Mis 132/77 MD Print D3315

IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMISSION

Conciliation and Arbitration Act 1904
and
Public Service Arbitration Act 1920

NATIONAL WAGE CASE MAY 1977

In the matter of applications by the Australian Telecommunications, Employees Association to vary the

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

AWARD 1975 (Print C6568)

(C Nos 108 and 603 of 1977)

And in the matter of applications by the Electrical Trades Union of Australia and others to vary the

METAL INDUSTRY AWARD 1971 (141 CAR 389)

(C Nos 146 and 597 of 1977)

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)

(C No. 154 of 1977)

And in the matter of applications 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 (139 CAR 917)

(C NoB 168 and 607 of 1977)

And in the matter of directions by the President pursuant to section 15A of the *Public Service Arbitration Act* matter between

AUSTRALIAN TELECOMMUNICATIONS EMPLOYEES ASSOCIATION

and

THE MINISTER FOR POST AND TELECOMMUNICATIONS

(C Nos 172 and 612 of 1977)

in relation to wage rates

SIR JOHN MOORE, PRESIDENT
MR DEPUTY PRESIDENT ISAAC
MR PUBLIC SERVICE ARBITRATOR TAYLOR
MR COMMISSIONER NEIL MELBOURNE, 24 MAY 1977

DECISIONS

Sir John Moore, President, Mr Deputy President Isaac and Mr Commissioner Neil

On 3 May 1971, the date set down in our last national wage decision for consideration of the March Quarter Consumer Price Index (CPI), we were faced with an application from the private employers, supported by the Commonwealth and the States of Queensland and Western Australia, for the Commission:

(1) To defer consideration of the March quarter CPI increase of 2.3% to a date not before 30 July 1977.

(2) To proceed meanwhile with the inquiry into wage fixing principles foreshadowed in the 30 March 1977 national wage decision.

(3) To extend until after the inquiry its call of 19 April 1977 for the Commission in all its manifestations to refrain if possible from awarding money increases.

This application was opposed by the unions and the States of New South Wales, South Australia and Tasmania.

After hearing procedural submissions from all, the Commission decided as follows:

"(1) Debate on the March quarter figures should not be deferred. It will of course be open to those opposing an increase to argue in that debate what for industrial or economic reasons including the question of the wage price pause should happen to the claims.

(2) We are unable now to say what the result of that debate will be. No-one should assume that as a result of this procedural decision we have decided the ultimate result of the claims before us. It may be that on the arguments put we will award the whole amount, part of it or none of it, or that we might defer the whole matter.

(3) On the submissions before us so far we do not think that at this stage any useful purpose would be served by the Commission calling a conference as suggested by the Victorian Government.

(4) The Commission in all its manifestations should if possible defer awarding money increases until after we have given a decision on the March quarter figure although we realise there may be matters which for industrial relations reasons call for special consideration.

(5) The inquiry will be commenced at a convenient date after a decision has been given on the March quarter figure."

The first matter before us, therefore, is to decide on the CPI figure of 2.3% in accordance with paragraph 1 of the above decision; and to consider whether the call contained in paragraph 4, should be extended till after the inquiry.

The March Quarter CPI

The unions' claim for a full adjustment of 2.3% to all award rates was supported by South Australia and Tasmania. New South Wales submitted as its primary proposal that award wages should increase to the extent necessary to maintain the real value of take-home pay on the condition that the Commonwealth would adjust personal income tax appropriately for this purpose. Its secondary submission was that the full 2.3% should be applied to wage rates up to the level of average weekly earnings, the increase for that level being awarded uniformly to all higher rates of pay.

The employers, the Commonwealth, Victoria, Queensland and Western Australia opposed the unions' claim and asked that no increase at all should be awarded.

