

# Submission on the inquiry Into Small Business Employment

By



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& CATERING  
AUSTRALIA

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## **Background**

The following submission is made by Restaurant & Catering Australia on behalf of the restaurateurs and caterers in Australia. The submission refers at times to the restaurant industry. Data from ANZSIC 5730, Cafes and Restaurants, which is sub-set of ANZSIC Division H, sub-division 57 "Accommodation, Cafes and Restaurants", forms the statistical base of this report. This group, 'Cafes and Restaurants' contains information pertaining to business units whose primary activities are café operations, restaurant operations and/or catering service operations. Thus, whilst omitted from the ANZSIC label, the term 'cafes and restaurants', as used throughout this report, includes caterers and is described herein as the restaurant industry.

### ***About Restaurant & Catering Australia***

Restaurant & Catering Australia is the peak national organisation representing the interests of restaurateurs and caterers. The Association exists to lead the restaurant and catering industry. It does so through a federation structure with its direct members being State Restaurant and Catering Associations. Restaurant & Catering Australia has a constituent Association in every State / Territory bar the Northern Territory.

Constituent State Association have 5,000 members throughout Australia.

### ***About the Restaurant Industry***

The industry is characterised by a large number of very small labour intensive businesses.

#### **Numbers of Businesses**

The Association represents the interests of an industry that is comprised of 28,925 restaurants, cafes and catering businesses.

Responsibility for the collection of data on of the number of businesses has recently been transferred from the ABS to the ATO. The Australian Taxation Office, in a special report for Restaurant & Catering Australia, for the year 2000, declared that 29,551 restaurants, cafes and catering businesses had registered for GST. This included both employing and non-employing businesses and was based on initial GST registrations.

In Restaurant & Catering Australia's 2001 Industry Statistics Report, ABS data was used to determine the number of businesses (the Australian Business Register), released in March 2002, for July 2001, which showed a total number of 28,925 restaurant businesses in Australia. This equates to a slight (2%) decrease on the 2000 result.

In October 2000, the ABS released the inaugural report of the Cafes and Restaurants Industry (ABS Catalogue 86550). This report was based on data from the 1998/99 Financial Year. It found that there was 12,845 employing business in 14,199 locations.

The ABS has stated that their business count and that of the ATO are consistent in that they believe that 50% of business (based on cross-industry statistics) are employing businesses.

Based on the ABS assumption, and the statistics gathered from the ATO, it would appear that in the 1998/99 financial year there were 25,690 restaurant and café businesses 29,551 in the following year and 28,925 in 2001. A breakdown of these businesses is as follows:

	<b>Employing Businesses</b>	<b>Estimated TOTAL 98/99</b>	<b>Estimate 99/00</b>	<b>ABS 2001</b>
Licensed Cafes / Restaurants	5998	11996	-	-
Unlicensed Cafes/Restaurants	5529	11058	-	-
Caterers	1318	2636	-	-
<b>TOTAL</b>	<b>12845</b>	<b>25690</b>	<b>29,551</b>	<b>28925</b>

Table 1 – Estimate of numbers of businesses financial years 1998/99, 1999/00, 2000/01

<b>Cafes, restaurant and catering businesses</b>	
1994	14670
1995	17180
1996	20025
1997	19695
1998/99	25690
1999/00	29551
2000/01	28925

Table 2 – Number of Cafes,  
Restaurant and Catering Businesses

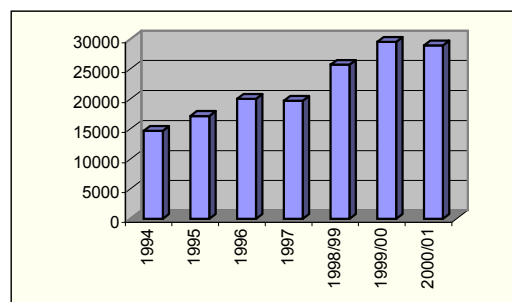


Figure 1 - Number of Cafes,  
Restaurant and Catering Businesses 1994 - 2000

Taken in conjunction with ABS data from 1998/99, the numbers of restaurant, café and catering businesses is demonstrated in table 2, and figure 1 below.

Whilst the data sets may not be strictly compatible (which is unavoidable given the ABS changing to ATO data), the general trend is clear. That is the number of entrants into the restaurant business was increasing at a steady rate with the largest increase taking place in early 1998, until the end of 2000 when a slight tapering off in business occurred in 2001. The initial indication (prior to the release of ABS data in March 2002) was that the numbers of businesses had continued to increase through 2001. This may have been the case by the end of 2001, however, ABS data is does not yet demonstrate this trend.

