



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/70
AM2008/77

AWARD MODERNISATION

AFEI
Australian Federation of
Employers & Industries

BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

AWARD MODERNISATION

SUBMISSIONS MADE IN RESPECT OF AM2008/70 – EDUCATIONAL SERVICES – PRE SCHOOL TEACHERS AND AM2008/77 HEALTH AND WELFARE SERVICES (REMAINDER) CHILDREN'S SERVICES

AFEI and the Childcare Industry

1. AFEI has had a significant history of representing employers in the Childcare Industry in NSW and has been the lead employer party in the making of the Miscellaneous Workers Kindergarten and Childcare Workers (State) Award¹ and the teachers in early childhood state Awards.²
2. AFEI has members that span across the broad range of the childcare industry. Specifically, AFEI has members who are pre-schools, long day centres, out of school hours care centres and others, which has allowed AFEI scope to develop an understanding of the needs of the industry over a long period of time.
3. As part of the development of this submission, AFEI has had discussions with members to ensure that proposals outlined herein (and the attached AFEI draft Award) accurately reflect the needs of the industry.

¹ Miscellaneous Workers Kindergartens and Child Care Centres & c (State) Award, Re [2006] NSWIRComm 64

² Teachers (Non-Government Pre Schools) (State) Award [2001] NSWIRComm 335

AFEI – earlier childcare submissions

4. As part of Stage 3 of the Award Modernisation process, AFEI has made submissions in respect of the Childcare Services Industry in Matter AM2008/33 – Educational Services (other than higher education). AFEI relies extensively on these earlier submissions in these matters presently before the Commission in Stage 4 and attaches the earlier submission for reference marked Appendix A.
5. In addition to AFEI’s earlier submissions, AFEI makes the following submissions in respect of the childcare industry:
 - funding within the industry;
 - one Award for Childcare;
 - distinction between teachers in schools and Childcare; and
 - the AFEI draft Award - reviewed

Funding within the industry

6. Generally speaking, employers within the childcare industry primarily receive funding from the Government and fees charged to parents. The nature of such revenue is precarious and is not guaranteed from term to term. In addition, wages do account for a high percentage of operating costs in this industry and consequently, any labour cost increase impacts directly on service delivery.
7. Employers within the childcare industry in NSW specifically receive funding in the form of the childcare benefit from the Commonwealth Government, Inclusion Support Subsidy (ISS) for children with additional needs (Commonwealth) and Supporting Children with Additional Needs (SCAN) scheme (Department of Community Services, NSW).

8. Some childcare employers receive a set amount of funding to provide a service delivery on a one to one basis for a child with special needs under SCAN and the ISS. Where labour costs are increased for employers the industry, there is a consequent decrease in service delivery for such children. The Commission should be minded to ensure that, in the event that labour costs are increased as a result of the making of a new childcare Award, transitional must apply to limit any negative impact on service delivery for children with special needs. We reserve our position on transitional provisions for this industry until such time as the Commission publishes its decision on transitional arrangements.

One Award for Childcare

9. AFEI has lodged a draft Children's Services Industry Award 2010 in respect of matter AM2008/33 – Educational Services (other than higher education) on 16 March 2009. This draft Award proposed one industry Award that provided for the inclusion of pre-school teachers and non-teaching staff, such as Childcare workers. AFEI formed the view that this coherent approach was consistent with the Ministerial Award Modernisation Request:

"9. The Commission is to have regard to the desirability of avoiding the overlap of awards and minimising the number of awards that apply to a particular employee or employer [our emphasis]."

10. A single Award for childcare would reduce the regulatory burden on employers who are bound under relevant state Childcare regulations to employ at least one teacher as part of licensing requirements.

11. The creation of one industry specific modern Award would further promote the career progression of Childcare workers who may seek to commence study to become a qualified teacher. In such circumstances, an employer would be able to better manage the individual transition from Childcare worker to teacher within one industrial framework.

