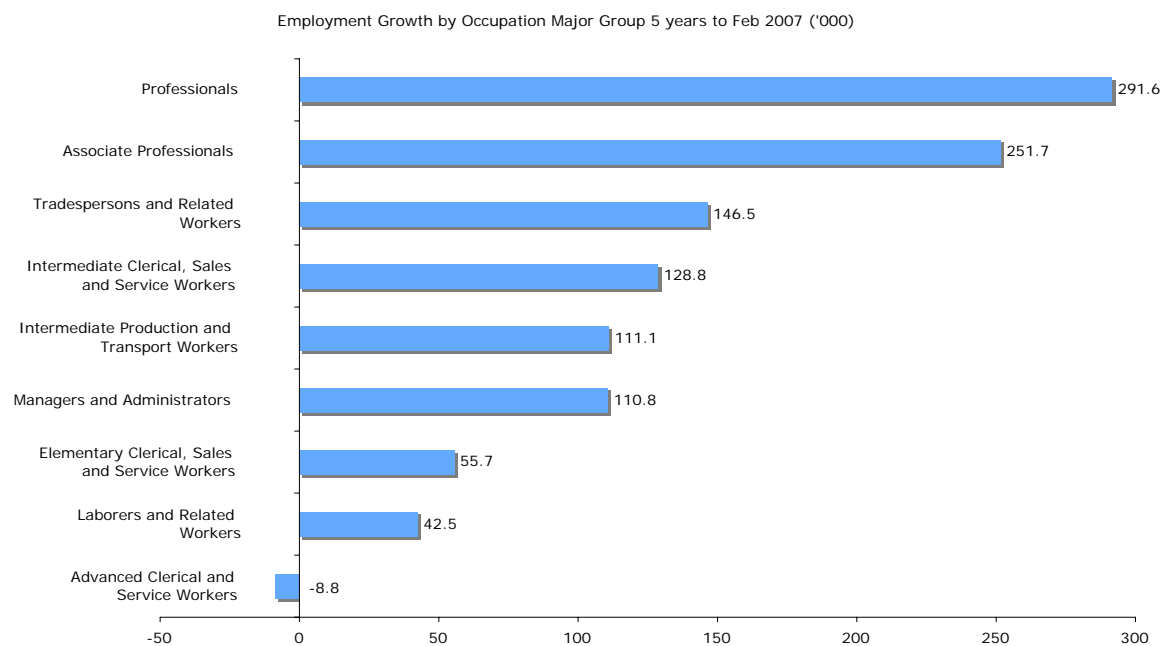
²⁸ NSW Government Submission NSW State Wage Case 2008 paragraph 174

66. Employment growth in low-skilled occupations, designated as elementary clerical, sales and service workers and labourers and related workers, has been lower than for all other occupations in recent years.

Occupations

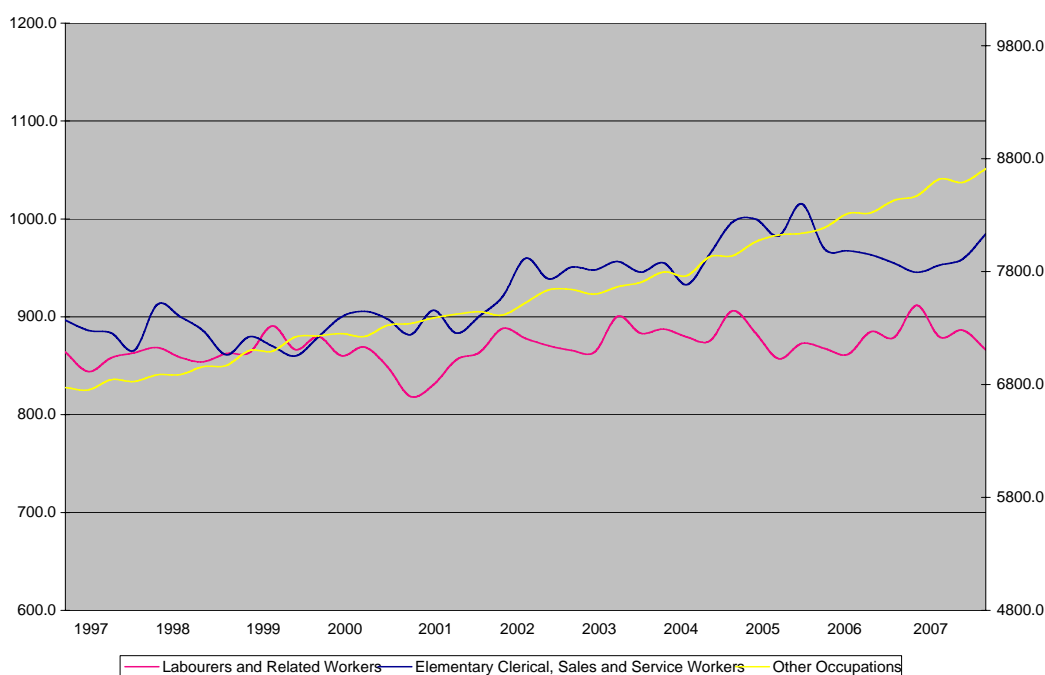
67. Employment growth has been strongest over the past five years in skilled occupations, with almost 60% of jobs created in three skilled major groups: Professionals Associate Professionals and Trades.

