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## Wages and Wage Determination in 2006

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**Abstract:** In 2006 money wages grew more slowly than in 2005 and within Reserve Bank limits with no evidence of generalized wage pressures arising from skill shortages. The Reserve Bank raised interest rates three times during the year, further reducing housing affordability. Mortgage sales of homes have exhibited a significant increase. There was intense media attention as to the impact on wages and conditions of the implementation of the Work Choices legislation. The long-awaited first decision by the Fair Pay Commission yielded an increase of AUS\$27.36 per week for about 1m workers payable from 1 December. The lowest weekly wage rose to AUS\$511.86, which represents a marginal real wage cut.

**Keywords:** *labour market reform; money wages; Work Choices*

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## Introduction

This article reviews Australian wage outcomes in 2006 in the context of macroeconomic developments and the implementation of the Work Choices legislation at a time when the Organisation for Economic Co-operation and Development (OECD) was retreating from its claims made in the Jobs Study (1994) about the effectiveness of labour market deregulation.

## Macroeconomic Background

The Australian economy grew by 2.2 per cent per annum to September 2006 (seasonally adjusted) with a declining trend prominent (0.3 per cent in the period from June to September 2006). Employment grew by 2.7 per cent per annum to September 2006 (Reserve Bank of Australia [RBA], 2007: 37). At year's end, official unemployment stood at 4.6 per cent (Australian Bureau of Statistics [ABS], 2006a) but the overall rate of labour underutilization calculated by the Centre of Full Employment and Equity was 9.7% in November 2006. This measure includes hidden unemployment and underemployment, in addition to official unemployment.

The average annualized wage increase per employee associated with newly certified Federal agreements (AAWI) was 3.7 per cent to September 2006. The Labour Price Index increased 3.8 per cent over the same period, compared to 4.2 per cent in the year to September 2005. The annual inflation rate of 3.3 per cent to December 2006 was above the Reserve Bank's acceptable range although the December quarter fall of 0.1% was seen as a halt in the spiral and should ease the pressure on interest rates (ABS, 2006d: 1). Interest rate increases of 25 basis points in May, August and November occurred in response to the inflation projections. The average rate of housing price increase over the year to September 2006 was 6.8%, which was mainly driven by Perth (38.5%) and Darwin (18.2) (RBA, 2006: 25–6). The September quarter saw disproportionately lower rates of increase across the capital cities with Sydney, Melbourne, Adelaide and Canberra exhibiting declines, which probably reflected in part the first two interest rate increases.

Australia's economic growth was a product of our buoyant terms of trade, but the trend towards a 'two-speed' economy has now strengthened, due to the impact of several coincident factors (Mitchell and Bill, 2006). First, the booming terms of trade for non-rural, particularly base metal commodities, delivered uneven benefits to Australian regions, with Western Australia, Queensland and the Northern Territory booming and Sydney struggling. Further, Australian manufacturing declined with regionally concentrated costs. Consequently, unemployment was falling in some areas but rising elsewhere. Second, the major city property booms in recent years abated with households left holding record debt levels. In some areas, household finances are now highly vulnerable to minor interest rate variations and increasing unemployment. Third, record fuel prices impinged on household spending power and industry cost

levels, with the latter affecting inflation. The rising interest rates have exacerbated the financial stress for many households. Fourth, there is unprecedented fiscal drag as a result of Federal Government budget surpluses. The resulting squeeze on household disposable income combined with rising interest rates, has increased the danger that economic slowdown in some areas (like Sydney) will bankrupt many households. These serious sectoral and regional imbalances challenge the sustainability of some of our economic and social settlements and threaten the financial viability of many Australian households.

Consequently the Australian economy enters 2007 with some major concerns associated with rising debt-servicing costs (RBA, 2006: 24), more subdued growth and a less optimistic outlook for commodity prices.

## **The OECD Retreat on Labour Market Policy**

The 2006 OECD Employment Outlook (OECD, 2006) represented a major shift in its public position. The mounting empirical evidence that active labour market policies have not solved unemployment and have instead created problems of poverty and urban inequality, has forced some notable shifts in perspective among those who had motivated and vigorously supported the OECD approach for a number of years. Many studies sought to establish the empirical veracity of the neoclassical relationship between unemployment and real wages (and, also minimum wages), and to evaluate the effectiveness of active labour market program spending. Baker et al. (2004) show convincingly that these studies were constructed in ways which were most favourable to supporting the OECD view. In the face of the mounting criticism and empirical argument, the OECD has begun to back away from its hardline 1994 Jobs Study position.

