

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

2003-2004 BUDGET ESTIMATES HEARING – 2 JUNE 2003

OFFICE OF THE EMPLOYMENT ADVOCATE

QUESTIONS ON NOTICE

Outcome: 2 Higher productivity, higher pay workplace

Output Group: 2.2 Workplace Relations Implementation

Outputs: 2.2.3 Assistance to the Employment Advocate

Question Number: W029-04

Question:

Senator Carr asked at *Hansard* page 34:

What are the compensating factors that allow the OEA to claim that this framework agreement meets the no-disadvantage test?

Answer:

The no-disadvantage test (NDT) is a global test which compares the terms and conditions of the AWA with the terms and conditions enjoyed by the employee under the relevant, or designated award, and relevant laws. The test can only be performed when *all* of the terms and conditions of the AWA – particularly the pay rates - are known. The AWA framework, which is the subject of the Senator's question, suggests various alternatives for certain conditions and does not include pay rates, as it is intended that these be determined by the parties.

It is possible - indeed, common - for some AWA conditions to be less beneficial, and others more beneficial, when compared to the corresponding award conditions. As long as the AWA does not disadvantage the employee *overall*, the NDT is passed.