Chart 3



68. The numbers of employees classified as Elementary clerical, sales and service workers and Labourers and related workers have remained broadly the same since late 2002 (Chart 4).

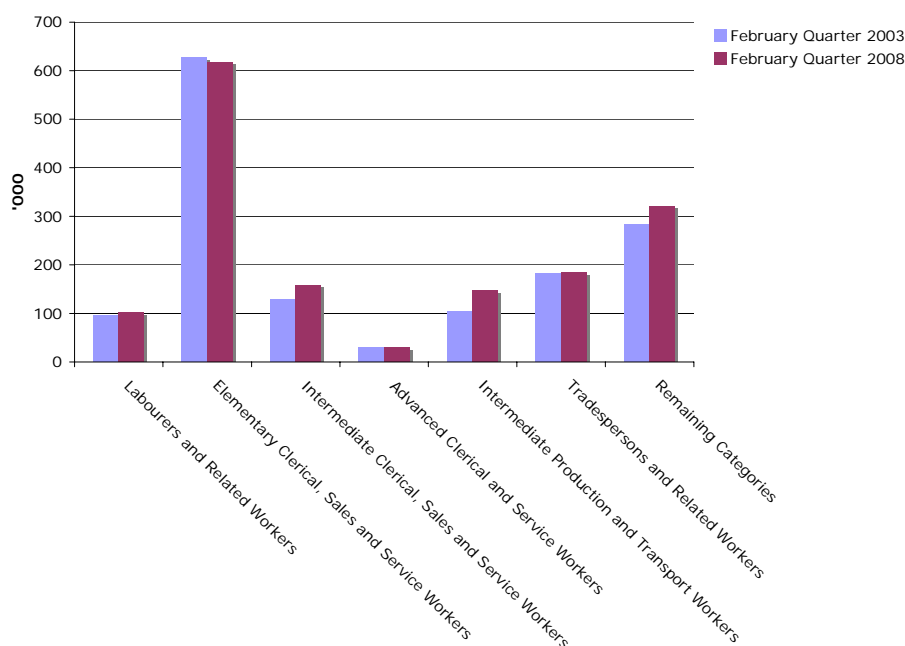
Chart 4 Employment in Low Skilled Occupations



Source ABS Labour Force 6291.0 .55.003

69. By contrast, the number of employees in other occupations has increased steadily, at an annualized rate of around 3.5% over that period.
70. Around 60% of all Elementary clerical, sales and service workers are located in the Retail trade industry. However, most of the employment growth in that industry has been concentrated amongst the medium to high-skilled occupational groups (Chart 5).

Chart 5 - Occupational Growth within Retail Trade



Source: ABS Labour Force Detailed Quarterly February 2008 6291.0.55.000

71. The more difficult employment prospects for the lower skilled are also seen in DEEWR data which show that over the 12 months to November 2007, the largest increases in employment (original data) occurred for Professionals, Intermediate Production and Transport workers and Managers and Administrators.²⁹
72. Employment growth rates, in declining skill order, are shown below.