The number of restaurants, café and caterers, by State was provided by the ABS in the form of unpublished data from a 'Count of Australian Business Numbers – June 2001'. This has been compared in figure 2, in percentage terms, with the State breakdown from

1997. Figure 2 provides the proportion of restaurants by State in 1997. Figure 3 provides the same analysis for 2001.

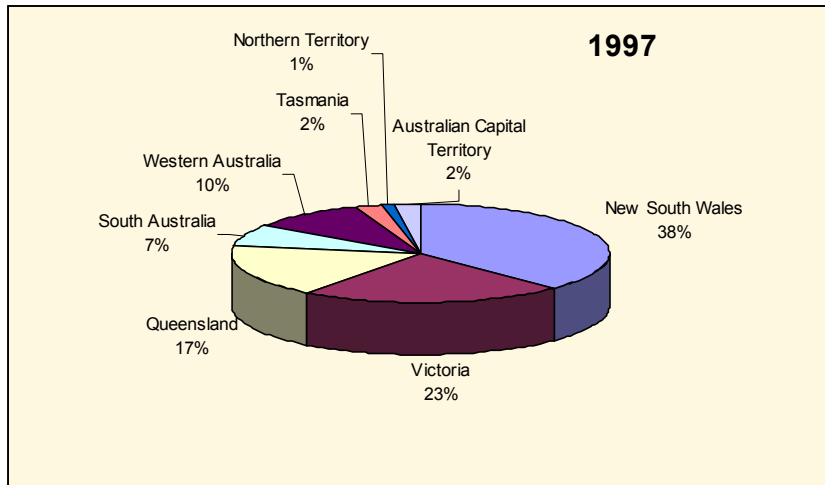


Figure 2 – Percentage of Australian Restaurants by State / Territory, 1997

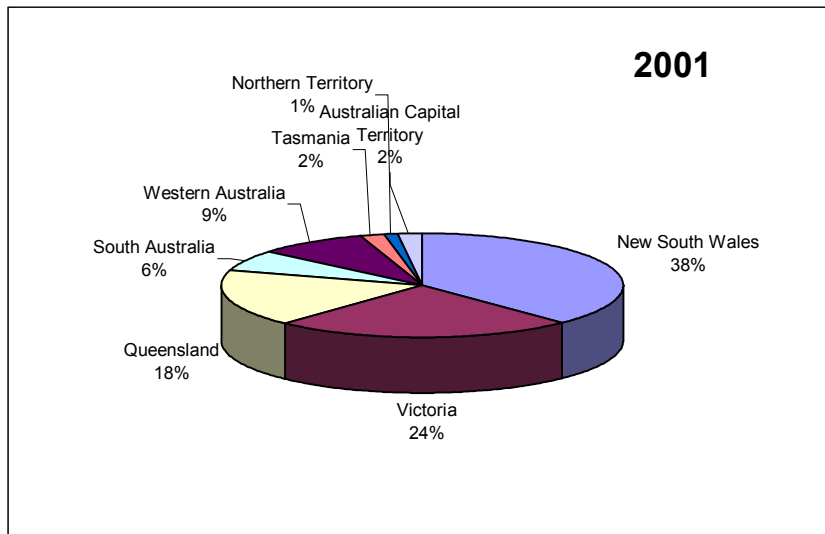


Figure 3 – Percentage of Australian Restaurants by State / Territory, 2001

The analysis demonstrates almost identical proportions, with the exception of Victoria and Queensland (having a 1% increase) and South and Western Australia (a 1% decrease) having a slight movement in the percentage of Australian restaurants in those states.

## Restaurant Business Turnover

The Australian Bureau of Statistics Business Count reports the turnover band of businesses State by State. In overall terms, the majority of restaurant and café businesses (57%) turnover between \$100,000 and \$499,000. Nearly 95% (94%) turnover under half a million dollars per annum with a national less than 2,000 (1,756) restaurant businesses across the nation turning more than this amount. Only 8 restaurant businesses turnover more than \$20 million compared to 64 clubs and 16 hotels.