Distinction between teachers in schools and Childcare

12. In the event that the Commission is minded not to create a modern Award that includes both childcare workers and teachers, AFEI submits a distinction between teachers in early childhood education and teachers in schools should be maintained in modern Award coverage.
13. In making this alternate position, AFEI relies upon its previous submission for the Childcare Services Industry (made on 6 March 2009 in AM2008/33). In these earlier submissions (and set out above), AFEI identified the key ways in which the Childcare Industry was distinct from other categories of 'educational services (other than higher education)' [refer to Appendix A].
14. To further support this alternate position, AFEI notes the earlier submissions and draft awards of key union organisations in the industry as a further demonstration of the need for a separation. For example, the Independent Education Union of Australia ("IEUA") filed a draft award named the Educational Services Non-Government Early Childhood Education (Teachers) Award 2010. Differences in terms and conditions within the respective early childhood draft Awards notwithstanding, AFEI notes the preference of the IEUA for a separate Award for teachers in early childhood.

15. Furthermore, the distinction between teachers in schools and teachers in Childcare is supported by the existence of two Childcare teachers NAPSAs in New South Wales (herein after referred to as “the NSW Teachers NAPSAs”):
- Teachers (Non-Government Pre-Schools) (State) Award [NSW – NAPSA];
 - Teachers (Non-Government Early Childhood Service Centres other than Pre-Schools) (State) Award [NSW – NAPSA]
16. Further still, this separation of early childhood teachers is replicated in Victoria, the ACT and South Australia:
- Early Childhood Teachers Interim Award 1999 (an Award of the Australian Industrial Relations Commission);
 - Child Care Industry (Teachers) (Australian Capital Territory) Award 1999 (an Award of the Australian Industrial Relations Commission); and
 - Pre-School (Kindergarten) Teaching Staff Award.
17. AFEI submits that it would be inappropriate through the Award Modernisation process to simply add pre-school and early childhood teachers into a general schools Award given the industrial separation of teachers in early childhood industry across a significant number of states. AFEI submits that the Commission should not disturb the current industrial separation of teachers in schools and teachers in early childhood services having regard to the significant industrial history that has gone before. Such an inclusion should be subject to an appropriate hearing and evidentiary process, and the Award Modernisation is not the forum where this can or should occur.

18. Inclusion of childcare in an Educational Services Award for teachers in schools also has the potential to impose significant costs increases to a sector that is presently struggling with increased regulation, increased operating costs and limited funding from government (paragraph xx of this submission).

AFEI Draft Award

19. As part of the separation of the Childcare industry (AM2008/77 – Health and Welfare Services (remainder) – Children’s Services) and Teachers in early childhood (AM2008/70 – Educational Services – Preschool teachers), AFEI has further reviewed its draft Award submitted to the Commission in Stage 3.
20. **Clause 3 Definitions:** The draft Award provides for a definition of Children’s Services Industry to refer to the various categories of service delivery models found within Childcare. AFEI submits that such references are important to ensure clarity of Award coverage provisions. AFEI further defines each category of the service delivery models.
21. **Clause 4 Coverage:** The draft Award covers employers in the Children’s Services Industry (as defined). The coverage provisions are consistent with AFEI’s preference for one industry Award covering teaching and non-teaching staff.
22. **Clause 10.1 Full-time employment:** The draft Award provides a definition of a full-time employee as one who is engaged to work an average of 38 hours per week. This definition is consistent with the prevailing standard of a full-time employee in the industry.