As to substantial compliance: in its original submission the Commonwealth said, *"we do not submit that there has not been substantial compliance"* and later *". . . we are not submitting non-compliance as such"*. No-one put a positive submission that there had not been substantial compliance, although Mr Maddern, for the employers, submitted that on the material presented *"it is difficult to see how the Commission could conclude there has been substantial compliance"*. The material once again consisted of strike statistics and a long list of strikes and the parties involved. Although the overall picture is one of a large number of stoppages involving small numbers of persons and sometimes shortlived, we are, nevertheless, disturbed by the high increase of stoppages.

In the context of the two recent prolonged and severely disruptive strikes, one affecting the delivery of petrol in Victoria and the movement of aircraft and the other bringing air travel virtually to a halt, we come close to holding that the requirement of substantial compliance has not been met. If we had so held it could have meant the applications being dismissed either in whole or in part on this ground alone. The two strikes may not have had much effect on the statistics about rates of pay or industrial stoppages but they caused serious dislocation in the community and hardship to many. However, in view of the ambiguities surrounding the concept of substantial compliance in relation to indexation for a particular quarter, we are of the opinion that at the forthcoming inquiry into wage fixing principles, an attempt should be made to give greater clarity to this concept. In the matter before us, in view of the absence of positive submissions from any one that no increase should be granted on the ground of non-compliance, we do not propose to take the question any further.

Two main grounds were argued for total rejection of the unions' claim. First, the state of the economy. And second, the existence, since the 13 April agreement of the heads of governments on a voluntary wage-price pause, of a substantial voluntary price freeze and a commitment from a large number of private employers, employer associations, and government departments and instrumentalities for its continuation. The relative weight given to these grounds varied. Both the private employers and the Commonwealth put the economy as their primary submission. Mr Maddern declared:

> "*Our submission calling for dismissal is not in any way based on the concept of trading off a price pause for a wage pause. It is based essentially on a firmly held belief that the Commissioner should in terms of its own criteria refuse to award any increase having regard to the economic situation."*

Mr Morling for the Commonwealth, advanced the existence of a substantial voluntary price freeze as an additional factor in support of the economic case for rejecting the claim for a 2.3% increase in pay. He argued that the pause had "*immeasurably less chance of being continued"* if a decision were made in the unions' favour.

Although Victoria, Queensland and Western Australia did not express any priority as between the two grounds, they gave considerable weight to the existence of the price pause and the likelihood of its persistence as a ground for rejecting the unions' claim. However, in the case of Queensland, its rejection was qualified by the condition that the price pause should be "*tested by experience"* and be "*kept under review*"; and Western Australia said that:

> *". . . there can be no final decision made at this time whether at the time of the next review, in the light of the experience and practice of a prices pause and the experience perhaps industrially for these ensuing months, and in the light of the findings that this Commission might reach on the general inquiry into indexation - it is in the light of those things, when the Commission next comes to look at the question as to what movement in the future should be made, that the question of what place if any the movement in the March quarter ought to have . . ."*

The unions rejected on equity, economic and industrial relations grounds, the submissions of those opposing their claims. The substance of the unions' argument in relation to the price freeze was that it was limited in scope, largely nominal and not subject to monitoring in its application, and that it would be inequitable either to defer or deny the unions' wage claim on an "*ill-defined, ill-conceived and ill-thought out proposal"*.

Mrs Barnes, on behalf of the Council of Professional Associations, expressed support in principle for the governments "*proposal for a halt in wages and prices for a trial period, subject to certain safeguards and restrictions to be worked out"*. The Council, she submitted, still thought it worth pursuing the idea of arriving at a formula "by which to pave the way to reach accord", and that further efforts should be made in this direction.

The three States supporting the unions' claim, New South Wales, South Australia and Tasmania, submitted that a comprehensive halt in prices had not been achieved and that a wages pause in the present circumstances was inequitable and unwarranted. New South Wales argued that "*voluntary agreement and consensus was necessary as a foundation for policies in this field"*.

