

IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

and

Public Service Arbitration Act 1920

NATIONAL WAGE CASE - NOVEMBER 1976

In the matter of an application by the Electrical Trades Union of Australia to vary the

METAL INDUSTRY AWARD 1971 [141 C.A.R. 389]

in relation to wage rates

(C No. 3932 of 1976)

and

In the matter of an application by the Australian Telecommunications Employees Association to vary the

AUSTRALIAN TELECOMMUNICATIONS COMMISSION TECHNICAL AND TRADES STAFF (SALARIES AND SPECIFIC CONDITIONS OF EMPLOYMENT) AWARD 1975

in relation to wage rates

(C No. 3933 of 1976)

and

In the matter of an application by The Association of Professional Engineers Australia to vary the

METAL INDUSTRY AWARD 1971, PART III - PROFESSIONAL ENGINEERS
[Print C1744]

in relation to wage rates

(C No. 3934 of 1976)

and

In the matter of an application by the Association of Architects Engineers Surveyors and Draughtsmen of Australia to vary the

METAL INDUSTRY AWARD 1971 - PART II - DRAUGHTSMEN, PRODUCTION,
PLANNERS AND TECHNICAL OFFICERS [Print B6927]

in relation to wage rates

(C No. 3938 of 1976)

In the matter of a direction by the President pursuant to section 15A of Public Service Act

THE AUSTRALIAN TELECOMMUNICATIONS EMPLOYEES ASSOCIATION

and

AUSTRALIAN BROADCASTING CONTROL BOARD and others

in relation to wage rates

(C No. 3960 of 1976)

SIR JOHN MOORE, PRESIDENT

MR JUSTICE ROBINSON

MR JUSTICE COLDHAM

MELBOURNE, 22 NOVEMBER 1976

MR PUBLIC SERVICE ARBITRATOR TAYLOR

MR COMMISSIONER PAINE

DECISION

The matters before us seek increases in rates of pay but do not specifically seek alterations in the principles, although, as we discuss later, a part of the claims raises one consideration which is novel.

The claim of all the applicant unions contain two elements, (1) an application for an increase of 2.2% being the increase in the Consumer Price Index for the six capital cities for the September 1976 quarter and (2) amounts, described as "*wage indexation catch-up*", being the amounts required to be applied to wages and salaries to restore their purchasing power to what it would have been if the Commission had awarded full percentage indexation in the last two quarters.

The first part clearly falls under the principles which we stated in May last but the second does not. It was admitted by the Australian Council of Trade Unions that it went "*beyond the expressed intention of Principle 1*" but it was argued that it was related to the total package and was based on a special circumstance which had arisen over the past six months.

The Commission has been at pains to point out since its decision of April 1975 that each quarter is to be considered separately and a decision made on each quarter. Even if we were satisfied with the merit of this claim (which we are not) we think to accede to it would be to undermine the whole indexation system. To ask this Bench to look at the last two decisions with a view to correcting them not only involves us in a review exercise which was not contemplated but seems to us to be opening a Pandora's box. If we were to accede to the unions request to re-open and reconsider the decisions in the last two proceedings, we can foresee a situation arising in which the employers and indeed intervening governments might request us to correct earlier decisions, perhaps going back further than two quarters. If this happened, one of the important ingredients in the package, namely consistent adherence to the principles, would be lost. It would therefore be prejudicial to the successful working of this system if we were prepared to reconsider and vary earlier decisions as to amount.

We consider that this second part of the applications should be dismissed.

Before turning to deal with the first part of the applications we would record one other matter.

In our decision of 12 August 1976 we stated our belief that -

"Steps should be taken to explore the possibility of achieving consensus on short, medium or long term objectives for the administration of the indexation package." [Print D550]

We also indicated that the President of the Commission might be able to play an initiating or co-ordinating role.

In accordance with this statement the President called a conference at which the Australian Council of Trade Unions, the Australian Council of Salaried and Professional Associations, the Council of Australian Government Employee Organisations, the Council of Professional Associations, the National Employers' Policy Committee and the Commonwealth Government were represented. The conference first met on 22 September 1976, when the Commonwealth tabled a proposal as a total package which was not divisible and which aimed at reducing the inflation rate to around 7% by June 1977. This has since been the subject of a press release. The conference was adjourned to enable the Commonwealth to give consideration to providing further information on its proposal and on 19 October that further information was supplied. The conference resumed on 1 November 1976. There was no agreement on the Commonwealth's proposal and as no other proposal was put forward, the conference was concluded.