²⁹ Department of Education Employment and Workplace Relations Australian Labour Market Update January 2008

Table 5

Percentage Growth Rates in Employment in the 12 months to November 2007	
Managers and Administrators	6.7%
Professionals	5.4%
Associate Professionals	0.2%
Tradespersons and Related Workers	1.8%
Advanced Clerical and Service Workers	5.3%
Intermediate Clerical, Sales and Service	0.7%
Intermediate Production and Transport	6.8%
Elementary Clerical, Sales and Service	3.1%
Labourers and Related Workers	-1.4%

Source: DEEWR Australian Labour Market Update January 2008

73. Similarly, the unemployment rates by occupational group are presented in descending skill order below:

Table 6

Unemployment Rate at November 2007	
Managers and Administrators	1.1%
Professionals	1.1%
Associate Professionals	1.2%
Tradespersons and Related Workers	1.9%
Advanced Clerical and Service Workers	1.5%
Intermediate Clerical, Sales and Service	2.7%
Intermediate Production and Transport	3.2%
Elementary Clerical, Sales and Service	3.7%
Labourers and Related Workers	6.0%

Source: DEEWR Australian Labour Market Update January 2008

Job growth in Industries with high concentrations of low wage earners

74. The Australian Bureau of Statistics reports lower employment growth in industries with a high concentration of low wage earners:

Table 7 - Employed Persons By Industry (Trend)

Industry	Nov 2002	Nov 2003	Nov 2004	Nov 2005	Nov 2006	Nov 2007
	%	%	%	%	%	%
Retail Trade	3.9	1.1	2.1	-1.1	-0.4	2.4
Accom Cafes Restaurants	-1.9	4.8	6.4	-2.5	4.2	-3.4
Property & Business Services	5.2	5.2	-1.2	1.3	0.8	-0.1
Health & Community Services	4.3	0.5	4.3	1.7	-0.2	1.1
Personal & Other Services	5.3	-5.2	6.8	1.0	0.0	2.5

Source: ABS 6105.0 Australian Labour Market Statistics January 2008 table 2.1

75. DEEWR Jobs 2007 similarly reports lower employment growth in these industries³⁰.

Table 8 – Industry Employment

Industry Employment

Industry Employment ¹	Employment Feb 07		Employment Change 5 years to Feb 07				% aged 45 years or older	% outside State capital cities	Projected annual jobs growth to 2011–12	
	'000	% of total	'000	%	% working part-time	% Female			'000 pa	% pa
Accommodation, Cafés and Restaurants	505.7	4.9	44.6	9.7	50	58	26	43	7.8	1.5
Agriculture, Forestry and Fishing	364.0	3.5	-81.3	-18.3	24	31	55	87	0.4	0.1
Communication Services	185.9	1.8	19.5	11.7	15	31	38	27	1.6	0.8
Construction	951.6	9.2	248.7	35.4	14	12	33	40	16.5	1.7
Cultural and Recreational Services	280.5	2.7	42.5	17.9	42	50	29	31	5.6	1.9
Education	720.8	7.0	71.9	11.1	36	69	49	37	6.6	0.9
Electricity, Gas and Water Supply	83.8	0.8	17.6	26.6	6	23	41	47	-0.3	-0.4
Finance and Insurance	397.1	3.9	54.5	15.9	19	53	30	20	3.0	0.7
Government Administration and Defence	484.8	4.7	89.7	22.7	15	51	45	45	6.0	1.2
Health and Community Services	1 069.0	10.4	156.6	17.2	43	78	46	37	33.9	3.0
Manufacturing	1 057.3	10.3	-22.4	-2.1	13	26	38	33	-6.7	-0.6
Mining	136.5	1.3	55.4	68.3	5	13	35	64	4.3	3.0
Personal and Other Services	400.4	3.9	39.9	11.1	29	49	35	35	8.7	2.1
Property and Business Services	1 232.1	12.0	196.9	19.0	26	46	37	27	27.2	2.1
Retail Trade	1 490.9	14.5	110.0	8.0	47	53	25	38	25.6	1.7
Transport and Storage	468.2	4.5	58.9	14.4	18	25	43	34	5.8	1.2
Wholesale Trade	466.1	4.5	30.6	7.0	16	31	37	29	-1.8	-0.4
Total (all industries)²	10 350.4	100.0	1 173.4	12.8	28.5	45.0	36.8	37.0		