The various submissions present the Commission with the following options in relation to the March quarter figure of 2.3% -

1. To defer consideration of any increase in the light of the course of the price freeze.

2. To reject outright the claim.

3. To grant part or the whole of it.

We have given consideration to these options in the light of the submissions on the voluntary price freeze and the state of the economy.

On the face of the first option, there is much appeal in the proposal for a final decision on the 2.3% to be deferred. It would give all a chance to test the effectiveness of the voluntary price freeze while keeping alive the unions' claim should the price freeze not succeed. We are satisfied, that the prices for a wide range of goods and services have been held stable since the 13 April agreement of the heads of governments on a voluntary wage-price pause. In particular, those subject to surveillance by the Prices Justification Tribunal, covering some 3449 companies, and those under the authority of Commonwealth, state and local governments, have held back price increases and will continue to do so. And we have no reason to doubt that for the present many prices beyond those covered by the above have been frozen pending our decision.

However, from all that has been put to us on the price freeze, we have concluded that the concept and its future ramifications have not been adequately defined, that many prices are not frozen and others may not remain frozen whatever we decide, that the surveillance of their continued application is limited and that the overall contribution of a three-month wage-price pause under these conditions is indeterminate. In other words, we are being asked to impose a compulsory wage pause against several uncertainties of a voluntary price pause.

In these circumstances, the deferment of the March quarter CPI could well be shortlived and the Commission might well be faced with a renewed application in a matter of weeks on the ground that the price freeze was not working. The difficulty of obtaining satisfactory statistical or other evidence on whether prices are being held or not was clearly demonstrated in the present case despite persistent questioning from the Bench, and we could well be faced with similar inconclusive evidence later. In view of our decision to conduct a review of wage fixing principles, we do not believe that we should have the distraction of an uncertain wage-price pause hanging over those proceedings. We agree, therefore, with the employers' submission that the Commission should indicate explicitly whether an increase in wages is justified or not; and that any deferment of the unions' claim would serve to raise expectations that a wage increase will be granted and to create prospects of industrial unrest.

It follows from our difficulty with the proposal for a postponement of the March quarter claim that the submission for an outright rejection of the claim on the ground of the existence of a voluntary price freeze is even less persuasive. This is not to say we are lacking in sympathy with the concept of a wage-price pause. But we believe that given our statutory function, before we should give support to the concept by refusing increase in our awards to complement a price pause which is outside our control, the terms of the latter would need more careful definition and be subject to a more comprehensive system of price surveillance or control to ensure its observance. Without these requirements, our action to apply in effect a compulsory wage pause by denying any part of the 2.3%, unrequited by an assured price pause, clearly defined as to scope, duration and aftermath, would constitute an unwarranted departure from our indexation, principles and, indeed, a denial of our statutory responsibilities.

These considerations, against the background and of an attempt at a <u>voluntary</u> wage-price pause which has so far not made headway, leads us to the conclusion that we should make our decision in respect of the 2.3% not on the basis of *"trading off a price pause for a wages pause"*, to quote Mr Maddern, but on the basis of the Commission's normal criteria.

On 19 April we said that employers generally had agreed with the government about prices and we expressed the hope that agreement would be reached about wages; and we still have that hope. This decision does not, of course, close the door to any future proposals but provides a proper base for a more fully defined and viable wage-price pause. The Commission would make itself available quickly to do what it could to assist in implementing such a pause and impending the inquiry into wage fixation methods could provide a ready vehicle.

We are, therefore, left with the state of the economy as the basis for a total rejection of the claim for 2.3% wage adjustment. The reviews of the economy presented to us on this occasion differed little from those given at the last national wage case. The general outlook continues to cause concern with no clear signs of economic recovery in sight. While the parties and interveners were largely on common ground in this connection, there was once again strong divergence as to the proper course, for us to take.

