

2 March 2021

Senator the Hon James McGrath  
Chair  
Senate Legislation Committee on Education and Employment  
Parliament House  
Canberra ACT 2600

Dear Senator

**Response to Question on Notice**

I am writing to provide a response on behalf of the Business Council of Australia to a question I took on notice during my appearance at the Committee's hearing on the provisions of the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020* held in Canberra on Friday 19 February. During this hearing, the following question was taken on notice:

*Senator O'NEILL: I have two questions. The first one goes to the much-reported claims that cuts to penalty rates in hospitality and retail would be a massive job creator. How many jobs did your members create as a result of the cuts to penalty rates in hospitality and retail?*

*Ms Westacott : I'll have to take that on notice. I don't believe that that is an accurate statement, but I'll take it on notice.*

The response to the question asked by Senator O'Neill is as follows:

1. In 2017 the Fair Work Commission made a decision to adjust certain penalty rates in six awards in the Retail, Hospitality and related sectors. These adjustments mostly concerned bringing penalty rates for work on Sundays into closer alignment with penalty rates for work on Saturdays.
2. A number of business organisations made submissions to this proceeding. The Business Council of Australia did not participate in the proceeding. As such, it has not undertaken any research in relation to the likely effect on job creation of the adjustments to penalty rates made by the Commission.
3. The adjustments to penalty rates were phased in over several increments between 2017 and 2020. Members of the Business Council that employ staff in sectors covered by the relevant awards were overwhelmingly covered by enterprise agreements during this time. As such, the changes to award penalty rates will not have applied to them. Any arrangements for penalty rates would have been set by agreements rather than the awards.

4. As a result, it would not be possible to assess what, if any, impact the Commission's adjustment to award penalty rates may have had on Business Council members. The Business Council is not aware of any attempt by its members to undertake such an assessment.

Yours sincerely

Jennifer Westacott AO  
**Chief Executive Officer**  
Business Council of Australia

BCA

Business Council of Australia

Level 42, 120 Collins Street,  
Melbourne VIC 3000

GPO Box 1472, Melbourne 3001  
[www.bca.com.au](http://www.bca.com.au)