1. Industries are Division level of the Australian and New Zealand Standard Industrial Classification (ANZSIC)

2. Trend data, totals do not add

Sources: ABS Labour Force Survey, Feb 2007. Data are trended by DEEWR
Employment Projections: DEEWR indicative projections (see page 10)

76. Slow or negative employment growth for low skilled, low paid workers has persisted even in a period of strong economic growth. At current minimum rate levels, job growth has lagged growth in higher paid, higher skilled occupations. This

³⁰ DEEWR JOBS 2007

outcome does not support the view that higher wage rates are needed to increase participation of the low skilled and satisfy labour shortages.

77. The data presented raises the obvious question - what will be the outcome for the low skilled with less favourable economic conditions and higher minimum award wages?
78. In its most recently published analysis of the job search experience of the unemployed, the Australian Bureau of Statistics reports 61% (297,700) of unemployed people did not have any non-school qualifications.³¹ The most common reason cited for not getting a job was insufficient skills or experience ie the price the employer was prepared to pay for skills not matched by the skill level on offer. Employers will pay for the skills, but will resist substituting lower skilled employees who have to be paid at a higher rate than their productive value.
79. What can be observed is the continued exposure of industries with a high concentration of low skilled workers to regulated wage increases, and a greater vulnerability of jobs in those industries to changes in labour costs. Regulated wage increases have a direct, negative effect on the demand for low paid workers in industries with high relative labour costs. Employers will only offer jobs if wages, labour on costs and return on output make economic sense. Even in an economy operating at near full employment, at the current minimum wage employers are not creating or retaining enough jobs suited to low skill/ low wage workers.

³¹ Australian Bureau of Statistics 6222.0 - Job Search Experience, Australia, July 2007

Participation Rates

80. With an already high award review classification rate in NSW and without further changes to tax and welfare measures, it is difficult to see how there can be a significant departure from the well- established patterns in participation rates over the past two decades.
81. It is unlikely that high minimum wages have beneficial effects relating to participation. An increase in minimum wages encourages employers to substitute more productive workers on higher pay for less productive minimum wage workers making it harder for low skilled workers to find employment. Low skilled workers are clearly more vulnerable and need greater protection from job loss, not high skilled workers.
82. As AMP.NATSEM points out, over the past two decades workers with no post-school qualifications have the lowest participation rates and males in particular have borne the brunt of this trend. Unqualified men have more than double the unemployment rates of tertiary qualified men.³²
83. In terms of qualifications and participation rates over the past two decades, while the overall number of employed grew by 1.38 million or 18%, jobs for people without qualifications only grew by 166,000 (4%) and, for those with a trade or other qualifications, by 244,400 (8%). At the same time, there was a doubling of the number of employed degree-qualified people.³³

³² AMP.NATSEM Income and Wealth Report Issue 12 November 2005 page 1

³³ Op cit page 11

84. The AMP.NATSEM report shows that participation drops as qualifications decrease. People with degree qualifications or above have the highest participation rate, while those with no post-school qualifications have the lowest. This observation is the same for males or females and has remained unchanged throughout the decades.
85. The AMP.NATSEM report also shows that unskilled males have borne the brunt of job losses, while women, and part time workers have contributed most to the increases in participation. Over the period 1990 – 2003, males without post-school qualifications, experienced the greatest drop (down 9.8%). If the labour force participation rate of unskilled males had remained at its 1990 level, an additional 336,000 males without post-school qualifications would have been holding or seeking jobs in 2003.³⁴
86. Nationally, the rise in participation rates has been modest over the past two decades, up by 3.5%, and by 2.1% in the last decade.
87. Over the past decade the NSW participation rate has risen by a lesser amount, 1.7%. Over the same time period , NSW award minimum rates have increased by 37% and by 42% in the award review classification rate.