23. **Clause 10.2 Part-time employment:** The draft Award provides for sufficient flexibility for an employer when engaging a part-time employee, however provides important protections for part-time employees, such as regular working patterns and minimum engagements. AFEI submits that the part-time employment provisions of the draft Award provide a balance between the needs of the employer and employee.
24. Given the broad coverage provisions of the draft Award, a 2-hour minimum engagement has regard to the nature of the work and when it is undertaken at the various centres. For example, Childcare centres involved in the provision of Out Of School Hours care (OOSH) generally have a peak attendance period of between 7.00am to 9.00am and 3.30pm to 5.30pm. It would be an unfair outcome to increase the part-time minimum engagement to be greater than 2 hours for such services with the consequence of an unnecessary cost increase being incurred by employers.
25. **Clause 10.3 Casual employment:** The draft award provides a definition of a casual employee that reflects the definition in the Miscellaneous Workers Kindergarten and Childcare Centres (State) Award [NAPSA – NSW] (“the NSW Kindergarten NAPSA”), however more importantly would not disrupt or force any changes to arrangements presently in operation across Australia.
26. The draft Award provides a casual loading that is consistent with the standard casual loading adopted by the Commission across modern Awards, notwithstanding the high prevalence of 20 per cent and 23 per cent casual loadings across existing Awards and NAPSAs (with the exception of Victoria and the ACT – currently set at 25 per cent).

27. For operational reasons similar to that for part-time employees, the 2-hour casual minimum engagement is necessary. Furthermore, the 2-hour minimum casual engagement is consistent with the provisions found in South Australia, Tasmania and various classifications in the NSW Kindergarten NAPSA.
28. **Clause 14.2 Directors allowance:** The Director's allowance provision is consistent with the 2 early childhood teachers NAPSAs in New South Wales. The amounts proposed in clause 15.3, pertaining to Director's Allowance is equal to the amounts currently payable under both of the NSW Teachers NAPSAs.
29. **Clause 23 Ordinary hours of work and rostering:** The hours of work clause proposed in the draft Award applies to non-teaching employees (child care and support workers) and teachers engaged in children's services centres other than Pre-schools. Any inclusion of an ordinary hours of work clause pertaining to teachers in pre-schools would be inappropriate given the nature of the work of a teacher in such an establishment. The existing NSW NAPSA pertaining to teachers in pre-schools, for example, provides teachers with an annual rate, which provides payment during non-term time. Further, this NAPSA does not have an hours of work clause.

/APPENDIX A/



**SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF
EMPLOYERS AND INDUSTRIES (AFEI)**

AM2008/33

AWARD MODERNISATION

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BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION
AM2008/33 – EDUCATIONAL SERVICES (OTHER THAN HIGHER
EDUCATION)

THE CHILD CARE SERVICES INDUSTRY

1. AFEI submits that child care services is a separate industry which is distinct from other categories of 'educational services (other than higher education)' included in the Commission's list of relevant awards. It makes the following submission in respect of scope of a modern award for the child care services industry.
2. AFEI has an interest in each area within the child care services industry, including, long day care, pre-schools, out of hours school care and family day care services. AFEI is a major employer party to the NSW awards applying to teachers and child care workers.
3. This submission has been prepared in consultation with members, as well as major employer groups within the child care industry. Many of these organisations have child care operations both within New South Wales and in other states.
4. AFEI proposes a separate award for the child care services industry. This is a sound conclusion when one examines the following features of this industry group as outlined in this submission:

- the size and nature of the industry,
- present award coverage,
- the operation of child care specific regulatory requirements,
- government funding of childcare and
- the economic context in which child care services operate.

5. AFEI submits that this approach is consistent with the requirements of part 10A of the *Workplace Relations Act* and the Ministerial Request.

SIZE & NATURE OF THE INDUSTRY

6. The child care services industry is recognized as a stand alone industry and an important contributor to the Australian economy as summarized by the following statistics:

Summary of Child Care Services Sector³

Statistics 2008 - 2009	
Industry Revenue	\$7,813,400,000
Number of Establishments	20,235
Number of Enterprises	18,819
Employment	126,206
Total Wages	\$4,904,400,000

7. According to the Productivity Commission⁴, Children's services are provided using a variety of service delivery models that can be grouped into the following seven broad categories:

³ IBIS Australian Industry Reports Pre School Education Industry Code / ANZSIC Code: N8410, 20 Jan 2009 and Child Care Services Industry Code / ANZSIC Code: N8410, 20 Jan 2009.