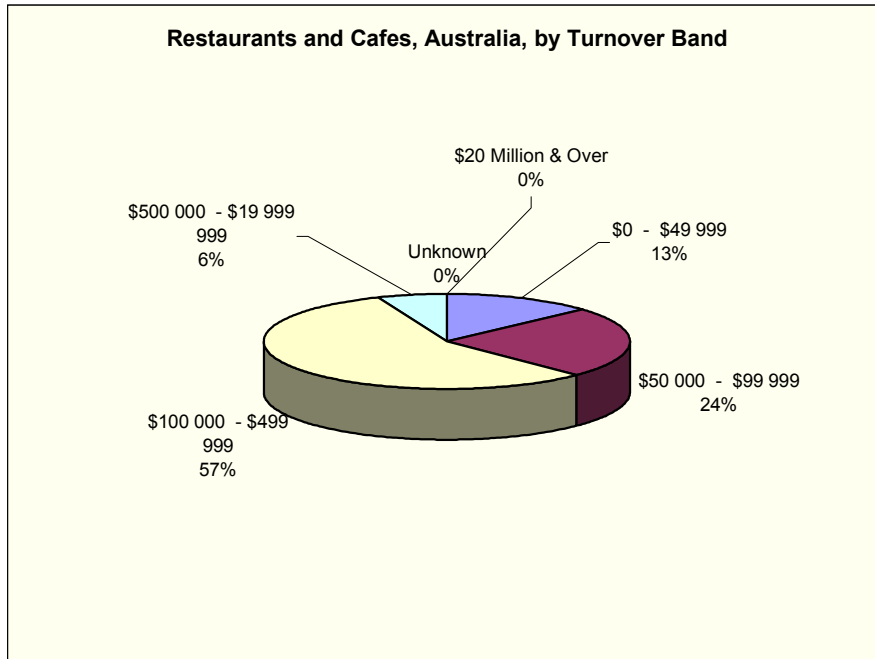


Figure 4 – Proportion of Restaurant Business within Turnover Band, ABS Business Count, July 2001

## Restaurant Industry Employment

In the August quarter of 2001, 217,400 people were employed in restaurants and cafes in Australia. This represented a 3.7% increase on the number employed 12 months earlier (209,700). In this period the restaurant and café industry accounted for 2.4% of Australia's workforce and 4% of the part time workforce.

In November 1997 data found the industry employing 163,000 persons or 1.89% of the workforce. This increase of one third (33.4%) was greater than the increase for other industries, hence the increase in the proportion of the workforce in total. The proportion of full time to part time employees in the restaurant and café industry is relatively consistent across the two reporting periods.



Figure 5 - Restaurant Employment by State / Territory

As detailed above, NSW, Victoria and Queensland account for the majority of employees within the industry with 71,800, 50,300 and 45,100 employees respectively. This is roughly proportional to the overall labour force.

### Restaurant Profitability

In the calendar year 2000, the restaurant industry turned over (in net terms<sup>1</sup>) \$8.14 Billion<sup>2</sup>. In the following year turnover, by the same measure was \$8.45 Billion, a 3.8% increase. Number of restaurant businesses over the same period was static.

By the end of the 2000/01 financial year the major expense inputs to restaurants and cafes had increased significantly but restaurant pricing had remained constant. The Consumer Price Index reported that restaurant meals had decreased by 0.0% over the year (from December to December) with meals in Sydney decreasing by 0.03 and Adelaide increasing by 0.06. In the same period the cost of food had increased by 7.5% (food purchases are now estimated at \$2.9 Billion per annum).

As confirmed by the ABS Café and Restaurant Industry Report, released in 2000, restaurant businesses have two significant cost areas, labour costs and the cost of food (as detailed in figure 3). In addition to the increase in food cost, the ABS Average weekly earnings figures suggest a 6% rise in the average weekly earning of restaurant employees. Taken in the context of the average profit before tax, quoted by the ABS in the 1998/99 report, these two increases suggest that the average net profit for a restaurant, café or caterer is now less than 1.5%.

<sup>1</sup> Net of GST

<sup>2</sup> ABS Retail Trade Data

## Preparation for the Submission

Restaurant & Catering Australia constructed a survey in order to prepare the submission. The survey (attached as Annexure 1) was distributed by Email to members of State Associations and by direct mail with the Restaurant & Catering Australia magazine.

There were 50 responses used for the preparation for this submission. Further responses will be tabulated prior to appearances. It is expected that the further collection of data will bolster findings but remain consistent with the trends evident through this submission.



## The Criteria

***The effect of Government regulation on employment in small business, specifically including the areas of workplace relations, taxation superannuation, occupational health and safety, local government, planning and tenancy laws.***

As detailed above, Restaurant & Catering Australia undertook a survey of the members of its constituent State Associations in preparation for the submission to this inquiry. The survey (attached as Annexure 1) detailed the following average responses to a request to rate the specific factors and their direct deterrent to employment :