³⁴ Ibid page 12

Table 9 - NSW SWC Award Classification Rate and Participation Rates

Year	Award Review Classification Rate	Increase	%	Participation Rates*	
				NSW	Australia
1998	\$373.40	\$14.00	3.7	61.7	63.3
1999	\$385.40	\$12.00	3.1	61.8	63.4
2000	\$400.40	\$15.00	3.7	62.1	63.5
2001	\$413.40	\$13.00	3.1	62.3	63.5
2002	\$431.40	\$18.00	4.2	62.7	63.9
2003	\$448.40	\$17.00	3.8	62.9	63.8
2004	\$467.40	\$19.00	4.1	62.1	63.8
2005	\$484.40	\$17.00	3.5	62.9	64.3
2006	\$504.40	\$20.00	4.0	63.4	64.8
2007	\$531.40	\$27.00	5.1	63.3	65.2
		(\$20.00)	3.8		
Total %			42.1		
			(37.0)		

* ABS 6202 December

88. Job growth has been slower for those employed at around minimum rates, the low skilled occupations. We draw the Commission's attention to evidence presented in the 2007 State Wage Case which explains why this effect occurs:

- *Minimum wages are about distribution. Jobs and income are redistributed away from the worst off as minimum rates rise.*
- *The imposition of award wages affects only those in low skilled, low paid jobs. These individuals are, generally, very poor substitutes for the majority of the workforce and, therefore, award wages have little impact on the wages and employment of most workers. However, those workers earning just above the award wage are highly substitutable for those who*

would otherwise earn below the minimum. This is because although there is still a skill differential between them the jobs are still, relatively, unskilled.

- *Firms employ less of those who would have earned below the award wage and, therefore, unemployment among this group rises. However, these workers are substituted by more workers earning just above the award wage. The net effect on total employment may be difficult to detect. However, there is a large fall in employment of workers who could otherwise have earned below the award wage.*
- *The impact of the award on total employment may be proportionately small but the impact on low skilled, low paid workers is disproportionately high.³⁵ "*

Underemployment

89. Award wage increases have an impact on both the availability of jobs — the price at which employers are prepared to take on additional workers — and also on the capacity of employers to match hours of work offered with the hours that people want to work.
90. The most recent data available from the Australian Bureau of Statistics points to a continuing mismatch. Just over half a million Australian workers would prefer to work more hours, and are available to do so. These underemployed workers account for 4.7% of the total labour force and when combined with the 4.2% of the unemployed, represented a labour force underutilisation rate for September 2007 of 8.9%. Whilst this

³⁵ Employers First Submission State Wage Case 2007 Evidence Professor Phil Lewis paragraph 58

is down from 9.7% in 2006 and 12.6% in 2001, most of the change is due to the fall in unemployment. The number of underemployed workers has changed little; from 5.7% in 2001 to 4.7% in 2007 (the unemployment rate dropped from 6.8% to 4.2%).³⁶

Alternative Mechanisms for addressing the needs of the low paid

91. Minimum award wage decisions are not the sole source of increases in income for those on minimum or low rates. Wages can increase as a result of a multitude of factors including increased skills, remaining employed,³⁷ changes in jobs and hours worked, labour market conditions, business profitability, taxation and transfer payments.

92. While it is recognised that there is a role for minimum award wages in an income safety net for low paid workers, the greater the emphasis that is placed on the role of minimum award wages *as an income safety net*, the less likely it is that it will meet the objective of improving the capacity of the unemployed and low paid to get and keep jobs. Attaining an effective balance between the economic and social goals of a “fair safety net” can, consequently, create considerable problems in the labour market.

³⁶ ABS 6265.0 Underemployed Workers September 2007

³⁷ See Exhibit 1 Wooden et al Minimum Wages and the Working Poor Economic Papers 26(4) 295-307, 2007

93. A minimum award wage should be but one part of an overall strategy which also includes tax/welfare and skills development packages that focus on improving the skill levels of the low paid as the main solution to moving individuals out of poverty.
94. This approach has the advantage of focusing attention on the factors underlying unemployment and low income, being predominantly a lack of skills or job capability (especially in a well-performing economy). This is preferable to an approach that focuses on the income/poverty levels of low wage earners, which can be addressed through other measures, primarily tax and transfer payments.
95. The safety net aspect of minimum award wages can only be successfully achieved if they are seen as a contribution to a minimum *income* target, the other part or parts of which is/are derived from income support by Government for those in work but whose wage is below the determined minimum income level. The minimum award wage should be more finely calibrated with tax, welfare and skills training arrangements rather than acting as the sole source of a minimum income for those workers on the lowest level of wages.
96. There will always be a low education/low skill/low wage sector of the economy the members of which can only be attracted into the workforce if there is an adequate gap between welfare benefits and minimum award wages. However, employers will only offer jobs if wages, on-costs and output factors make economic sense. To encourage employment of the low education/low skill/low wage sector, Government should manage any gap that exists between the minimum

award wage and an appropriate value of minimum household income through the social security and tax systems.

