3. INSTRUMENTS/ STANDARDS

3.1 AGREEMENTS

ACCI POLICY PRINCIPLES:

"ACCI supports a labour relations system that is characterised by decentralism and voluntarism, under which primacy is given to the interests of the direct employer and employee parties to the employment relationship.

ACCI believes that only employers and employees can select the approach that best suits their particular circumstances and maximises their prospects of reaching appropriate agreements of highest mutual benefit.

Specific, immediate policy objectives include:

- the promotion of freedom of choice for employers and employees in their workplace arrangements
- the active promotion and encouragement of the use of enterprise agreements, individual agreements and other options including internal regulation agreements

Agreements should have a fixed period of operation . . .

- termination should not take effect until either party gives notice
- the parties may agree to their continuation in whole or in part

Enterprise-level agreements, whether individual or collective, should be encouraged by allowing their implementation with a minimum of scrutiny.

An agreement should simply be filed with a statutory officer and should only be subject to the requirements that it contains no less than the defined minimum standards, and as well a grievance procedure.

Such agreements should override any existing awards or agreements, whether in the federal or state jurisdictions."[44]

POLICY AUDIT & ANALYSIS:

- These policy objectives are designed to create a system where:
  - Workplace agreements regulate most work practices and employment conditions.
  - Employees directly involve themselves in negotiating workplace agreements.
  - Agreements are negotiated with staff as a group, or individually.
  - Agreements vary according to business and staff needs and circumstances.

- Agreements focus on mutual interests and mutual responsibilities, not just rights.

- Agreements in one business or with one employee are not seen as obligations on other businesses or other employees.

- Workplace agreements genuinely reflect what employers and employees decide is important to them.

- Authorised representatives of employers and staff help their members negotiate agreements and understand their rights and obligations.

- Employers and employees are able to form agreements that genuinely suit them free of the interference of third parties (if that is their wish).

- Employees are able to form agreements on an individual rather than collective level under the federal industrial relations system.

• There is some evidence that the bargaining system is achieving some of these broad objectives:

"It is evident from this analysis that enterprise bargaining, as identified through formal federal collective agreement making, has spread and evolved over the decade from 1991. Different trends in collective agreement making are apparent according to sector, industry and workplace size…The WR Act has clearly had an impact, most evident in agreement making in the private sector and in agreement making directly with employees…One of the key elements in the legislation was the inclusion of a provision for federally registered individual agreements known as AWAs…The introduction of AWAs provided employers with a genuine alternative to collective options provided in the past…The number of AWAs approved annually has increased from 40,244 in 1998 to more than 70,000 in 2001.

A total of 43,196 federal collective agreements have been formalised by the AIRC from 1 October 1991 to 31 December 2001, with the average number of employees covered by agreements certified each year falling from 1,117 in 1992 to 115 in 2001 indicating a shift in agreement making towards smaller workplaces. The WR Act has clearly had an impact. This has been most evident in agreement making in the private sector and on agreement making directly with employees, with a narrowing of the gap in wage outcomes between agreements made with organisations of employees (under s.170LJ, 170LL or 170LN) and agreements made directly with employees (under s.170LK). The shift to agreement making has been associated with historically high rates of productivity growth and rising real wages. Coinciding with the spread of enterprise bargaining has been a continuing decline in industrial disputation."[45]

• The system now needs to take the next step to enshrine cultural change and ensure that the policy pendulum cannot swing back against agreements.

• There has been a significant change in thinking in many industries and workplaces, and a growing acceptance of the legitimacy of bargaining. Many (but not all) industries and workplaces can now comfortably accommodate employees undertaking similar work receiving different pay and conditions.

• Reform during the 1990s also addressed many practical questions regarding how a bargaining system could work in Australia and how it could be reconciled with the award system (although this tension remains a major issue).

• However, the award system continues to have too great a role vis-à-vis agreements. Agreements continue to too closely reflect awards in many cases.