OECD (2004: 165) admitted that the evidence supporting their view that high real wages cause unemployment 'is somewhat fragile'. However, in the 2006 OECD Employment Outlook, which is based on a comprehensive econometric study of employment outcomes across 20 OECD countries between 1983 and 2003, a major shift occurs. The study included those countries that have adopted the Jobs Study as a policy template and those that resisted labour market deregulation. OECD (2006) finds that:

- There is no significant correlation between unemployment and employment protection legislation;
- The level of the minimum wage has no significant direct impact on unemployment; and,
- Highly centralized wage bargaining significantly reduces unemployment.

This latest statement from the OECD confounds those who have relied on its previous work including the Jobs Study, to push through harsh labour market reforms (such as the widespread deregulation in Australia as a consequence of the Work Choices legislation), retrenched welfare entitlements and attacked the power bases of trade unions.

To date, there is no evidence that the Australian Government (or the Fair Pay Commission) has acknowledged that the international debate on the impact of minimum wages on employment has shifted and that the OECD now offers no theoretical or empirical authority to underpin the developments that have occurred in this country under Work Choices and were reflected in submissions to the annual Safety Net Hearings by the Commonwealth and employer groups (see for example Watts and Mitchell, 2006).

## **Wage Determination in 2006**

This section explores the coverage of agreements and the associated wage outcomes, including the first decision of the Australian Fair Pay Commission in November. We initially provide a context for this analysis by exploring the evidence on trends in skill shortages.

### **Skill Shortages**

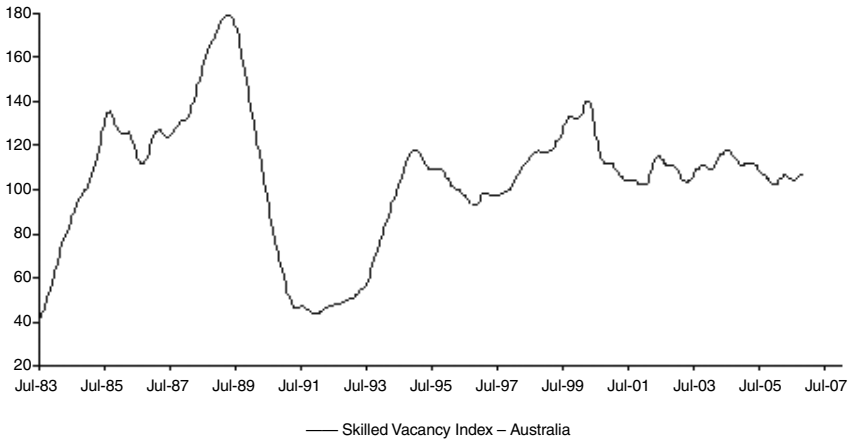
The Department of Employment and Workplace Relations (DEWR) Skilled Vacancy Index (SVI) was 107.5 for December 2006, representing an annual increase of 4.6% (DEWR, 2006c). As noted in our 2005 report, the SVI, which is shown in Figure 1, provides no indication at an aggregate level that there has been a sharp rise in the demand for skills in the last several years, despite claims from Employer Groups.

Vacancies for all three occupational groups increased in 2006 with Professionals (1.8%), Associate Professionals (24.9%) and Trades (4.8%). The pattern of change was very uneven with the strongest increases for Professional occupations being Marketing and Advertising (42.5%), Organization and Information, excluding Information and Communication Technology (ICT) (38.3), Social (21.1); for Associate Professional occupations, Building/Engineering Associates (31.5); and for the Trades, Printing (51.6). Sharp declines were experienced by Accountants and Auditors (15%), Medical/Science Technical Officers (5.6), Metals (7.4) and Electrical and Electronics (8.9). The DEWR ICT Vacancy Index, which is treated separately from the SVI, exhibited an annual increase of 27.8%. New South Wales continued to exhibit a worsening trend in skilled vacancies throughout 2006, with Queensland and Western Australia recovering and the Northern Territory and South Australia growing.

Taking a longer term perspective, the SVI for Tradespersons rose sharply over 2003 and 2004 but declined throughout 2005 (Mitchell and Quirk, 2005) before levelling out in 2006 (DEWR, 2006b). The Professions (since 2001) and Associate Professions (since 1998), which had been in trend decline (Mitchell and Quirk, 2005), have recovered somewhat in 2006.

In its September issue, the Australian Centre for Industrial Relations Research and Training's (ACIRRT) ADAM Report (2005: 6) notes that employers can address wage pressures from skill shortages through promotion structures, performance bonuses or other methods that are not recorded in

Figure 1 DEWR Skilled Vacancy Index, Australia, July 1983–December 2006



Source: DEWR (2006c).

enterprise agreements. Also, specific initiatives to address the shortages such as training and improved retention can be adopted.