97. The OECD view of our minimum wage is that:

“The minimum wage is high in international comparison and the number of low skilled who are long-term unemployed or disabled is also high, thus raising concerns about the adverse effects of the minimum wage on labour demand for the low skilled.

At the same time, the minimum wage is a blunt tool to enhance fairness, as more than half of the low paid live in families with income above the median. Therefore, the adequacy of incomes from working should be addressed through other social policy instruments such as changes in income tax rates and thresholds at lower incomes or an employment-conditional tax credit, while maintaining the system of separate taxation of each spouse. Finally, there remains considerable room for the up-skilling of the low paid, through a strengthening of the vocational education and training system.”³⁸

Increases in the Minimum Wage and Earnings Inequality

98. Award rates may be increased, but this is no guarantee that earnings inequality, however defined, will be reduced. This is because the earnings of the low paid are dependent on hours worked and job retention, and an increase in minimum rates may not encourage increased demand for labour.

³⁸ OECD Economic Survey Australia 2006 p18.

99. Wooden et al [**Exhibit 1**] demonstrate two salient characteristics needed to increase the earnings of the low paid. Firstly, they must remain in the labour force in order to increase their earnings over time. Secondly they must be able to obtain the hours of work needed to meet their income needs. A higher award wage for the low paid can only reduce inequality if there is demand at that price for labour to be supplied.

100. Using data from the HILDA Survey³⁹ to examine whether an increase in the minimum wage alleviates poverty or reduces earnings inequality, Wooden et al conclude:

- that any poverty reducing effects will be modest
- most low wage employees are not found living in the poorest households
- many low wage employees combine part time work with welfare benefits
- minimum wage increases are likely to be of limited effectiveness in protecting the living standards of the low paid as increases in hourly rates do not translate into increases in annual earnings.

101. The slower growth for the low paid, low skilled occupations suggests that higher award wages may increase incomes for those who retain their jobs, but is unlikely to lead to higher rates of job creation for low paid workers.

102. Similarly McGuinness and Freebairn [**Exhibit 2**] examining who are the low paid conclude

“As has been found in earlier studies for Australia, and for the UK, low paid employees are fairly evenly spread across households with low, middle and high incomes, whereas the unemployed are heavily over-represented in low income

³⁹ The Household, Income and Labour Dynamics in Australia Survey, Melbourne Institute

*households. These facts, along with the high effective marginal tax rates facing many low wage employees (Harding, et al., 2006) and a downward sloping demand curve for low skilled labour, indicate that raising low wage rates to achieve distributional equity is a blunt instrument.*⁴⁰

103. There are other mechanisms being utilised to address the needs of the low paid, other than minimum wage increases.

104. The 2007-08 Australian Government Budget contained a number of measures that improve disposable incomes of low-paid Australians and increase incentives for people to take low-paid work. Lower-paid employees will pay less tax in 2007-08 as a result of:

- an increase in the income threshold from which the 30 per cent tax rate applies from \$25 000 to \$30 000;
- an increase in the Low Income Tax Offset from \$600 to \$750; raising the effective tax threshold from \$7567 to \$11 000
- an increase in the Dependent Spouse Tax Offset from \$1655 to \$2100
- Consumer Price Index (CPI) linked increases in the Medicare low-income thresholds.

105. Table 10 illustrates the increase in after tax income as a consequence of these changes. It shows that even with no increase in the Award Review Classification Rate in 2007-08, an individual male with no dependants would receive a 4.39% increase in after tax income from reductions in tax alone. This is a conservative example, as there are a range of other tax and transfer entitlements for those with dependents.

⁴⁰ McGuinness, Freebairn Who are the Low paid? Australian Journal of Labour Economics 10(1): 2007

106. Further tax changes for low income earners in 2008 (already announced) will result in an after tax increase of 8.77% in total in a 4.5% increase is awarded by this Commission.