Substantial Compliance

There seems to be some misunderstanding about how we should approach the question of industrial misconduct whether through strike or bans and the like. It has been put to us that industrial misconduct not directed towards any of the guidelines should be ignored by us, for example the Medibank strikes. However this attitude overlooks the fundamental point that strikes no matter how they originate or for what purpose may be relevant to economic considerations. Strikes over matters such as Medibank may or may not be in breach of the guidelines but be that as it may, the 2,057,000 man days lost over Medibank must have an adverse effect on production and on the economy as a whole. Moreover the strike statistics reflect neither stoppages of less than ten man days nor the bans and limitations which we as a Commission know exist from time to time. For instance the recent bans and limitations in the oil industry may well have an adverse effect on the economy. Nor do the figures include employees stood down as a consequence of strikes or bans and limitations.

In this case it was submitted that there had been substantial compliance with the guidelines although the private employers presented to us factual material to enable us to draw our own conclusions. We still have the concern which we expressed last quarter about substantial compliance. The figures for disputes in the months of June and July, the latest figures available during the case, showed 573,000 and 1,673,400 working days lost respectively, but when the figures for Medibank strikes were deducted the figures became 90,000 and 99,400. 90,000 and 99,400. However the figures for August which were not available for debate during the hearing show 203,900 working days lost. As against the statistics for disputes and the effect of bans and limitations, the figures as to rates of pay have once again moved more or less in line with increases in indexation so with hesitation we hold that there has been substantial compliance.

We would add that in considering disputation we think that it would be unrealistic for the Commission in hearings such as this to confine its attention to the three months constituting the quarter under consideration.

Form of Increase

As to the claim for the 2.2% increase we propose to consider form and amount separately. We do this because the form of the last two indexation increases has been as much the subject of debate as the amount of the increases. We start with the attitudes of the parties and interveners, always an important factor in arbitration. As already mentioned all applicant unions sought the same percentage increase. The percentage applicant unions sought the same percentage increase. The percentage form was supported by the Australian Public Service Federation and the States of New South Wales, Victoria, Queensland, South Australia and Tasmania. The Commonwealth submitted that if economic matters were alone considered no increase at all was warranted but also stated:

“On this occasion the Commonwealth does not make a specific submission on the form of indexation. We note that the Commission decided upon two different forms of partial indexation adjustment in its last two decisions..... The Commonwealth submits, however, that if any adjustment is to be awarded it would wish to see the purchasing power of lower paid workers protected. In proceedings leading to the August decision, the Commonwealth submitted options which demonstrated how the lower paid worker could be protected at a level of about 30% indexation. We would ask the Commission to consider this material again on this occasion if the Commission’s decision on the extent of indexation makes it relevant.”

The Western Australian Government agreed with the Commonwealth's submissions.

The private employers said:

“If the Commission is satisfied that substantial compliance has occurred, and if the Commission decides that for industrial relations reasons an increase is justified, then the increase should be of a moderate rate and indeed a minimal size because of the current economic situation..... In summary, there are no economic grounds for a general wage increase nor can an increase be justified on equity grounds. If however the Commission decides, for other reasons, to grant an increase, it is our submission that the state of the economy demands that such an increase be of minimal size.”

Various Master Builders Associations which were separately represented opposed any increase in excess of 2.2% but did not quantify what part of the 2.2% should be awarded.

It follows that a large number of those before us supported a percentage increase although not all supported 2.2%. The State of Victoria suggested 1.1% and the State of Queensland left the amount of the percentage to be decided by the Commission. From their submissions to us it would appear that the Commonwealth and the State of Western Australia would prefer a form of indexation other than a percentage.

Having considered all the submissions and the form of the last two decisions we think that on this occasion we should award a percentage increase. We do this for industrial relations reasons both because of the stated views of so many of those appearing before us and because the uninterrupted application of the plateau approach may unduly compress relativities.

Amount of Increase

The economic situation would appear to be much the same as it was in August. There may be some slight improvement but it is difficult to be optimistic about the economy as a whole, including the further deterioration in our level of international reserves. The rural industry continues to worsen. Unemployment and the rate of inflation are of grave concern. Consumer spending has not increased and consumer confidence is lacking. The Commonwealth together with the States of Victoria and Western Australia urge caution as do the private employers. They all put to us once again that the major problem to be overcome is inflation which will not be brought under control unless there is a fall in the real value of wages and a rise in the profits share of G.D.P.

In our August decision we said:

“In the absence of an actual or imputable consensus on the community view, we are left to evaluate as best we can, the views of the parties on the interacting industrial and economic considerations bearing on our decision.” [Ibid]

As already indicated the President chaired consensus conferences but no agreement was reached. The Commission is therefore left to arbitrate between the claim for full indexation plus catch-up and the argument for no movement at all. Economic chaos is predicted if we grant the claim, industrial chaos is predicted if we do not.

It remains the Commission's view that a greater degree of consensus should be possible. If it were possible to limit the range of options open to the Commission by actual or imputable consensus, it might assist in restoring consumer confidence.