- The provisions for agreement making continue to be unduly complex for many employers, and place too great an emphasis on employer and compliance issues. This is particularly the case for medium and smaller business:

  "There is however need for further improvement in the areas of wage bargaining and employment conditions…In order to speed up the move towards comprehensive enterprise agreements, the regulatory requirements for collective and individual agreements should be eased further."
  OECD[46]

- There is an inappropriate industry focus to bargaining in many industries, including through protected action and pattern bargaining. This will generally not be consistent with improving productivity and enhancing scope for job creation:

  "The continuing practice of some centralised wage bargaining may be a factor contributing to labour market rigidities in Australia across states and territories."
  International Monetary Fund[47]

- In some industries the bargaining system (and its associated provisions for protected action) is being misused as cover for industrial coercion and industrial action. The threat of action has become an inappropriate norm in the making of what should be consensual, workplace based agreements.

- In some cases court and commission action has compromised the scope of employers and those employees who want to form agreements to properly do so, and has thereby reduced freedom of choice as set out in the objects of the *Workplace Relations Act 1996*.

- Some recent amendments to state agreement making appear regressive, including the removal of some of the most effective and accessible agreement options yet created in Australia.

- A two tier system may be emerging:

  – A range of unionised and/or larger enterprises that are successfully benefiting from bargaining. They have the resources and can on a cost-benefit basis, access the expertise/invest the time necessary to successfully use available bargaining options.

  – Other employers, especially smaller business, are left to use an increasingly unsuited award system or rely solely on unregistered arrangements. They lack the expertise and resources to successfully use available bargaining options. They may also lack the margins to justify the costs of formal bargaining under the current system.

- There must be an end to the "policy pendulum" in agreement making. Employers and employees have the right to expect that their agreed arrangements can continue through changes in government, without swinging back.

- The system needs to provide a clearer delineation between agreement making and the traditional award system. Unless that delineation is clear in form and substance, then smaller and medium sized employers in particular will not have the confidence to embark on agreement making.

- The operation of the system must clearly enable individual and collective agreements to operate in conjunction with each other. This means that individual agreements should not be denied to any employee by force of a collective agreement, and that an individual agreement – once lawfully made – will have full force and effect notwithstanding a collective agreement made by others in the workplace.

- There may be scope for a separate Act to provide for all agreement making options, including both certified agreements and AWAs, and the procedures for lodgement, approval, variation and other issues.

- The *Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002* seeks to address a number of immediate problems which exist in the procedural impediments to agreement making for both certified (collective) and individual agreements.

- Beyond this Bill, further matters require consideration. Options that need to be examined include a single administrative approval authority to become solely responsible for the approval of collective agreements and individual agreements on an administrative basis. Currently that role is split between two authorities – the Office of the Employment Advocate (OEA) and the Australian Industrial Relations Commission (AIRC).

- There is a strong case to propose that in the interim, employers, employees, and unions (where appropriate) should have the option to elect to have their certified agreements approved by the OEA rather than the AIRC – particularly where there is, or is contemplated to be a combination of certified agreements and AWAs in operation in the workplace. The current nexus between awards and agreements relates to the no disadvantage test, not to necessarily ensuring that certified agreements must be approved by the same body that makes awards.

- The public interest is served by the making of agreements, and by obtaining only legitimate and essential information from agreement parties.

- Minimising paperwork must be an imperative. Employers should only be asked to complete paperwork to access agreements to the extent genuinely warranted.

  – Existing paperwork obligations should be subjected to a detailed re-evaluation, of each administrative requirement.

  – Obtaining information on agreement numbers and the characteristics of employers and employees entering agreements is not a legitimate justification for anti-bargaining paperwork obligations.

  – Employers should not be asked to do the work of academia and government in tracking the progress of the system.

  – Research on agreement making should generally become subject to secondary data collection (ie surveys and samples), rather than primary data collection (detailed forms filled out by all employers).

  – Errors in completing paperwork should not preclude the entry of agreements into law. There should be a problem solving and facilitative focus to the administrative dimensions of making agreements.

- A case can also be made out that employers which have had multiple generations of agreements approved, who have not been subject to complaint/dispute, and are well in excess of the award safety net:

  – Should be able to enter agreements administratively, without the need for any hearing.

  – Should be able to have agreements take effect at agreed dates decoupled from their lodgement / approval.