Although the labour market has tightened in recent years, there is limited evidence that a generalized ‘skills shortage’ is constraining growth and that wage pressures are intensifying. Indeed the two speed economy reveals that some regions are struggling. Further vacancy data by occupation is not an adequate proxy for the state of excess demand for labour in that occupation.

### Coverage of Agreements

The number of Australian Workplace Agreements (AWAs) approved prior to the introduction of Work Choices in March 2006 continued at about 50,000 per quarter (Office of the Employment Advocate [OEA], 2006a). In the June quarter following the introduction of the Work Choices only 41,234 AWAs were approved, however, which suggests that employers were familiarizing themselves with the repercussions of the legislation for bargaining arrangements before committing themselves. In the following quarter (September 2006) 76,161 AWAs were approved, which rose to 94,403 in the December quarter (OEA, 2006b,c). In total 216,200 agreements were lodged in 2006, from April onwards, of which nearly 211,800 were AWAs. The number of union and employee collective agreements and Greenfield agreements also rose sharply over the three quarters following Work Choices.

AWAs were most likely to cover employees in Retail and Accommodation Cafes and Restaurants, but Retail also figured prominently in collective agreements, followed by Manufacturing. The private sector accounted for 84 per cent of the AWAs approved between March and September 2006 (OEA, 2006c: 1).

A total of 1,731,300 employees were covered by Federal Agreements at the

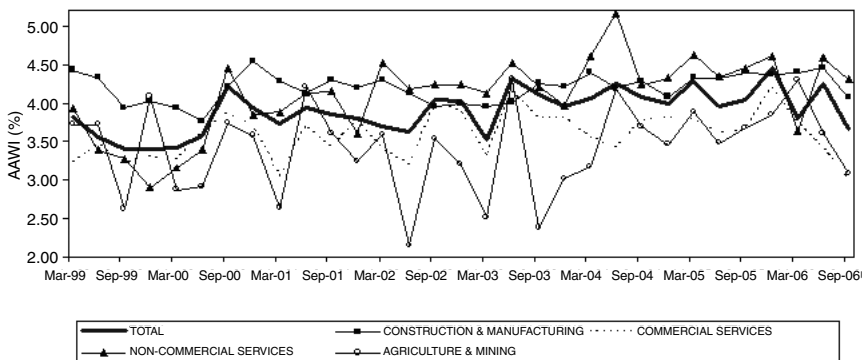
end of September, which comprised 200,000 employees under employee collective agreements, 1,395,800 under union collective agreements, 10,300 under employer Greenfield agreements and 18,200 under union Greenfield agreements. The remainder were covered under Section 170LN (DEWR, 2006b).

### Money Wage Growth

Since enterprise bargaining commenced, aggregate wage data have been difficult to interpret. Many employees have unregistered agreements and wage increases may be granted in exchange for trade-offs with respect to other conditions. Also there are major compositional changes occurring in the workforce (Burgess, 1995).

The DEWR records the AAWI per employee based on Federal agreements newly certified within each quarter (see Figure 2). While the break in the data with the introduction of Work Choices in March 2006 suggests the need for cautious interpretation, there is no evidence of a sustained increase in wage settlements. The current weighted increases were 4.5, 3.8, 4.3 and 3.7 per cent for each of the 4 quarters to September 2006, respectively, for newly certified agreements (DEWR, 2006a). The extant agreements remained around 4.1 per cent, dropping to 4.0 per cent in the September 2006 quarter (DEWR, 2006a).

**Figure 2** Average annualised wage increase (AAWI) per employee of federal agreements newly certified within the quarter by industry group, March 1999–September 2006



Source: DEWR (2006a) and authors' calculations.

Notes: From June 2006, only federal agreements formalised are available. For these calculations, formalised data rather than certified data is used for the last four quarters. *Manufacturing* and *Construction* are equivalent to the ANZSIC industries. *Commercial services* consists of wholesale; retail; accommodation, cafes, restaurants; transport; communications; electricity, gas and water; finance and insurance; property and business; cultural and recreation; and personal and other. *Non-commercial services* denote education and health; government administration and defence; and community services. The estimates have been rounded since June 1999. Historical estimates have been updated so that figures may exhibit slight differences as compared to Figure 2 in Watts and Mitchell (2006). The AAWIs are calculated as a weighted sum of the AAWIs per employee per ANZSIC industry with the weights given by the corresponding employment shares.