⁴ Productivity Commission Report on Government Services 2009 Children's Services Chapter 3 .3

- (a) *Centre-based long day care* — comprises services aimed primarily at 0–5 year olds, provided in a centre, usually by a mix of qualified and other staff. Educational, care and recreational programs are provided based on the developmental needs, interests and experience of each child. In some jurisdictions, primary school children may also receive care before and after school, and during school vacations. Centres typically operate for at least eight hours per day on normal working days, for a minimum of 48 weeks per year.
- (b) *Family day care* — comprises services provided in the carer's home. The care is largely aimed at 0–5 year olds, but primary school children may also receive care before and after school, and during school vacations. Central coordination units in all states and territories organise and support a network of carers, often with the help of local governments.
- (c) *Occasional care* — comprises services usually provided at a centre on an hourly or sessional basis for short periods or at irregular intervals, for parents who need time to attend appointments, take care of personal matters, undertake casual and part time employment, study or have temporary respite from full time parenting. These services provide developmental activities for children, and are aimed primarily at 0–5 year olds. Centres providing these services usually employ a mix of qualified and other staff.
- (d) *Preschool* — comprises services usually provided by a qualified teacher on a sessional basis in dedicated preschools. Preschool programs or curricula are also provided in long day care centres and other settings.

- (e) *Outside school hours care (OOSH)* — comprises services provided for school aged children (primarily 5–12 year olds) outside school hours during term and vacations. Care may be provided on student free days and when school finishes early.
 - (f) *Other services* — comprise government funded services to support children with additional needs or in particular situations (including children from an Indigenous or non-English speaking background, children with a disability or of parents with a disability, and children living in regional and remote areas).
8. The dominant child care service category appears to be private long day care centres and community based long day care centres (54%).⁵
 9. Child Care Services are provided by a range of community-based, not-for-profit, local council and private centres. The sector is dominated by not for profit operators and includes a range of not-for-profit community services from very small parent-run centres through to larger multi-service not-for-profit organisations. Child care centres are also provided by small privately-owned centres and a number of larger operators.
 10. The provision of before and after school care and during vacation is again the responsibility of a wide range of largely small community, private and local council organisations. The service offered is not part of the formal education system and is not compulsory. As would be expected, this sector of the industry has specific operating needs, with its hours of operations extending well beyond those of the school system.⁶

⁵ IBISWORLD Australian Industry Report *Child Care Services Industry 20 January 2009* N8410 p6

⁶ As illustrated by the *2006 Australian Government Census of Child Care Services* page 3.

11. There are around 4500 pre-school centres owned by around 3500 separate entities.⁷ These pre-school services provide support to children generally 4 to 5 years old and as with child care centres there is a wide range of size and structure, from the small parent-run, not-for-profit through to the larger local council and community service organisations. The majority of the ownership, however, is small business, small community services, local council or similar organisations. These pre-school services provide support to nearly 300,000 children and employment for 10 000 full-time equivalent child care workers and 300 auxiliary workers⁸.

Distribution of Child Care Services

12. NSW has the largest number of child care services according to the most recent national child care census (**Appendix A**).⁹
13. Charts illustrating the distribution of child care and pre school services across Australia are attached at **Appendix B**.
14. The geographic distribution of industry activity largely reflects variations in the population of children, while it is also influenced by: the cost and supply of child care; labour, income and housing affordability patterns; and child care subsidy policies. The population of children aged 0 to 4 years is a significant determinant of demand for child care services.

⁷ IBISWORLD AUSTRALIAN Industry Report, *Preschool Education in Australia*, 20 January 2009, N8410, page 4

⁸ op cit

⁹ 2006 Census of Child Care Services Table 1 page 29.