  - Should not ordinarily be subject to an NDT against a decreasingly relevant award, and perhaps be subject only to a statutory declaration that an agreement passes the NDT.

  - Should be able to enter new agreements, and vary agreements by an agreed process, without the need to fill out prescribed forms, nor formal approval.

- It remains a concern that many employers are bargaining based substantially on union agendas, particularly where unions are disproportionably strong, or where employers are new to the bargaining system. Such approaches can be counterproductive eg employers agreeing unsustainably high redundancy pay that cannot then be properly financed.

- As a general rule, it is not for third parties to seek to restrict the content / subject matter of agreements, except where this offends other important principles (eg freedom of association). However it is desirable to identify and promote best practice in enterprise bargaining. For some employers multi-employer site agreements will represent the best approach.

- The level of the 'no disadvantage test' (NDT), and the requirement for agreements to operate over and above awards remains a fundamental issue for discussion, and a source of inflexibility in many workplaces, particularly in service industries. More flexible options for the NDT have existed in some state jurisdictions during the 1990s, and the federal system could be enhanced by reviewing this issue.

- One option, discussed in this Blueprint, is to establish a separate *Minimum Conditions Act,* against which the NDT (or its equivalent) is assessed. This option has much to commend it, and would complement the establishment of a dedicated *Workplace Agreements Act,* provided it was not used as a basis for additional central regulation. It would enable the NDT (or equivalent) to be assessed against minimum conditions rather than awards.

- Another option for a more flexible test is to adjudge the 'fairness' of any agreement (emphasising the agreement of employer and employee parties) rather than any empirical assessment against an award.

- The simplification of award provisions, whilst the NDT exists in its current form, is also vitally important if more workplaces are to have the opportunity to bargain and Australia's productivity is to be truly unleashed.

NOTES

[44] ACCI Labour Relations Policy

[45] Department of Employment and Workplace Relations and the Office of the Employment Advocate (2002) Report on Agreement Making in Australia under the Workplace Relations Act 1996, June 2002

[46] OECD (2001) Economic Survey: Australia

[47] International Monetary Fund, (2002) Report on Australia, 9 August 2002

RECOMMENDATIONS:

Objective 1: In order to promote and simplify agreement making, a dedicated federal *Workplace Agreements Act* should be established, incorporating collective and individual agreement making options.

Objective 2: Agreement making requirements should be subjected to an analysis of their regulatory impact, and the extent to which they represent sound public administration. The basis for and form of regulation should be closely examined.

Objective 3: The *Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002* should be enacted.

Objective 4: Minimising paperwork obligations in entering agreements is imperative. Agreement approval must be further simplified, including a single administrtive agreement approval authority.

Objective 5: Employers and employees that have negotiated multiple generations of agreements should be able to use a fast track option for agreement making and approval.

Objective 6: The full range of agreement options under the *Workplace Relations Act 1996* must continue to be promoted and supported by industry and governments as legitimate bargaining options. The legitimate right of individuals to enter both individual and collective agreements should continue to be fundamental to Australian workplace bargaining.

Objective 7: The interaction of bargaining with freedom of association (FOA) laws should be examined. Any genuinely supported shift in bargaining approaches by employers or employees (eg collective to individual) should not be found to be contrary to freedom of association based on its effect on union members or union membership.

Objective 8: Agreements purporting to contain provisions contrary to law (eg preference, union encouragement or compulsory membership) should not be able to be approved.

Objective 9: Best practice approaches in agreement making should be identified and promoted by industry and governments.

Objective 10: The level of the NDT, and the requirement for agreements to operate over and above awards remains a fundamental issue for discussion, and a source of inflexibility in many workplaces. More flexible options for the NDT should be actively pursued.

3.2 AWARDS - ROLE & FORM

ACCI POLICY PRINCIPLES:

"Specific, immediate policy objectives include. . . a reduction in the influence of awards and tribunals.

The system continues to be unduly complicated and prescriptive.

The award system continues to have too great a role vis-à-vis agreements.