The Commission, through the President, will continue to provide a forum for consensus discussions if they are sought by any major party or a government.

The outcome of the present proceedings has to be seen in the context of the widely differing views of what is appropriate in economic and industrial relations terms. The outcome must also be seen in the context of a number of influential factors:

1. Full percentage indexation remains the objective of the package.
2. Changes in relativities can only be effective if applied with a fine sense of discretion.
3. Despite partial indexation and despite government measures designed to bring about a controlled recovery the economy remains depressed.
4. The decline in the rate of change in the C.P.I. is expected to be interrupted by changes in the Medibank scheme.
5. On calculations submitted by the Australian Council of Trade Unions from figures supplied by the Commonwealth, full indexation for the current quarter would give Australia an estimated inflation rate for the twelve months to December 1976 (excluding the effects of Medibank changes) approximately equal to the current trade weighted average of our major trading partners.
6. The cost differential between full and partial indexation is lower this quarter due to the size of the C.P.I. movement.
7. Publication of the December quarter C.P.I. figures is expected to be delayed by "up to three weeks" with a probable delay in the next hearing.
8. Despite major aberrations, some heed seems to have been taken to the Commission's warning concerning campaigns to "beat" the guidelines.

These factors and others, including the belief in the positive benefits which may be made available by keeping the door open to full or partial consensus, have been evaluated consistently with our statutory duty.

We believe that what the Commission has been doing over the last 18 months has restored some stability and regularity to wage fixation and has received general acceptance in the community.

In our view the cumulative effect of the factors outlined calls for the exercise of our discretion in favour of full indexation on this occasion for award rates but it is not our intention that there should be any increase in over-award payments or in allowances generally.

Six Monthly Hearings

The employers once again asked us to rule that these hearings should take place every six months instead of every three. They used the same arguments as they used in the last hearing and we reject them again for the reasons given in our decision of 12 August 1976.

However there is one related matter to which we should refer.

In his publication of the September Quarter Consumer Price Index the Australian Statistician said:

“This full scale re-casting will mean that the C.P.I. for the December Quarter 1976 will be published up to three weeks later than usual.”

Because of this it could well be that the Commission will, as far as next January is concerned, be unable to keep to the timetable it has set for itself. We were asked by the unions to say now when the next case would start and to state that any increase would operate from 15 February 1977. We are not prepared to do either. The commencement of the next hearing cannot be determined until the Consumer Price Index has been released and the date of operation of any order will be for the Bench dealing with the application. As is well known the normal procedure of the Commission is not to grant retrospectivity in major cases.

Date of Operation

The decision in this matter is being given one week after the date referred to in Principle 2. Consideration of this case was delayed because of a serious dispute in the Oil Industry. We have already stated that retrospectivity in major cases is not normal and we see no reason for granting it in the present case. The increases will operate from the beginning of the first pay period to commence on or after today.

Form of Orders

The variations of the awards and determination will operate from the beginning of the first pay period to commence on or after 22 November 1976. The variations of the awards will operate for a period of three months from 22 November 1976. Minimum wages will be increased by 2.2%. Leading Hand rates will also be increased by 2.2%, as will shift allowances which are expressed in money terms, rounded off to the nearest 1 cent if on a daily or shift basis. No increase will be made to any other allowances. Junior rates prescribed only as money amounts will be increased by 2.2%. Weekly rates payable are to be calculated to the nearest 10 cents and annual rates to the nearest one dollar. The form of the orders necessary to give effect to the decision under the Conciliation and Arbitration Act will be settled by the Registrar with recourse to a member of this Commission. The form of the determination will be settled by the Public Service Arbitrator. It is not our intention that the increase we have awarded be applied to over-award payments including those covered by a recommendation provision such as appears in the Metal Industry Award.

APPENDIX 1

Table 1

Persons registered as unemployed with the Commonwealth
Employment Service and hours of overtime worked per employee

Period	Percentage of labour force registered as unemployed		Average number of hours worked per employee (Seasonally adjusted)
	(Seasonally adjusted)	(Without seasonal adjustment)	
1975 - March	4.5		2.1
- April	4.7		2.2
- May	4.5		1.9
- June	4.5		1.6
- July	4.8		1.7
- August	5.0		1.8
- September	5.1		1.8
- October	5.2		1.8
- November	4.7		2.0
- December	4.6		2.0
1976 - January	4.3		2.0
- February	4.2		2.2
- March	4.4		2.4
- April	4.7		2.2
- May	4.7		2.5
- June	4.9		2.6
- July	5.2		2.6
- August		4.4	2.4
- September		4.4	2.5
- October		4.4	

Notes:

The seasonal adjustment method used in this table is based on seasonal patterns of recent years which include years of low unemployment.