Full-time adult Average Weekly Earnings grew 2.8 per cent in the year to August 2006, which represented a significant decline from the annual rate of about 6 per cent to August 2005 (ABS, 2006b: 6). The data conflate changes in hourly wages, full-time hours and compositional changes. The growth in Average Weekly Ordinary Time Earnings (which excludes the impact of changes in the overtime component of hours, but reflects compositional changes) was 2.9 per cent over the same period, compared to 6.3 per cent in the year to August 2005 (ABS, 2006b: 6).

In the 12 months to September 2006, wage growth, as measured by the fixed weight Wage Price Index (formerly Wage Cost Index) grew 3.8 per cent seasonally adjusted (see Table 1), compared to 4.2 per cent over the previous year (ABS, 2006c: 6).<sup>1</sup> The sharpest increases occurred in Electricity, Gas and Water Supply, Mining and Construction.

### Executive Pay

The Australian Financial Review's eighth annual study of executive salaries revealed that the average total package was AUSS\$2.1m, compared to AUSS\$1.9m

**Table 1** *Annual percentage increases in ordinary time hourly rates of pay index, excluding bonuses, by industry, September 2001–September 2006*

	Sept-01	Sept-02	Sept-03	Sept-04	Sept-05	Sept-06
Mining	2.9	4.2	2.8	3.4	5.0	5.9
Manufacturing	3.8	3.5	3.4	3.6	3.8	3.4
Electricity, gas and water supply	4.4	4.1	4.1	4.7	4.5	6.0
Construction	3.6	3.0	3.9	4.5	4.7	4.9
Wholesale trade	3.1	3.4	2.9	2.9	4.0	3.3
Retail trade	2.3	3.2	2.7	3.2	3.9	2.7
Accommodation, cafes and restaurants	3.1	2.9	3.2	2.3	3.2	2.4
Transport and storage	3.2	2.3	4.0	2.9	3.8	3.8
Communication services	4.0	2.9	3.2	3.2	3.2	3.5
Finance and insurance	3.7	3.6	3.4	3.8	4.3	3.8
Property and business services	4.4	3.3	3.3	3.0	3.4	4.4
Government administration & defence	3.5	3.0	4.6	4.0	4.9	4.1
Education	4.3	3.8	3.8	4.8	4.5	4.1
Health and community services	3.4	3.0	4.9	3.1	5.0	4.1
Cultural and recreational services	3.1	3.5	4.0	3.0	5.0	3.5
Personal and other services	3.4	3.5	3.6	3.5	4.0	3.7
All industries	3.7	3.1	3.6	3.5	4.2	3.8

Source: Australian Bureau of Statistics (ABS, 2006c: Table 12; ABS, 2003).



in the previous year. The increase largely reflected a surge in short-term bonus payments (Buffini et al., 2006). Nearly half the chief executives of the largest 100 listed companies received a bonus of AUS\$1m or more following strong company profits, compared to an average of AUS\$800,000 across the top 300 companies.

Larger companies paid more with the median take home pay for the top 50 companies being AUS\$4m (Buffini et al., 2006). Short-term incentives, typically paid in cash represented 26 per cent of total pay for chief executives of the largest 100 companies whereas long-term incentives comprised only 18.6 per cent of total pay.

Twenty years ago the average CEO of a top-50 company earned 20 times average full-time wages, whereas the ratio now is 70 (Australian Financial Review [AFR], 2006). Over the last 5 years CEO base pay has risen 73 per cent, compared to a 42 per cent return to shareholders of the largest 100 companies, as measured by Total Shareholder Return (TSR), and a 16 per cent rise in average weekly earnings. The gap widens when options are taken into account (Nicholas, 2006). Capestio et al. (2006) argue that a high (short-term) incentive rate transfers undue risk to agents (i.e. CEOs) so that they may avoid high net present value projects, or the adoption of risky short-term strategies (Buffini et al., 2006), rather than placing more weight on long-term outcomes (Durie, 2006).

Notwithstanding these seemingly generous outcomes, the disclosure requirements on companies have become more demanding (Shields, 2005: 321–2). Swan and Zhou (2006: 5) note that in the absence of disclosure laws, ‘the agency relationship between the board and the CEO may fail to implement an effective compensation system’, whereas if laws are introduced then ‘the informational asymmetry in managerial pay between shareholders and the board of directors is removed’. The impact of disclosure laws on the magnitude of executive compensation is ambiguous, with some researchers arguing that a ‘keeping up with the Jones’ effect operates, given that the compensation schemes of rivals are in the public domain. The opposing view is that adverse political forces lead to boards reducing both the fixed and performance related components of compensation (see for example Jensen and Murphy, 1990).