Awards and agreements should in future be made binding only on identified employers and their employees. There should be no common rule awards."[48]

POLICY AUDIT & ANALYSIS:

- Award simplification under the *Workplace Relations Act 1996* contemplated the most substantial change in the federal award system since its creation:
  - Award provisions were (to an extent) simplified, standardised and reduced to plain English. In some cases, internal inconsistency and ambiguity were also addressed.
  - Some unnecessary and archaic award provisions were deleted from awards.
  - Many obsolete federal awards were deleted.
- Simplification and the amended *Workplace Relations Act 1996* more generally have restricted in part the previous unchecked growth in award regulation. This is a welcome development (although there are "test cases" emerging which seek to resume the march of award regulation regardless of changes in Australia's economy, labour market and society).
- During the 1990s fewer workplaces were reliant on the award system, and it became the focus of regulation in a decreasing set of industries for a decreasing proportion of employees.
- Transaction costs of participation in the award system remain high, without discernable benefit to employers in most cases. A particularly costly interaction, which causes significant employer dissatisfaction, is logs of claims and roping into federal awards. This process must continue to be examined for opportunities for fundamental reform.
- There continue to be many thousands of federal awards, including those covering single or small numbers of employers, and containing substantially identical regulation to other awards. The scheme of awards in each industry and sub-industry continues to be a function of historical disputation and industrial byplay, rather than any logic or rational organisation.
- The operation of the system must clearly provide for primacy of regulation via workplace agreements over award regulation, not just in its objects but also in the daily decisions made by parliaments, governments and industrial tribunals. This includes a refusal to make decisions that impose practical disincentives to agreement making, such as decisions which provide access in awards to

the same or superior wages or conditions than those that could (and should) be negotiated in the workplace.

- There are various possible models for the consolidation of awards, including options between the current award proliferation and the single industry award proposal outlined in the 2002 Safety Net decision. These should be examined.
- Another remaining problem with award structures is the indefinite period for which awards, once made, apply – irrespective of changed circumstances. Options need to be examined to review and/or have awards varied or limited based on changes in industry or workplace conditions.

NOTES

[48] ACCI Labour Relations Policy

RECOMMENDATIONS:

Objective 1: Options should be considered by industry, unions and governments to continue to reduce the number of federal awards. A more focused safety net will be an important step on the path to a more concise and minimal safety net that better supports bargaining.

Objective 2: Where awards are made in response to particular circumstances, industry, unions and governments should develop options to review or limit award standards in response to changes in circumstances.

Objective 3: Best practice examples of simplified award provisions should be published by industry, unions and governments as an aid to the simplification process.

3.3 AWARDS - EMPLOYMENT STANDARDS

ACCI POLICY PRINCIPLES:

"Specific, immediate policy objectives include:

- a reduction in the influence of awards and tribunals.

Despite the welcome and long overdue changes to the main industrial statute, considerable challenges remain:

- the system continues to be unduly complicated and prescriptive.
- the award system continues to have too great a role vis-à-vis agreements".[49]

POLICY AUDIT & ANALYSIS:

- These objectives are designed to achieve a system where:
  - Core employment conditions apply, but as simple minimum standards only.
  - The detail as to how those core standards are implemented is left to individual workplaces.
  - Conditions of employment are overwhelmingly set by employers and employees negotiating working arrangements that suit their particular circumstances.
- Section 3.2 examined award simplification, and opportunities for further reform of the form and role of awards, and guiding principles for further award reform. There are however the more general considerations of:
  - Which employment standards should be contained in awards.
  - In what form, and at what level of minimum entitlement.
  - What strategies may be pursued for award reform prior to any further amendment to the *Workplace Relations Act 1996*.
- Even following simplification, awards remain complex, legalistic documents which require expertise to use. Awards remain very prescriptive in many regards, despite some re-wording through simplification. Awards remain a particularly complex foundation for bargaining:

  "Flexibility in the workplace could also be enhanced, and the individual situation of enterprises better taken into account when negotiating agreements if the number of "allowable matters" covered by awards were further reduced and if they were limited to core employment conditions." OECD[50]

- Disappointingly, there were few changes to the non-wage costs of employment under the award system through award simplification.
- Substantial barriers to productivity and efficiency remain in awards. Provisions of the *Workplace Relations Act 1996* seeking to enhance this focus in awards (eg s.143(1B)&(1C)) have not been successfully applied.