The Commonwealth argued that there was an overwhelming case on economic grounds for maximum wage restraint. The submissions of the employers, Victoria, Queensland and Western Australia were on much the same lines. The unions argued that a reduction in real wages, by reducing private consumption expenditure, would add to the difficulties of economic recovery. We note that Victoria, while rejecting the unions claim, stated that *"the core of the problem facing the economy is less the level of real wages and much more the continuing rate of advance of nominal wages"*. The unions' claim is, of course, merely intended to maintain real wages.

In our decision of 30 March 1977 we discussed in some detail the Commission's difficulties in assessing conflicting arguments on the proper course for wages in the current economic circumstances, and it is not necessary for us to go over the same ground again. Faced with a 6% increase in the CPI, the Commission then said:

> *"After nearly two years of assisting to reduce progressively the rate of inflation, we are faced on this occasion with the daunting prospect of adding fuel, to the inflationary trend by increasing labour costs substantially through full indexation. The dangerous consequences of such action, especially in conjunction with the increase in costs resulting directly from devaluation, are too apparent to need elaboration. For this reason and not because we are satisfied on the material submitted that it is economically necessary to reduce the real incomes as such of wage and salary earners, we do not believe that we can responsibly grant the full 6 per cent. The circumstances confronting the country compel us once again to depart from full indexation."*.

Fortunately, on this occasion we are faced with a much smaller CPI figure. However, this figure is affected directly by the devaluation of November 1976 and it has been put to us that the proper CPI figure to be looked at for the purpose of wage indexation should exclude the direct effect of devaluation. We have considered this question carefully and we are aware of the difficulties, both conceptually and statistically, of discounting the CPI for variations in the exchange rate. However, we cannot ignore the fact that the devaluation has occurred under conditions of an uncomfortably high rate of inflation. We should in these circumstances minimize as far as possible any action which would reduce the benefits conferred by devaluation on the competitiveness of the Australian economy by feeding back the resulting higher import prices into wages. To this end, we have decided that the effect of devaluation on the imported items of the CPI should be excluded from the index for purposes of wage adjustment. However, the closest the Statistician was able to assist us in this connection was to estimate the extent to which the prices of goods wholly or largely imported have increased in the March quarter. This estimate was 0.39 per cent, a figure which does not allow for changes in the prices of imported goods for reasons other than devaluation. The net effect of these other factors is not known but in view of the small size of the estimated increase in the price of imported items, we propose to regard 1.9% as the appropriate figure for consideration of the March quarter adjustment.

Bearing in mind all the matters put to us including submissions about the state of the economy, the long run advantages of an orderly system of wage fixation, our decision on the last indexation occasion, the fact that this decision is part of a continuing series, the various differing points of view put by governments as to the claim and the comparatively small figure before us this time we have decided that all award rates up to $200 a week ($10,433 a year) being about the figure of Average Weekly Earnings should be increased by 1.9% and those above that figure by $3.80 per week ($l98 a year). Minimum wages will be increased by 1.9%.

Deferment of other increases

On 19 April 1977 we decided that the Commission in all its manifestations should if possible defer awarding money increases until 3 May 1977 although we realized there might be matters which for industrial relations reasons called for special consideration. On 3 May we extended this concept until after we had given this decision. It would be inconsistent with our decision if we extended the concept any further and accordingly what we said no longer applies.

Catch-up

Only the ACTU and ACSPA asked that rates of pay be adjusted by the amount necessary to compensate for past indexation decisions of less than the full percentage amount. It should be clear by now that the Commission will not award this kind of claim and accordingly it is dismissed.

Over-award payments

This was not specifically debated before us but in order to avoid any misunderstanding we state that it is not our intention that the increase should be applied to over-award payments including those covered by a recommendation such as appears in the Metal Industry Award.

Inquiry

We have already said that the inquiry will be commenced at a convenient date after this decision. Because the idea of holding an inquiry into the principles of wage fixation originated in the Commission, it is considered desirable, and, it is hoped, of use to parties and interveners, if some of the matters which motivated the Commission to hold the inquiry were circulated. They are matters to which parties and interveners may wish to address themselves; they are not intended to exhaust the field of the inquiry nor should they be taken as indicating any final views of the Commission.