In a study of the impact of the introduction of disclosure laws in Ontario, Canada, Swan and Zhou (2006) conclude that increased transparency of the design of executive compensation appears to be efficient in that it forces the board of directors to link pay more closely to company performance due to greater shareholder scrutiny, but the explanatory power of the regressions equations is very low. Thus other factors operating that may well be unrelated to performance appear to explain changes in compensation. CEO pay schemes became more performance-based, but there was no significant offsetting change in the fixed component of executive remuneration (Swan and Zhou, 2006: 15).

Shields (2005: 318) argues that the membership of the Business Council of Australia (BCA) exhibits double standards by advocating increased labour productivity and labour cost competitiveness in the context of greater flexibility in

Australian employment relations, yet they have been complicit in the blowout of CEO pay. He speculates that the compensation systems disguise additional 'rent extraction'. Also, following the BCA's aggressive advocacy of the scrapping of the unfair dismissal legislation, Shields notes the irony of granting of multimillion dollar termination payments to departing BCA CEOs – averaging AUSS\$3.3m over the past five years, ostensibly because they lack specific protections against early dismissal. Also more recently other forms of disguised income supplementation including the 'golden hello' and the long-service bonus have been granted to executives. Shields (2005: 315) challenges the claim that the remuneration of Australian CEOs is subject the global market, because he notes that external (outside of company) recruitment of executives only started in 2003. Finally he cites ways (Shields, 2005: 317) in which CEOs can manipulate performance metrics and hence distort incentive mechanisms.

In a recent unpublished Australian study which explores the relationship between the change in CEO rewards and changes in shareholder value for the period 1999–2005, Capezio et al. (2006) find, at best, a very weak relationship, although fixed unmeasured factors that affect remuneration over the sample period have been removed by first differencing. At best their poor results could be viewed as consistent with a range of performance metrics being employed by companies and components of remuneration being differentially associated with these performance metrics. If executive pay reflects the operation of the market in a world of transparent reporting, it is unclear whether different performance metrics and associated incentive schemes across companies would be sustainable.

Capezio et al. (2006: 7–8) argue that their results are more consistent with a Managerial Power explanation, whereby rent extraction occurs and incentives are distorted, as opposed to Agency Theory. The Managerial Power explanation has received support in empirical work that is listed by the authors. They acknowledge that they have not incorporated a measure of relative risk into their model, which is central to Agency Theory. However 'CEO pay–performance sensitivity falls far short of Agency Theory prescriptions' (Capezio et al., 2006: 8). They also note a theoretical deficiency of Agency Theory, namely how sensitive remuneration should be to firm performance, so that optimal contracting can be enforced.

The examination of the responsiveness of CEO remuneration to company performance sidesteps the question of the overall level of base pay (the intercept of the compensation relationship), which is also an important component of the overall level of remuneration.

Kilroy (2006) is critical of the lack of clarity of remuneration reports at AGMs. Strategies to achieve continuously higher shareholder value are required, but pay schemes rarely reward such behaviour. Short-term incentives linked to the year's profit and long-term incentives linked to total shareholder returns (TSR) do not encourage the behaviour that results in ongoing shareholder wealth creation. Indeed a company that achieves total returns above shareholders' required rate of return for a year or two, will have relatively high share

prices reflecting the embedded expectations about future performance. Often Long Term Incentive schemes fail to recognize these dynamics of TSR.

While the direct role of the CEO in generating shareholder value is contentious, the alternative where there is no accountability is worse. The employment of remuneration experts inevitably makes remuneration packages more complex, so there is a key question of the degree of transparency in linking pay to performance. The monitoring of compensation schemes by institutional investors may well improve the accountability of compensation schemes, but this does not make them fair. An unresolved question is whether obscure incentive schemes to executives already earning disproportionately high incomes promotes organizational efficiency and distributional equity.

Finally, Skulley (2006) notes the irony of the High Court judgement supporting the controversial Work Choices laws coinciding with the AFR survey of executive pay. The High Court decision increased the capacity of the Commonwealth to legislate on all matters pertaining to corporations, including executive pay. Also the Work Choices legislation gives the federal Workplace Relations Minister wide-ranging 'Soviet-style' powers to change the workplace system by issuing regulations rather than passing further legislation. This means a future Labor government intent on limiting executive pay would not necessarily require a Senate majority.

## Work Choices – The First Six Months

In last year's review we foreshadowed the possible impacts of the *Workplace Relations Amendment (Work Choices) Bill* (hereafter Work Choices), which was passed in December 2005 and implemented from July 2006. In 2006, the final obstacle for the Federal Government in implementing the changes was eliminated by the High Court's decision to reject the challenge to the legislation by the States/Territories on constitutional grounds. This decision will have far reaching consequences for the viability of Australian federalism and places industrial relations firmly under central government control.