Table 10 – After Tax Income 2006 – 2008*

	2005-06	2006-07	2007-08 (with no increase)	2007-08 (with 4.5% increase)
Weekly wage	\$504.40	\$531.40	\$531.40	\$555.31
Tax payable on weekly wage	\$75.71	\$75.94	\$55.95	\$59.90
After tax income	\$428.69	\$455.46	\$475.45	\$495.42

Increase over previous year (before tax)	5.35%	0.00%	4.50%
Increase over previous year (after tax)	6.24%	4.39%	8.77%

***Attachment 1** provides applicable tax tables (see also <http://www.ato.gov.au/individuals/content.asp?doc=/content/12333.htm>)

107. The Federal Government has announced that it intends to deliver further tax cuts in 2008-09. Treasurer Swan has indicated that the scheduled tax cuts will be geared to benefiting the lower paid:

"These tax cuts will go to lower- and middle-income earners. They will encourage those people to participate in the workforce and increase their skills. There is a good economic case as well as a social case."⁴¹

108. The Treasurer has also identified the importance of tax cuts in providing incentives to work, and addressing the costs of living:

"Tax cuts are an important part of our plan to combat inflation."

⁴¹ Treasurer Wayne Swan plugs income tax cuts over petrol tax break AAP March 12 2008

"We've got labour shortages and skills shortages. The tax cuts play a very important part in encouraging people to participate in the labour market, to work some additional hours, find the incentive for people to upskill – they're a very important factor in enhancing the supply capacity of the economy.

"People out there, particularly on low and middle incomes in western Sydney or the northern suburbs of Brisbane, have not had significant tax cuts in a long time.

"We are going to give tax cuts because they play a very important role in enhancing labour force participation and also a very important role in recognising that people have cost-of-living pressures." ⁴²

109 Fiscal measures such as these support workforce participation and obviate any case for larger before-tax increases in wages. The Federal Treasurer had earlier indicated the Federal Government is supportive of tax cuts for these reasons.⁴³

"Many people are not aware that the personal income tax reforms I introduced into Parliament this month are expected to add an estimated 2.5 million additional hours of work to the economy each week. Further, these tax cuts support after-tax incomes, so there is less pressure for big increases in before-tax income by way of wage and salary increases"

⁴² Govt to deliver tax cut promises: Swan 4 March 2008
<http://www.thewest.com.au/aapstory.aspx?StoryName=464826>

⁴³ Address to the Business Council of Australia, A Modern Platform for Business, Melbourne, 26 February 2008

Flat Rate or Percentage Increase

110. As noted earlier Unions NSW seeks a 4.5% increase to award rates whilst the NSW Government supports a flat increase of \$20 per week.
111. This Commission has previously placed the parties on notice in its judgment in the *State Wage Case 2006* that it wished to be addressed as to “*why any increase granted should not be on a percentage basis*”. (*State Wage Case 2006* (No. 6), (2006) 153 IR 268 at [275]).
112. At that occasion the Commission, though urged for a percentage increase by Unions NSW, determined to grant a flat increase and in doing so, expressed as part of its reasoning, the concern for low paid workers who often do not have the skills or the opportunity to follow career paths and who receive no over award payments. (ibid [274]).
113. Indeed in this current case, the NSW Government recognised that in supporting a significant \$20 per week flat increase, that such a flat increase would have the effect of increasing the minimum wage at a slightly faster rate for lower paid workers than workers in higher skilled classifications. The Government puts on this occasion, as in past State Wage Cases, the need to recognise that the lower paid workers have less bargaining power and are less likely to be able to negotiate over award increases.

114. The bargaining power, or lack of it, of lower paid workers is recognised as one of the elements to be considered here. Also critical to such consideration is the position of those lower paid workers employers, as previously stated, relevantly and largely found in NSW in the retail and hospitality industries.
115. Since 1993 this Commission has consistently applied flat increases when awarding State Wage Case adjustments. Certainly this has, in the past at least, been a partial recognition of the need to maintain comity with National Wage Case movements. The issue of comity, and its demise, was dealt with by this Commission in the *State Wage Case (2006)* (No. 6) (ibid). We do not revisit that issue here. However, flat increases have traditionally been granted in State Wage Cases as a recognition that the employees most affected by such increases occur at the lower end, or lowest end, of wage scales and are the class of employees less able to agitate or justify, greater work value increases. The Commission should not depart from awarding a flat money amount.