The matters which are really an elaboration of what we said in March are:

(1) If the indexation is to continue what alterations, if any, should he made to the guidelines and in particular should the structures on variation of individual awards continue? Is it more desirable to allow greater flexibility so that the parties and the tribunal will have more freedom of movement?

(2) Whether it would be better to have a two tier wage system in which one element was adjusted regularly for prices and the other at less regular intervals for reasons which would include price movements but also other things. This would ensure that at least a portion of the age would be regularly adjusted and that those at the lower end of the wage scale would be looked after. The matters which would be taken into account when fixing the other part of the wage would be related to particular work rather than to general considerations.

(3) What role should such traditional arguments as comparative wage justice and industry productivity have to play in the proper fixation of wages, particularly comparative wage justice, which before the indexation package was at the heart of award wage fixation?

(4) At what intervals should either the total wage or the two parts of the wage be adjusted. Before 1967 the basic wage was adjusted annually and margins at less frequent intervals. Should we revert to a similar timing or to some timing other than the present quarterly timing? The present system in a time of rapid inflation gives the wage earners relief against the inflation but on the other hand causes costs of employers to rise quite frequently. Is it better to keep the present system or to make adjustments at less frequent intervals which would mean that employers would have to pay increases at less frequent intervals though each increase would probably be greater?

(5) What should happen to the concept of national productivity in wage fixation which has been a feature of the Commission's activities for many years although no case about national productivity has been argued in the last two years? If the concept of national productivity is not to be retained should the Commission change to a method of creating different rates for similar work in different industries in part at least relating such difference to differences in industry productivity?

(6) Is the consumer price index or any other index appropriate to be used in the adjustment of either the total wage or part of it?

(7) To what extent should the concept of "substantial compliance" be continued to be used in wage fixation and if it is should the lack of it be reflected in wages by refusing either all or part of the claim?

(8) In relation to the form of indexation, when economic circumstances require less than full indexation, would equity be better served by awarding -

(a) a fixed sum based on the minimum wage; or

(b) a plateau on average award rates or average weekly earnings; or

(c) percentage increases tapering downwards and upwards from a given figure, say Average Award Rates or Average Weekly Earnings?

To answer this question, it would be of assistance to have evidence of the "needs" of persons at various wage levels. It may turn out that those with the greatest needs are not necessarily those at the bottom of the wage structure.

(9) Can consensus be achieved on the particular wage statistics (e.g. award rates, earnings, original figures or seasonally adjusted) to be used, and on the time span over which they are to be measured (e.g. full year, one quarter to the next, one quarter compared to the corresponding quarter of the previous year), for purposes of deciding how wage earners have fared in real terms?

(10) Any other relevant issue that any party or intervener may wish to raise.

A conference of all those before us will be held in Melbourne at 2.15 p.m. tomorrow to discuss the programming of the inquiry.

Form of Orders

The variation of the awards and determinations will operate from the beginning of the first pay period to commence on or after 24 May 1977. The variation of the awards will operate for a period of three months from that date. Leading hand rates will be increased by 1.9 per cent with a maximum increase in the total leading hand rate of $3.80 per week. Shift allowances which are expressed in money amounts will be increased by 1.9 per cent rounded off to the nearest, one cent if on a daily or shift basis. Junior rates prescribed only as money amounts will be increased by 1.9 per cent with a proviso that no junior is to get an increase which as a percentage is greater than the percentage increase awarded in the rate of an adult employee to which his rate is related. Weekly rates payable are to be calculated to the nearest 10 cents and annual rates to the nearest dollar. Allowances will be varied in the same manner as they were following the August 1976 decision. 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 Determinations will be settled by the Public Service Arbitrator.

Mr Public Service Arbitrator Taylor

Details of the matters which arise for our consideration are set out in the decision of the other members of the Bench and I therefore do not repeat them.