While the introduction of Work Choices has radically altered the wage determination terrain it is too early to understand the impact of the changes. We have seen the first decision from the Australian Fair Pay Commission (AFPC) which now sets and adjusts the standard Federal Minimum Wage and minimum award classification rates of pay; special Federal Minimum Wages for junior employees, employees with disabilities or employees under training arrangements; minimum wages for piece workers; and casual loadings (House of Representatives, 2005: 11).

Further, the replacement of the 'no disadvantage test' by the requirement that agreements must only satisfy six statutory minimum standards (the minimum award wage, four leave entitlements [personal/carers, unpaid parental, compassionate and annual leave] and ordinary working hours, has already been used as a vehicle to reduce wages and conditions [Queensland Industrial Relations Commission (QIRC), 2007]).

### **Wage outcomes under Work Choices**

The ADAM report for September 2006 examines enterprise agreements certified or lodged during the June 2006 quarter (Workplace Research Centre [WRC], 2006). The June quarter 2006 was the first full quarter in which the Work Choices legislation was in effect.

The Australian Industrial Relations Commission (AIRC) finalized 1373 pre-Work Choices agreements between April and June, of which 133 agreements were sampled for the ADAM report, along with 13 pre-Work Choices agreements from the state jurisdictions (WRC, 2006: 4). A total of 720 agreements negotiated under the Work Choices legislation were lodged during the June quarter (OEA, 2006b). The Workplace Research Centre could only process 64 Work Choices agreements, representing 17 Employee Collectives (337), 24 Union Collectives (261), 1 Union Greenfields (41) and 22 Employer Greenfields (81) agreements of which 56 were associated with the private sector. Thus caution must be exercised in generalizing from the analysis of the sample of which nearly half represented agreements in Manufacturing and Construction.

From the total sample of June quarter agreements, 68 per cent yielded a quantifiable wage increase, giving an average annual wage increase of 3.9 per cent, which equals the March quarter rate, but represents a decline from the 2005 peak rates of 4.3 per cent and 4.4 per cent in the December and September quarters, respectively. Union agreements (4.0%) performed significantly better than non-union agreements (3.1%) in June.

Only 48 per cent (31) of the post-Work Choices agreements had a quantifiable wage increase, but this reflects the over-sampling of employer greenfields agreements, which are only permitted to run for a 12-month term, so only 17 per cent included a wage increase, which had an average of 2.8 per cent. Most union collective agreements yielded a quantifiable wage increase. The average annual wage increase for post-Work Choices agreements was 3.4 per cent compared to 4.0 per cent for pre-Work Choices agreements (see WRC, 2006: Table 2.2).

The average annual wage increase across all agreements in the June quarter was 3.9 per cent. Work Choices agreements appear to be somewhat lower than the average with union collective agreements providing 3.8 per cent per annum, employee collective agreements 3.0 per cent and Greenfield agreements 2.8 per cent.

Prior to the introduction of Work Choices 85 per cent of all enterprise agreements in WRC's agreements database specified a parent award that the agreement was based on, of which 80 per cent specified that the agreement should be read in conjunction with the award. WRC (2006: 12) argue that analysis of their sample illustrates how Work Choices has shifted the focus of workplace bargaining away from supplementing awards to replacing them (see Table 2). On the other hand, in contrast to non-union agreements, neither union collective nor union greenfields agreements explicitly excluded award provisions.

**Table 2** *Protected award provisions in Work Choices agreements based on WRC survey*

	<b>Not Covered</b>	<b>Provision of this type included</b>	<b>Refers to Award</b>	<b>Award provision explicitly excluded</b>
Penalties	56	5	0	3
Bonus pay	51	7	0	6
Shift Rates	38	21	0	5
Rest Breaks	33	24	0	7
Public holidays	31	27	2	4
Overtime Rates	27	31	1	5
Annual Leave Loading	24	35	2	4
Allowances	20	24	1	20

*Notes:* Reproduced from Table 2.12: Summary of protected award provisions in Work Choices agreements (WRC, 2006:19).

### **The Australian Fair Pay Commission Decision**

On 26 October 2006 the AFPC brought down its first decision in determining that, from 1 December 2006, all employees in the Federal jurisdiction would gain an increase of AUS\$27.36 per week for minimum wage rates up to AUS\$700 per week and AUS\$22.04 per week for minimum wage rates AUS\$700 per week and above. The new Federal minimum wage thus rose to AUS\$511.86 per week.

