

SDA Supplementary Submission In Reply To The  
Annual Wage Review 2020  
(29 May 2020)

1. The ACTU continues to seek the outcomes identified in its initial submission. The SDA supports the supplementary submission of the ACTU and welcomes the opportunity to make this further submission in reply.
2. The National Retail Association's ('NRA') reply submission confirms its original position that minimum wages should not be increased as a result of this Annual wage Review. It says that the criteria referenced in the minimum wage objective and the modern awards objective need to be assessed in context. The NRA is highly critical of a presumption that it says underlies the submission made by the SDA to this Review, being a presumption, that business can afford to sustain an increase to minimum wages.
3. An important piece of contextual information relates to the continuing decline in Sunday penalty rates for all workers who rely on the Pharmacy Award and permanent full time and part time employees who rely on the General Retail Industry Award. Those workers are due to receive a further 15% reduction to their Sunday penalty rate, with shiftworkers in the retail industry to also lose 15% off the Sunday shiftwork rate. Those changes are due to take effect on 1 July 2020.
4. It is not an accident that phasing in timetable for these cuts was scheduled to occur in conjunction with the determinations issued in Annual Wage Reviews. Even before the transitional arrangements for the reductions in Sunday Penalty Rates had been determined, the Full Bench determining the claim expressed the provisional view that:

“The reductions in Sunday penalty rates should take place in a series of annual adjustments on 1 July each year (commencing 1 July 2017) to coincide with any increases in modern award minimum wages arising from Annual Wage Review decisions”<sup>[1]</sup>

5. When issuing its separate decision on the transitional arrangements that would accompany the reduced Sunday Penalty Rates, the Full Bench was faced with a submission that there were no transitional arrangements which could prevent a significant disadvantage the employees affected by the reduction in those rates. The Full Bench dealt with that submission by observing as follows:

“We accept that while the transitional arrangements determined in this decision will ameliorate the adverse impact of our decision upon the employees affected, it will not remove that impact and the implementation of the variations we propose (albeit over an extended time period) are still likely to reduce the earnings of the employees affected. The phased reductions in Sunday penalty rates that we intend to make will be implemented at the same time as the implementation of any increases arising from the Annual Wage Review decision. This will usually mean that the affected employees will receive an increase in their base hourly rate of pay at the same time as they are affected by a reduction in Sunday penalty rates. As such, the take home pay of the employees concerned may not reduce to the same extent as it otherwise would – but it is also important to acknowledge that they will receive a reduction in the earnings they would have received but for the implementation of the Penalty Rates decision. Accordingly, any Annual Wage Review increase cannot be said to ameliorate the impact of our decision. It is the phased implementation of the Sunday penalty rate cuts which provides a degree of amelioration.”<sup>[2]</sup>

6. This reasoning discloses an assumption by the Full Bench that the “usual” circumstance arising from an annual wage review would be an increase, which would have the effect of making the reduction in take home pay for working on a Sunday less than at otherwise would be. In our submission, this contextual factor should be taken into account in determining the outcome of the present Review. If the Panel is minded to agree with the

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<sup>[1]</sup> [2017] FWCFB 1001 at [2021](iii)

<sup>[2]</sup> [2017] FWCFB 3001 at [43]

NRA that employees in the sector ought to have no wage increase, there would nonetheless be a reasonable basis for the Commission to initiate a proceeding to consider similarly deferring any further reduction in Sunday penalty rates. We would support any effort to initiate such a proceeding.

7. Research is showing that:

- a. Existing inequalities – particularly gender-based inequalities – are exacerbated by an economic crisis and
- b. Austerity measures, when implemented, disproportionately impact women.

Retail is a female dominated sector which has experienced enforced stand downs as well as reduced hours in some operations which did not qualify for JobKeeper. These employees have suffered losses and already face challenges in recovering those losses as they return to the workforce. An AWR increase is necessary to support these employees.

8. Segments of the retail industry (eg supermarkets) dealt with increased work intensity during the COVID-19 pandemic and a failure to hand down an AWR increase would be a failure to recognise these essential workers and every other Australian worker who has contributed or suffered during the pandemic.

9. Retail and fast food jobs are heavily dependent on the broader Australian community being able to freely participate in consumption. Stubbornly low rate of wage growth has impacted gross demand across the Australian economy for over a decade.

The less money workers' have, the less money they are able to spend in their local economies and Australia's economic recovery will be stymied as a result. A delay in the Annual Wage Review should not be adopted but if that was to be the finding of the AWR Panel than as set out in 6 above the final cut to Sunday penalties should be similarly delayed.