I also indicate that I agree with the view expressed in that other decision as to the economy and the question of substantial compliance. Like the other members of the Bench, I would also reject the claim for an increase in wages and salaries to compensate for what the unions call losses incurred by their members as a result of earlier National Wage decisions which did not grant full percentage indexation.

The remaining matter concerns the claims of the unions for an increase in wages and salaries on account of the 2.3% increase in the March Quarter 1977 Consumer Price Index (C.P.I.). On this aspect I do not agree with the other members of the Bench. The various options open to us on this question and the arguments and submissions of the parties in relation thereto are summarised in the decision of the other members of the Bench and therefore I do no more than set out my views and the decision I would give on the matter

I am satisfied that since 14 April 1977, i.e., since the call of the seven Heads of Government for a 3 months wage-price pause, there has been a substantial holding of prices. I am aware that the agreement sought by the seven Heads of Government has not eventuated, in the main because of the refusal of the unions to accept a wage pause but nevertheless the announcement acted as a catalyst to spark off an immediate price pause and it is significant that the pause commenced shortly after the awarding by the Commission of the last National Wage increase of $5.70 per week to all wage and salary earners. It is clear from the material put before us that a substantial number of employers throughout Australia have agreed not to increase the price of their goods - some indeed agreeing not even to put into effect increases which had already been approved by the Prices Justification Tribunal. Also the seven Governments were represented before us and they each indicated that they had frozen all their charges, these including charges for gas, electricity, fares etc although since the completion of the hearing on 18 May we have become aware of the publication on 19 May of the decision of the South Australian Government that its support of the price pause had ended and that the prices of goods and services in that State could be increased at any time. A considerable proportion of the goods and services on which prices have been held and in which it has been indicated that no increase will occur for the present, are goods and services included in the C.P.I. basket, that is in prices which have the greatest effect on the wage and salary earner. These are the facts and it is these facts to which I attach the greatest importance.

Even though the price pause does not relate to all items in the C.P.I., a notable exception being perishable goods and I presume that in view of the South Australian Premier's announcement of 19 May there will, before the close of the quarter, be increases in South Australia in the prices of some other goods, the price pause is sufficiently wide-ranging to confer on the great bulk of the wage and salary earners in Australia a substantial benefit, such benefit would, I consider, result in weekly savings to the average household about equivalent to the nett amount (i.e., after tax) which would be received by a wage earner if his wage were increased by an amount determined with regard to so much of the 2.3% C.P.I. increase as was not caused by devaluation. The price pause having commenced on or about 14 April 1977, the benefits of the savings have been enjoyed by wage and salary earners throughout Australia since that date and will continue whilst the price pause continues although in South Australia, because of the recent action of the South Australian Government, future savings are likely to be less than elsewhere in the Commonwealth. However, if the price pause ends, so will the savings and it is relevant that Mr Jolly, in answer to a question from the Bench, conceded that if a wage increase be now awarded, the price pause which currently exists and which has already been in operation for several weeks, will probably end.

The price pause constitutes a real chance to contain prices and thus reduce inflation and should be encouraged to continue and expand and not be brought to an untimely end which in my view would occur if a wage increase be now granted.

A continuation of the price pause and a decision to give no increase in wages and salaries at this time would assist in reducing the rate of inflation and be of considerable benefit to the economy. This could be expected to lead to an expansion of industry and of consumer spending followed by a reduction in unemployment. The achievement of these goals would be of great benefit to the community and the country in general and a refusal of a wage increase at this stage with a continuation of the price pause would do much to facilitate them.

For the reasons mentioned, I would refuse the applications but in so doing stress that such refusal would be in anticipation of the current price pause continuing and if it did not continue that application could be made to the Commission for urgent reconsideration of the matter in the light of the changed circumstances.

I am aware that my decision will not affect the order that is to be made on these applications and therefore place on record that if I had not formed the views above expressed and had decided that an increase was justified, then my decision would have been the same as that of the other members.