Trends within the industry

15. Currently the industry is under considerable pressure with the failures of ABC Learning Centres and a number of larger private child care providers. In addition the industry has to cope with increasing operating costs, the need for significant quality assurance and compliance with a high level of regulation and the uncertainties of the market for these services.

16. The picture is confused by the fact:

*"There is considerable variation between States in all aspects of pre-school education, including regulation, structure, costs and links to schools."*¹⁰

Ibis also reports an important characteristic of the child care industry:

"there is a trend towards childcare 'hubs', where the distinction between childcare and preschool is beginning to blur. Childcare services are now offered at many preschools, in order to expand the customer base and facilitate the attendance of children of working parents. Likewise, many traditional childcare centres offer a preschool component, and numbers are growing"

17. AFEI submits that such a trend supports the proposal for an integrated modern award which would appropriately cover different types of child care services, as well as, multi-purpose centres. Such an approach would ensure employers could apply a single award across all child care operations, facilitating the creation of a safety net that is simple to apply, easy to understand and reduces the regulatory burden on business.

¹⁰ IBISWORLD Australian Industry Report *Child Care Services Industry* 20 January 2009 N8410 p 6

PRESENT AWARD/NAPSA COVERAGE

18. Presently, AFEI has identified the following awards and NAPSAs which operate in the various states and territories in respect of the Child Care Services Industry:

- Teachers (Non-Government Early Childhood Service Centres Other Than Preschools) State Award
- Teachers (Non-Government Pre-Schools) (State) Award 2006
- Miscellaneous Workers Kindergarten and Child Care Centres State Award -NSW
- Child Care Industry Award - State 2003 – Qld
- Early Childhood Education Award - State 2003
- Early Childhood Teachers Interim Award 1999 (CRV)
- Educational Services - Early Childhood Assistants - Victoria - Award 1999
- Children's Services (Victoria) Award 1998
- Pre-School (Kindergarten) Teaching Staff Award (SA)
- Early Childhood Worker Award
- Child Care (South Australia) Award
- Child Care and Childrens Services Award TAS
- Children's Services ACT Award 2005
- Child Care Industry (Teachers) (Australian Capital Territory) Award 1999
- Child Care (Long Day Care) WA Award 2005
- Children Services (Northern Territory) Award 2005

19. Indeed, most states appear to combine the many categories of childcare services into one or a small number of instruments. In some states different awards/NAPSAs apply to early childhood teachers and other employees, as well as, pre-schools and long day care services being separate. However, such distinctions are not consistent across all states.

20. Given the requirement of the Ministerial Request regarding 'the desirability to reduce the number of awards' and 'reduce the regulatory burden on employers'; AFEI submits that the differences between such groups could be accommodated under the one award.

Early Childhood Teachers

21. As noted above, in some jurisdictions early childhood teachers are presently covered by separate awards from other employees engaged in this industry, however, this is not the case in all states.
22. While AFEI is not opposed to the creation of separate Modern Awards within established sectors of an industry (such as Early Childhood Teachers in the child care industry), it recognises the preference of the Commission to make all encompassing industry awards in complying with the Ministerial Request.
23. AFEI notes that teachers in this industry make up a minority group when compared to other categories of employees, such as child care workers. In 2008 DEWR reports that there were 16.8 thousand early childhood (pre primary) teachers compared to 96.1 thousand child carers employed across Australia¹¹. Therefore, it does not seem necessary at this point to separate them into a different award from the remainder of this industry.

Family day care services

24. AFEI is currently examining the appropriateness of incorporating Family Day Care Services into this proposal. AFEI notes that the Family Day Care Awards are not included in the Commission's list of awards for consideration at this stage.

¹¹. DEWR Jobs Outlook 2008

25. Indeed, in most states Family Day Care programs are covered by separate awards from those applying to child care workers, Early Childhood Teachers and other employees employed in child caring capacities.