The Australian Statistician has drawn attention to the difficulties arising from making seasonal adjustments when marked changes in seasonal patterns occur.

The above statistics taken from the publications of the Department of Employment and Industrial Relations are subject to the qualifications that "no claims are made that the Series, with or without school leavers, are being satisfactorily adjusted." This Series was discounted after July 1976.

Source:

Department of Employment and Industrial Relations, *Monthly Review of the Employment Situation*, various issues, to September 1976, and Minister for Employment and Industrial Relations, *News Release*, 5 November 1976.

APPENDIX 2

Table 2

Percentage changes in weekly wage rates, average weekly earnings and consumer price index

Quarter	Weekly wage rates - Adult males - Federal awards		Weekly wage rates - Adult females - Federal awards		Average weekly earnings per employed male unit (Seasonally adjusted)		Average weekly ordinary time earnings (Seasonally adjusted)		Consumer Price Index (six capitals)	
	A*	B*	A*	B*	A	B	A	B	A	B
1973 - March	2.5	11.1	1.5	9.2	1.7	9.8			2.1	5.7
- June	5.7	13.8	9.3	15.2	4.7	11.5			3.3	8.2
- Sept.	4.6	16.0	4.7	17.7	4.8	13.9		9.2	3.6	10.6
- Dec.	1.3	14.9	5.0	21.9	3.3	15.3	5.8	14.2	3.6	13.2
1974 - March	1.3	13.5	4.3	25.3	2.9	16.6	3.0	16.9	2.4	13.6
- June	19.2	28.0	17.1	24.2	7.1	19.2	7.7	20.5	4.1	14.4
- Sept.	7.8	32.0	11.5	43.0	10.2	25.4	11.	30.5	5.1	16.0
- Dec.	5.0	36.8	4.9	42.9	5.4	27.9	6.9	31.8	3.8	16.3
1975 - March	1.6	37.2	3.0	41.2	2.4	27.3	4.2	33.3	3.6	17.6
- June	4.9	20.7	7.1	29.1	2.4	21.7	2.9	27.4	3.5	16.9
- Sept.	3.2	15.5	4.6	21.0	3.1	13.8	3.5	18.5	0.8	12.1
- Dec.	3.0	13.3	2.4	18.1	4.8	13.3	3.1	14.3	5.6	14.0
1976 - March	4.2	16.1	4.4	19.6	2.4p	13.3p	1.7	11.6p	3.0	13.4
- June	3.9	15.2	4.5	16.7			p		2.5	12.3
- Sept.									2.2	13.9

Notes
 A = Increase on previous quarter
 B = Increase on corresponding quarter in previous year
 p = Provisional * Based on monthly averages

Sources: Australian Bureau of Statistics, *Wage Rates and Earnings*, Various issues to May 1976 (Ref. No. 6.16), *Wage Rates Indexes: August 1976 (Preliminary)* (Ref. No. 6.37), *Consumer Price Index - Sept. Quarter 1976* (Ref. No. 9.1).

APPENDIX 3

Table 3

Some Components of gross domestic product and gross national expenditure

	Quarter											
	1973			1974			1975			1976		
	Sept.	Dec.	Mar.	June	Sept.	Dec.	Mar.	June	Sept.	Dec.	Mar.	June
<i>Gross private fixed capital expenditure</i> (Percentage change from previous quarter)												
Dwellings		-1.0	-4.1	-5.0	-9.3	-7.3	-4.7	-2.3	6.4	7.3	10.7	5.6
other buildings and construction		6.5	-	-6.9	2.1	-0.4	0.4	1.6	-4.8	-2.5	-14.1	-3.0
All other		10.7	-1.1	-3.1	-1.5	-6.5	-1.0	6.3	-0.9	-6.7	8.2	0.2
Increase in stocks (\$ million)												
Private non-farm	-83	82	339	250	301	287	-166	-104	-196	-109	88	-70
Consumption change (Percentage change from previous quarter)												
Private			0.5	0.7	-0.2	0.3	1.6	2.5	-0.2	-0.2	0.2	2.7
Gross operating surplus of companies (as a percentage of Gross Domestic Product at Factor Cost)	15.9	14.6	15.3	12.7	11.0	12.2	11.6	13.8	11.8	11.8	12.0	13.6

Wages, salaries and supplements (as a percentage of Gross Domestic Product at Factor Cost)	58.4	60.1	60.6	64.0	67.2	67.0	67.1	65.2	66.7	67.1	66.0	64.8
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Notes - All indices based on average 1966-1967 prices and all quarterly figures on seasonally adjusted data.

Source - Australian Bureau of Statistics, *Quarterly Estimates of National Income and Expenditure - June Quarter 1976* (Reference No. 7.5).