Some commentators, including the present authors, predicted that the AFPC would begin a process of real wage reduction at the bottom of the labour market. Using the neoclassical text book competitive labour market model as an authority, the Commonwealth had consistently argued that the AIRC safety net adjustments had retarded employment growth and the provision of apprenticeships and traineeships and that 'safety nets' should only apply to low paid workers (Howe et al., 2005: 4). The Government also argued that low wage entry-level jobs were merely stepping stones to higher paying jobs over time (Australian Government, 2005: 64) and 'that the AFPC will ensure a better balance between fair pay and employment' (DEWR, 2005: W319-06). These arguments, which were supported by the major business lobby groups at Safety Net Hearings, have been typically rejected by the AIRC (see Watson [2004] for a good summary of the debate about the relationship between changes in the minimum wage and employment).

In this context, the quantum of the AFPC's first decision was surprisingly large. The Prime Minister and other Government officials immediately praised the virtue of the decision, clearly having a major incentive to drive home the point that the AFPC was not about to cut wages for the weak. One can only

imagine that a similar quantum imposed on business by the AIRC under the now defunct Safety Net process would have attracted significant criticism from Government given the types of arguments that they typically made before the AIRC. But clearly the political agenda has changed.

While the AFPC wage increase in nominal terms appeared generous, it still amounted to a real wage cut for some low wage workers. The last safety net adjustment under the old system was on 7 June 2006. By December 2006, the CPI had increased 4.8 per cent. The AFPC award to those on the minimum amounted to a 5.64 per cent rise, while a worker on \$700 per week received a 3.1 per cent increase. So the decision compressed the real wage relativities at the bottom of the wage structure.

While the AFPC does not explicitly indicate what the impact of their decision on employment at the low-skill end of the labour market will be, it states that as 'as far as possible, its decision should not exacerbate unemployment or inflation' (AFPC, 2006: 7). Further, and contrary to the OECD's (2006) revelations noted earlier, the AFPC (2006: 8) affirmed that it 'considers that there is a negative relationship between the level of minimum wages and employment in Australia. The basis for any disagreement seems to involve the magnitude of the relationship rather than its existence'. Further, the AFPC (2006: 12): '... considers that the proposed wage rise, in combination with recent tax cuts and increases in income transfers, will deliver a real increase in the living standards of low-paid employees and their families'. These statements clearly indicate that the AFPC will reduce the real labour costs of employers at the low-skill end of the labour market and rely on the transfer system to maintain real standards of living. This amounts to a fundamental shift from the old Safety Net system.

There was also concern expressed previously (see last year's Review) that, unlike the AIRC Safety Net decisions, which were exacting and transparent and based on appropriate standards of evidentiary proof to the submissions of all parties (Briggs and Buchanan, 2005: 188), the AFPC had no legislative requirement for its processes or reasoning to be transparent. This concern remains now that the first AFPC decision has been made public. There is little in its written documentation that accompanied the decision to guide the reader as to how it arrived at the quantum delivered. There is no reasoned balancing of the arguments presented and the conclusions drawn from the various submissions.

The AFPC indicated that in 2007 it would conduct 'a wage review focusing on minimum wages for junior employees and employees to whom training arrangements apply in early 2007' (AFPC, 2006: 15) and provide for a second general wage decision in mid-year.

### **Queensland Industrial Relations Commission Work Choice Inquiry**

In late January 2007, the Queensland Industrial Relations Commission presented a report to the Minister for State Development entitled *Inquiry into*

*the Impact of Work Choices on Queensland Workplaces, Employees and Employers* (QIRC, 2007). The Terms of Reference were wide-ranging and the final report provides some early insights into how the industrial relations climate is changing (albeit in Queensland). The High Court rejection of the State's case was narrowly focused on constitutional validity and ignored issues relating to fairness. The report concludes that there are:

serious concerns about the social and economic impact of Work Choices. Emerging trends show that employees have become extremely apprehensive about job security in this new uncertain work environment. This in-turn has led many employees to refrain from raising normal industrial relations issues, such as occupational health and safety and questionable terms and conditions of employment, with their employers for fear of jeopardising their jobs ... the most severe impact of Work Choices will be felt by those less skilled and vulnerable workers ... (QIRC, 2007: 6)

Significantly, the removal of the no disadvantage test has provided the means by which employers have reduced wages and conditions using AWAs. The report found that young workers are particularly vulnerable as a result of their lack of bargaining power and labour market knowledge.