- There has been little progress in the award system towards the ACCI policy of statutory minimum conditions, and a more limited role for arbitration.

- Proposals to vary awards must be focused on essential minima only. Proposals to vary awards in a manner that would increase the regulatory burden on employers ought to be subject to a presumption against their adoption, unless and until accompanied by concomitant proposals to reduce the regulatory burden on employers to at least an equivalent extent.

- There appear to be significant additional areas in awards which could be reformed to move further towards ACCI labour relations policy, and these opportunities should be taken up by industry.

NOTES

[49] ACCI Labour Relations Policy

[50] OECD (2001) Economic Survey: Australia

RECOMMENDATIONS:

Objective 1: Award provisions should be designed to enhance, not inhibit, workplace flexibility, efficiency and productivity.

Objective 2: As a general principle, awards should prescribe a relevant minimum standard only, and leave the detail of how the standard is to be implemented to individual workplaces.

3.4 INTERNAL REGULATION

ACCI POLICY PRINCIPLES:

"Immediate policy objectives include… the active promotion and encouragement of the use of enterprise agreements, individual agreements and other options including internal regulation agreements."[51]

POLICY AUDIT & ANALYSIS:

- Changes in workplace relations created by employers and employees working together to enter agreements (both formal and informal) have created significant cultural transformation in some enterprises.

- There are now significant differences in the conduct of workplace relations between workplaces. Many workplaces are now operating with a level of trust and mutual interest and exchange at odds with the old paradigm of a conflict based approach to workplace relations. Whilst the federal reforms of the 1990s have sought to rebut that approach, some workplace participants still allow the dispute based and adversarial elements of the *Workplace Relations Act 1996* to govern their workplace activities or culture.

- Emerging differences between employers in their workplace relations are not sufficiently addressed in the workplace relations system.

- There has been insufficient formal recognition of excellence in workplace relations. There appears to be considerable scope for specific initiatives to reduce regulatory impediments for these employers and employees well progressed on consensual and productive workplace reform, which recognise that paternalistic, lowest common denominator approaches will not be consistent with developing shared interests in these workplaces.

NOTES

[51] ACCI Labour Relations Policy

RECOMMENDATIONS:

Objective 1: **The system should better recognise the considerable differences between employers and workplaces in human resources policy and practice. Given that 'best practice' employers and employees have passed beyond the lowest common denominator regulatory approach, there should be mechanisms which exclude such workplaces from many of the regulatory, procedural and bureaucratic requirements which do not reflect their consensual circumstances.**

Objective 2: **Charters of workplace relations practice, developed within workplaces and given standing by the system, could play an important role in the administration of workplace relations, and may be a useful measure to facilitate workplace change and the genuine simplification of awards and other instruments, by providing support and guidance to best practice employers.**

3.5 WAGES AND INCOMES

ACCI POLICY PRINCIPLES:

"The minimum standards should comprise:

- a minimum hourly wage for adults.
- a minimum hourly wage for juniors.

The minimum hourly wage for adults and the minimum hourly wage for juniors should be fixed following consideration of recommendations made by the tribunal or other independent body at the request of the responsible Minister. In this process account should be taken of the need to allow for appropriate flexibility in actual wage rates."[52]

POLICY AUDIT & ANALYSIS:

- These objectives are designed to achieve a system where:
  - Wages and wage increases are overwhelmingly set by workplace bargaining, either collectively or individually.
  - Wages and wage increases are linked to business conditions, productivity, performance and employee circumstances.
  - There are single minimum adult and youth wages that underpin workplace bargaining.
- Bargaining under the *Workplace Relations Act 1996* has seen an increasing proportion of wages set with regard to workplace circumstances. This has aided productivity and flexibility. Many employers have entered workplace oriented wages arrangements/ structures to replace previous award approaches. This is a major achievement of the reforms of the 1990s:

> *"A decade of reform in wage setting arrangements has substantially changed the arrangements under which Australians work. These reforms have resulted in a dramatic fall in award coverage from 67.6 per cent of employees in May 1990 to 23.2 per cent in May 2000. In May 2000 21.7 per cent of the workforce had their pay set under the provisions of federally registered collective agreements while 1.0 per cent of the workforce had their pay set under the provisions of federally registered individual agreements."* Report on Agreement Making in Australia under the Workplace Relations Act 1996[53]

- Reform of minimum wages in awards has been less successful.
- Award simplification has seen little reduction in the range of minimum wage obligations upon employers. Employers continue to be subject to multiple federal and state awards containing multiple wages points. The Australian industrial system still provides for many thousands of wage classifications each with their own minimum wage. No other major international trading economy has such a system, and Australian minimum wages policy appears to be at odds with international best practice.

"The awards system also still plays an important part in setting minimum wages, which remain very high in Australia relative to other advanced economies...The role of the award system in setting minimum wages should be diminished in order to reduce what may be a significant barrier to the entry of low-skilled individuals into employment. Historically, the minimum wage has been used as a means of providing a "living wage". However, it has to be recognised that the wage determination system is a very blunt instrument to use for this purpose. Ensuring a minimum standard of living for all working Australians could be achieved more efficiently, with the creation of fewer economic distortions, by using the tax and income support systems." International Monetary Fund[54]

- Awards have not been successfully refocused to become a safety net for the low paid:
  - Minimum wages have increased such that they constitute too high a proportion of median and average earnings. Minimum wages are too close to the rates actually paid in most Australian workplaces to meet their allocated role under the bargaining system.
  - Too many Australian employees are employed on minimum award wages. This is an inevitable function of high wage increases.
  - High minimum wage increases will discourage bargaining and productivity improvement.
  - All minimum award rates continue to be increased under safety net decisions. This has done nothing to focus the system on a safety net to properly support bargaining.
  - Even worse, the 2001 and 2002 wage increases were determined with specific reference to the wages of higher income earners. This is the antithesis of the focus on the low paid envisaged by the *Workplace Relations Act 1996*.
  - The development of the minimum wage in 1997 was a positive development. However its coupling to an award rate of pay has detracted from its scope to further ACCI policy. Far from being a stand alone rate to support bargaining and protect employees it is merely an additional minimum wage entitlement grafted onto an award system already containing many thousands of pay rates.
- Economic and employment effects of wage increases have been insufficiently taken into account during the safety net era. High increases, such as that during 2002, compel such a conclusion.
- Increases in minimum wages for those on awards should not exceed wage outcomes under agreements, nor be at such high levels that economic and labour market outcomes are endangered.
- An undesirable annual cycle of wage claim and wage increase has emerged which has proved hard to break. There is an inappropriate momentum to minimum wage increases which is inherently contrary to sound labour market and economic outcomes.
- In all there is a growing uncertainty regarding the appropriate role of minimum wages under the *Workplace Relations Act 1996*. There is also the most appropriate mechanism to provide incomes to the lowest paid in the community, and the appropriate interaction of minimum wages, taxes and social security transfers.
- Award and agreement covered employees are only one part of the Australian labour market. Executives, professionals, specialists, managerial and other non-award employees are remunerated via both wage and non-wage components.
- Labour markets for specialist and senior staff are increasingly competitive, not only within Australia, but globally. Australian industrial tribunals have recognised over many years

various unique competitive and international features of the executive or senior management labour market.

- However, these domestic and international competitive pressures can create a disparity:
  - Between overall salary levels for executive and non-executive employees.
  - Between the composition of salaries for executives (which often include access to non-wage securities, options and preferences), and those of non-executive employees (whose remuneration is often by wages only).
- There is a legitimate community debate on levels of executive salary in Australia.
- Various high profile executive packages have been subject to media attention, shareholder consideration, and public comment. This is particularly the case where remuneration outcomes for executives are particularly large, or appear to have become decoupled from organisational performance or pay outcomes for non-executive employees.
- The level and composition of executive remuneration or exit packages requires a responsible approach from the boards of Australian companies, having regard to shareholder and organisational factors, and also to broader community interests and those of non-executive employees.
- There needs to be a balance in setting levels of executive remuneration between:
  - Providing sufficiently competitive remuneration to attract world's best practice leadership to Australian companies.
  - The interests of all Australians in a fair go, and some greater relationship between executive pay and levels of income in the community more generally.