26. AFEI has identified the following awards applying to Family Day Care Programs as follows:

PRE-REFORM AWARDS	State
Family Day Care Services Award, 1999	NSW/ Qld
Family Day Care Coordinators and Assistants Award 2005	WA
Children's Services (Northern Territory) Award 2005	NT
Family Day Care Services (Australian Capital Territory) Award 1999	ACT
Children's Services (Australian Capital Territory) Award 2005	ACT
NAPSA	
Family Day Care Coordinators & Assistants Award, 1985	WA
Child Care & Children's Services Award	Tas

27. It notes the majority of these awards and NAPSA's do not cover the child caring aspect of a family day care service but rather apply to work associated with the implementation, co-ordination and organisation of such programs.

28. Accordingly, it may be more difficult to incorporate such classifications and respective conditions into a general child care award. AFEI is continuing to review this area and consult with members regarding the appropriateness of consolidating this category with other child care services in a single modern award.

29. The need for separate child care award coverage from other areas of 'educational services' is evident when one looks at the needs of this sector for differing award content, such as hours of work. The patterns of opening hours and weeks are different between early childhood centres and schools.¹² Many early childhood services offer a 48-week service as against the 42 or less weeks of the school system. Long day care and occasional care services also stay open for longer hours and may well have fluctuating child numbers across the week and, therefore, variable demand for workers. Vacation care services are again different from those provided in schools. Those who work in child care centres also have a more flexible and "nurturing" range of duties than teachers. Out of School Hours (OOSH) and Vacation Care have, of course, a different operational framework. This includes in the OOSH services, morning and afternoon services – with a considerable break in between.

GOVERNMENT FUNDING & SUBSIDIES

30. In contrast to funding in the school system the Government subsidises childcare services direct to the parent. The State school system is a Government service and private schools receive direct funding. Generally, Vacation Care and Out of School Hours Care are not subsidised.

¹² See also footnote 4

REGULATION OF THE CHILD CARE INDUSTRY

31. AFEI notes that there are highly specific regulatory requirements for the child care industry in each state and territory. This further demonstrates the need to treat child care as a separate industry group from other educational services industries.
32. Accreditation, Quality Assurance and other regulation determines the required ratio of staff to children, among other requirements.
33. This has been recognised by the IBISWorld Industry report as follows:

"To retain registration and thereby government funding, preschools must comply with both state/territory government regulations and operation guidelines. Regulations cover such areas as the number of children permitted, space required per child, the staff to children ratio, and so on. Operation guidelines concern preparation of acceptable budgets and programs, demonstrated parent consultation procedures and related issues. Quality Assurance Systems are also run in order to ensure the education programs are "development appropriate" and of good quality"¹³

34. AFEI also notes that each state and territory is subject to differing regulatory requirements. In NSW, for example, it is compulsory to have a qualified teacher in child care centres with more than 29 places, however, this is not the case in all states.

¹³ IBISWORLD AUSTRALIAN Industry Report, *Preschool Education in Australia*, 20 January 2009

35. AFEI notes that particular requirements may affect the ability of employers to adjust to any significant cost increases and should, therefore, be considered in the context of creating a modern award for this industry.

ECONOMICS OF CHILD CARE

36. Further, the structure of the childcare industry with its large proportion of community-based and not-for-profit services, in addition to the small size of most operators, are important considerations in the overall capacity of this industry to absorb award and related changes generated by the introduction of a new award based on different industry conditions.
37. Child care services is an industry dominated, especially since the collapse of ABC Learning Centres, by small businesses, and not-for-profit organisations. These small entities do not generally have significant financial reserves and operate on very small margins. A significant number of the smaller child care centres are run by a committee of parents who often operate on break-even or very small margins. Any response to cost increases, either through wages or conditions of employment will in most cases have to be met by charging parents more or cut backs in rooms that are open for children, and therefore to staff (subject to regulatory requirements), for at least a proportion of the week.
38. The labour costs of child care workers constitute a large operating cost – as high as 85 per cent of the operating costs of a child care business¹⁴.