Merit

116. This Commission is well aware of its responsibilities with respect to having regard for public interest considerations, as directed by section 146(2) of the *Industrial Relations Act*, when exercising its powers under the Act. In our submission the capacity for the unemployed and low paid to obtain and remain in employment is a matter for the Commission to generally consider when having regard to public interest.

Without the economic survival of vital areas of small business, such as retail and hospitality, the opportunity for employment, and it is often initial or start up employment, would be lost to a large number of young people. We note the words of a Full Bench of this Commission when considering the issue of public interest under the *Industrial Relations Act 1991* in the following terms:

“the extensive reference to the public interest in the Act, manifests a legislative intention to establish considerations beyond those which might serve the interests of the immediate parties. It is a concept in one form or another which has been familiar to industrial tribunals since their inception.” (Re Rothmans Pall Mall Australia Limited (Smithfield Warehouse Employees) Consent Award, (1998) 85 IR 149 at 153).

117. The effect of any increase granted by this State Wage Case will largely have an affect on employees at the lower skilled sector of the workforce. This is unsurprising as State Wage Case benches have consistently expressed, as a principal consideration, that movements as a result of State Wage Case applications should be specifically directed at the lower skilled, and thus more vulnerable sectors of employment.
118. In the context of a flat wage increase it is submitted that the appropriate and maximum flat wage increase that should be awarded by this Commission in this case is an amount of \$10.00 per week across adult classifications. Such a figure is arrived at by giving appropriate consideration to all principal parties directly affected by such a wage increase.

119. There is a need for significant moderation to take account of the vulnerable position of the vast majority of employers who will be affected by this State Wage Case. This is then balanced against the lower paid workers of those employers who are most effected by State Wage Case safety net considerations.
120. Upon the case presented on behalf of AFEI and its affiliates, any increase in award rates will have a significant, and possibly adverse affect on a large number of small employers. However, in proposing a moderate increase in rates of pay, no more than \$10.00 per week, it is recognised that this Commission has to balance the interests of employers and their employees to arrive at a just and equitable result. The AFEI and its affiliates urge this Commission to grant an increase no greater than \$10.00 per week, across the board to all adult employees.

Response to Submission of CCER 21 April 2008

121. The Catholic Commission for Employment Relations has sought this Full Bench to make an Order or Award in terms of Schedule A to its Submissions filed 21 April 2008, in accordance with Section 52 of the Act.
122. Section 52 empowers a Full Bench of the Commission to make Awards or other Orders to give effect to a State Decision
123. A State Decision can only be made in accordance with Section 51 of the Act.

124. Pursuant to section 51(2) of the Act, a State Decision may only be made on the application of a State Peak Council or by the Commission of its own initiative.
125. The CCER is not a State Peak Council.
126. The CCER has no standing to make the application or move the Commission to make the Order or Award contained within Schedule A to its Submission of 21 April 2008.
127. AFEI otherwise opposes the submission by CCER for a Full Bench of this Commission to make an Order or Award setting minimum rates of pay generally throughout NSW. In so opposing the AFEI supports the position of UnionsNSW, earlier put to this Commission, that this Commission does not have power to set minimum wages other than in accordance with Section 10. AFEI also notes the complementary provisions to Section 10 being sections 11 – 13 of the Act.
128. The Industrial Relations Commission of NSW can only make awards within its jurisdiction to so act. There is no statutory basis for a Full Bench of this Commission to make a single minimum rates award to apply throughout New South Wales.
129. AFEI further reserves its position to put further submissions in response to the Submissions of the CCER at hearing on (date of hearing).

Lagging Awards

130. Attached to this submission and marked "**Attachment 2**" is a list of Awards AFEI has identified to be rectified.

131. AFEI supports these Awards being updated, however, this rectification must be on the basis of appropriate arrangements for phasing-in of any increases.

132. AFEI submits that an appropriate phasing-in period would be six months between wage increases and in the case where the most recent increase was during 2006, a twelve month interval between the 2006 increase and the 2007 increase.