NOTES

[52] ACCI Labour Relations Policy

[53] Department of Employment and Workplace Relations and the Office of the Employment Advocate (2002) Report on Agreement Making in Australia under the *Workplace Relations Act 1996*, June 2002

[54] International Monetary Fund, (2002) Report on Australia, 9 August 2002

RECOMMENDATIONS:

Objective 1: Given the objects of the system that wages be primarily varied through workplace bargaining, a revised approach to wages policy is needed so that there is a better focus on award rates of pay as a genuine safety net for the lowest paid.

Objective 2: An analysis of the history and rationale of Australian wage fixation should be prepared by representatives of industry, and be made available to unions and governments, in order to assist the assessment of the need for new approaches to minimum wage fixation.

Objective 3: The Australian system for setting minimum wages should be consistent with the need for the Australian workplace relations system to be internationally competitive in form and operation.

3.6 LABOUR ON-COSTS

ACCI POLICY PRINCIPLES:

ACCI has consistently argued in wage cases and in policy debates in favour of moderation in externally imposed labour on-costs, and has tried to highlight the impact of on-costs on employment.

POLICY AUDIT & ANALYSIS:

- On costs beyond wages are important costs of employment for employers that are often ignored in debate on employer capacity to accommodate additional obligations, and to also create jobs.

- Labour on-costs as measured by the ABS constitute:

  – Superannuation

  – Payroll tax

  – Workers' compensation

  – Fringe benefits tax

- Reliable data on the true costs of employment in Australia is inadequate and incomplete. Some limited material is available through the Australian Bureau of Statistics, which indicates that, on average, these labour on-costs add almost 13% to wages. These costs increased by over 22% between 1993/94 and 1996/97.

- There are also other non-wage labour costs not measured by the ABS. These include contributory funds for training and other employment associated provisions, which are particularly prevalent in some industries (eg construction).

- The ABS assessment also excludes the administrative cost of employment (eg compliance, payroll costs etc), costs affect the capacity of employers to create jobs.

- The ABS estimate is therefore thought to be an underestimate. Employers' internal accounting for the cost of employment is often considerably higher than the assessment based on the formal data.

- Australian governments have not made any concerted efforts to reduce labour on-costs, or to reduce the direct costs of employment. As a consequence the jobs growth that has occurred in our economy has been largely attributable to growth in the economy and structural workplace relations reform, rather than measures to directly combat the direct and indirect cost of employment which increases year upon year. There appears to be clear scope to unleash further employment growth.

- Fringe Benefits Tax, Workers' Compensation and Payroll Tax all offer scope for ongoing moderation, and reduction over time.

- Administrative and other efficiencies can play a major role in decreasing labour costs. There is an onus on governments to ensure that cost drains on employers (eg workers compensation) operate as efficiently and cost effectively as possible.

- Many non-wage labour costs are imposed at the State level. ACCI members have long played a role in seeking to moderate these labour costs at a State level.

- Any proposals (eg from government or other parties) that would have the effect of increasing

labour costs should be critically examined. Only if the benefits to employers would outweigh any additional costs should any such proposals be considered.

- Reductions in many labour costs can be achieved without disadvantage to employees.

- Superannuation is addressed in Section 8 – *Workforce*. Proposals to increase retirement incomes which raise the cost of employment (either directly through additional employer contributions or indirectly through increasing costs which employers may ultimately be asked to meet) should be rejected, particularly in the absence of compensating factors.

- Non-wage labour costs multiply the impact of wage increases upon employers. The flow on into on-costs is insufficiently taken into account in decisions to increase minimum wages.

- The impact of labour on-costs should also be addressed by the proposed ERS mechanism.

RECOMMENDATIONS:

Objective 1: Governments and policy makers must strive to moderate, if not reduce, non-wage labour costs as an essential element in a broad suite of policies designed to encourage employment growth and reduce unemployment.

Objective 2: There should be no mandatory increases in superannuation / retirement incomes costs on Australian employers.

Objective 3: The effect of labour on costs should be better taken into account in minimum wage fixation.