¹⁴ This estimate is provided by KU Children's Services which is the largest not-for-profit organisation in this industry

39. Child care services are not compulsory and those organisations who provide them are dependent on the market for their continuity and survival depends on the market (albeit underpinned by Government funding). Price, accessibility, location, reputation and even marketing and other factors all have an impact on the use of the services and their viability. Thus for example the price elasticity of demand for child care services is likely to vary between consumers – for some families with a single high income earner or with two income earners in high-wage jobs, the elasticity may be relatively low; on the other hand, for families where there is one relatively low wage, the price elasticity may be larger.
40. Child care costs are a significant barrier for many families, particularly those with two or more children in care. For many consumers, increases in their income levels cannot match increases in child care costs.
41. Competition in the industry can be intense between child care centres and especially from alternative sources of child minding. Family-based day care, for example, is one of a number of substitute services that can be offered to families. In the end, 'competition' in the industry mainly comes from 'kinship' carers and mothers or fathers simply staying at home with their children.
42. Cost increases associated with any award changes in the industry will also have a major flow-on effect in the employment market – and the supply of workers generally if it results in parents reducing, perhaps by a day or even a few hours, the level of child care they are prepared to pay for.
43. The industry has been subject to a number of cycles of growth and downturns¹⁵ and it is particularly vulnerable to a downturn at this time as the economy slows and the level of unemployment rises.

¹⁵ Taskforce on Care Costs, February 2005.

44. The characteristics of childcare services create significantly more risk for the organisations operating in this industry, compared to those in the school system, particularly the state school system. The level of exposure to risk differentiates this industry from the school system. The small size and nature of these businesses make the level of risk much greater in the childcare services sector which operate on very low margins and government subsidies. The risks confronted by this industry cannot readily be compared with even the private school system which is dominated by large religious organisations or large schools catering for parents prepared to pay high fees.

AFEI Proposal for a Child Care Services Industry Award 2010

45. AFEI is in the process of preparing a draft Child Care Services Industry Award 2010. AFEI will file the draft when the final terms of this proposal have been endorsed by its members. It is anticipated that this process will be finalised within the following week, and will be sent to the Commission well in advance of the pre-drafting consultations on 17 March 2009.
46. While AFEI submits that it is appropriate to address particular content of such an award, at the time of filing the draft award; it makes the following observations with respect to content of such a modern award.

Cost increases and Transitional Arrangements

47. AFEI notes that in determining the final terms of a modern award(s) applying to the child care industry and the associated transitional arrangements it is paramount that the Commission exercise caution to ensure that the financial viability of this industry is not jeopardised.

48. Recent decisions in child care awards both in various States and of this Commission acknowledge the importance of balancing cost increases with the economic capacity and affordability of the industry. This is also evident in decisions to phase in increases awarded to child care workers over recent years¹⁶.
49. Currently, there is a large degree of disparity in award terms existing from state to state emphasising the need for appropriate transitional arrangements, especially given the features of this industry.
50. Care should be taken to ensure that any cost increases over time do not exceed the capacity of centres to pay or lead to significant fee increases. Such approaches will place an unnecessary burden on the market driven child care industry and are likely to result in parents using alternative and less costly forms of childcare (such as friends, relatives or leaving the workforce to care for children). AFEI submits that such outcomes are undesirable and would be contrary to the provisions of the Ministerial Request.
51. AFEI submits that the Commission must exercise caution in balancing the need to eliminate state-based differentials prior to 2015 with the affordability of resulting changes and cost increases for child care providers in this industry.

6 March 2009

¹⁶ For Example, see Re: Miscellaneous Workers Kindergarten and Child Care Centres etc., (State) Award 150 IR 290; Child Care Industry Award – State 2003 [2006] QIRComm72; 182 QGIG 318 (27 June 2006) at 8.2.1; Child Care Industry (Australian Capital Territory) Award 1998 and Children’s Services (Victoria) Award 1998 [PR957914] at paragraph 99