The Inquiry found evidence of a 'trend towards lower wages and conditions of employment through the use of Australian Workplace Agreements (AWAs) as the relevant industrial instrument governing employment' (QIRC, 2007: 6). They concluded that there was 'no evidence whatsoever of reciprocal productivity and flexibility gains for employees and employers to justify such one-sided outcomes' (QIRC, 2007: 6). Further, the report found that:

the mechanisms for employees to report incidents of unfair treatments have been severely curtailed ... There was also evidence of employees reporting what was *prima facie* unlawful treatment, being advised by bodies set up under Work Choices, that there was no remedy available for them. (QIRC, 2007: 7)

### **Tristar and Redundancy Protection**

Towards the end of 2006 the Tristar matter provided an interesting example of the way in which Work Choices is changing the behaviour of firms towards their workforces. The press story initially concentrated on a dying man being denied a voluntary redundancy payment and attracted intervention from the Prime Minister and the new Federal Workplace Relations Minister Joe Hockey who publicly admonished the company and its 'immoral practices'. The more relevant issue, however, was the treatment of the 35 remaining Sydney-based employees of the company.

As Tristar shifted its operations offshore and rendered its Sydney factory redundant, it sacked around 90 per cent of its workforce based on how long they had been with the company. Those with the longest tenure and the largest redundancy entitlements were retained even though there was no work available. The firm's plan relied on the Work Choices legislation for its effectiveness.

Senior Deputy President Marsh noted on 22 January 2007 in the application by Tristar to terminate the 2003 Certified Agreement (which had a nominal expiry date of 30 September 2006) that the Work Choices legislation placed requirements (under Schedule 7, clause 6B) on the Commission with respect to the preservation of redundancy provisions (AIRC, 2007). The relevant section of the Act notes that, 'parties to a pre-reform certified agreement will ... continue to be bound by one or more redundancy provisions included in the agreement'. The Commission must first formally terminate the agreement and then notify the parties that for 12 months after formal termination all parties remain bound by the redundancy provisions of the agreement.

These clauses were inserted as an amendment to the legislation. The then Minister for Employment and Workplace Relations explained in the Second Reading Speech that:

The Senate also made amendments to ensure that redundancy entitlements are protected. The government is very intent that employee redundancy entitlements not be undermined. As such, for the first time the government is introducing safeguards for employees and their redundancy entitlements. One example discussed by the Senate involves Tristar Steering and Suspension and its employees. The measures passed by the Senate will ensure that agreement based redundancy provisions continue to operate for a maximum period of 12 months after an agreement is unilaterally terminated by an employer. Preserved redundancy provisions will also be protected on transmission of business. The measure will apply to all federal agreements, including pre-reform agreements ... Because of the way in which an agreement can now be terminated by a notice period from the employer, there is a risk that some employees could find themselves, if an employer wanted to act inappropriately, without their redundancy entitlements; hence the 12-month protection of that redundancy entitlement. (House of Representatives, 2006: 81, 89)

So under Work Choices, Tristar assessed that it was cheaper for them to retain the workers for 12 months after the AIRC terminated the Certified Agreement even though there was essentially no work for them to perform rather than pay out their redundancy entitlements. At the end of 12 months the entitlements would lapse and the workers would be dismissed.

While the Prime Minister argued that Tristar's actions breached moral codes, the point that was lost on him was that capitalism is inherently amoral and the labour market has relied on regulation and arbitration processes to impose a sense of collective morality and ethical practice on 'market' interactions. Much of that regulation has disappeared under Work Choices and so it is no surprise that firms are considering the lingua franca of the market to govern their decision-making however unpalatable it is to the community. We now have the situation that a dispute which is seemingly offensive to community values now requires Prime Ministerial intervention via moral suasion to attempt to alter firm behaviour, which in this particular case (in relation to the redundancy issue) has been unsuccessful. This suggests that current industrial relations laws fail to reflect community values. Also, by relying on the legislation, many contentious matters that attract less public scrutiny will be resolved in the firms' favour.



## Conclusion

There were some further worrying macroeconomic developments during 2006, which against the backdrop of the implementation of Work Choices, are likely to have further adverse consequences for the living standards of workers in the years ahead. A two speed economy is operating, which is having a detrimental impact on employment opportunities and pay in particular regional areas. As anticipated in last year's review, Work Choices has fundamentally shifted the balance of power in favour of employers, which is illustrated by evidence on wages and entitlements from a number of sources. Notwithstanding the rhetoric about the benefits of labour market reform, which is now being challenged by the OECD, the rate of labour underutilization persists at high levels in Australia, which reflects the absence of a coherent full employment policy.

## Note

- 1 The wage cost index measures hourly wages net of bonuses and, in contrast to measures of average weekly ordinary time earnings (AWOTE), is independent of compositional changes, because it is based on a fixed basket of jobs, which, however, includes part-time jobs.

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