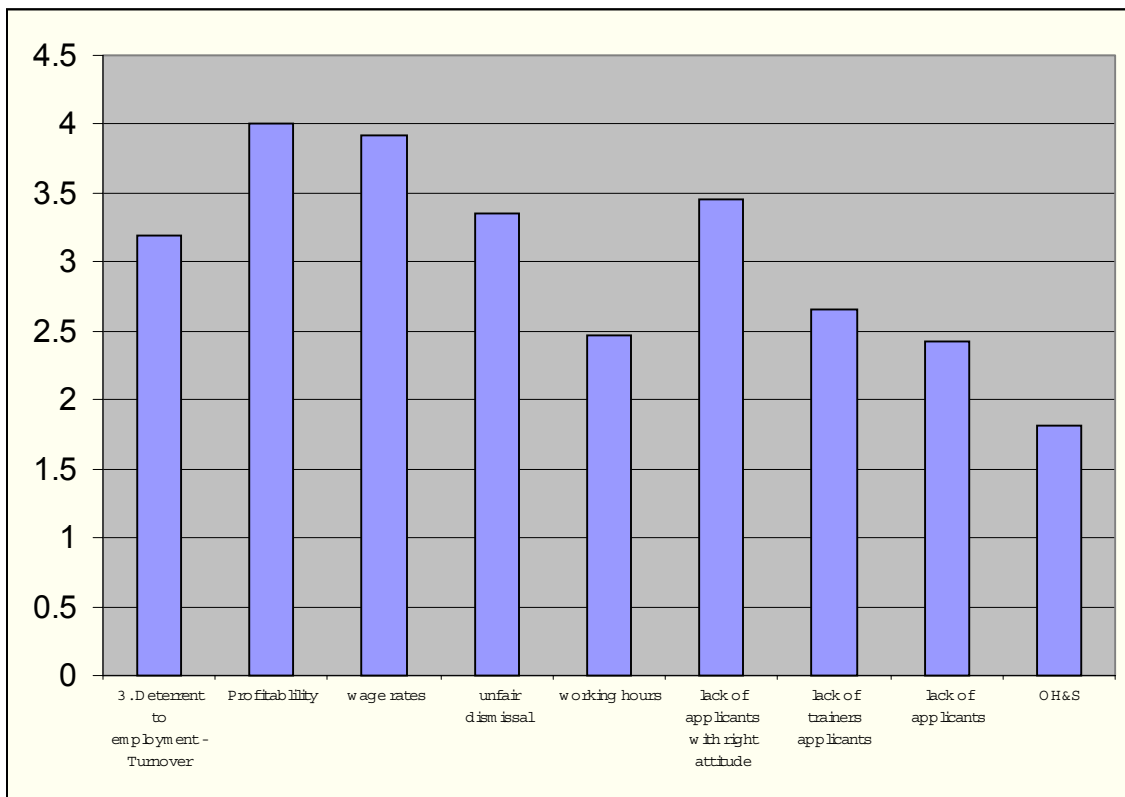


Figure 6 - Specific factors and their direct deterrent to employment

The scale as stated in the survey document was based on 1 - no deterrent at all, 2 - somewhat of a deterrent but outweighed by others, 3 - as much of a deterrent as anything else, 4 more of deterrent than most, 5 the largest deterrent to taking on additional employees .

Profitability is clearly the largest deterrent to employment in the restaurant industry. Over 50% of respondents cited profitability as the single largest deterrent. Further, over 60% of respondents suggested that they would employ more staff if this single criterion was addressed.

On average, respondents felt that they would employ just less than two people on profitability grounds. This data rang true with statements made previously that *'In nearly all restaurant businesses the decision not to employ additional staff is made on affordability grounds not on the basis of whether additional staff are needed to work in the business. Restaurants could always do with another pair of hands but can seldom afford them.'*

Members of State Restaurant and Catering Associations employ on average 16 people. Based on this average and that of the survey (that of the 60% that would employ more staff on profitability grounds only, 1.7 employees would be the average addition), employment in the restaurant industry could be increased by some 13,800, if the profitability ratio increased significantly.

The survey detailed a number of factors that impacted on profitability. Of these by far the most significant factors were those related to the cost of labour. These included wage rates (including penalty rates), generally rising labour costs, and unfair dismissal arrangements.

This correlates with previous surveys compiled by Restaurant & Catering Australia. In the past two operations reports (a biannual benchmarking survey of the Associations' members) staffing and the cost of labour were rated as the greatest barriers to operating a successful restaurant business.

In terms of Government regulation there are a number of regulatory arrangements that impact on staffing costs and staffing arrangements. The direct cost and the cost of administrative processes that surround superannuation, PAYG lodgment, and workers compensation, as indirect costs of labour, are significant. Superannuation will next year reach 9% of payroll and Workers Compensation 2.5%. In addition it is estimated that payroll tax has a limited 0.5% impact of restaurant and catering businesses.

These indirect costs should be lowered as far as it is practical within the bounds of other factors. Leakage from each of the systems administering these costs should be minimised so that the indirect costs of labour can be curtailed. Examples include :-

- Raising the Superannuation Guarantee Threshold from \$450 per month to \$600 per month and indexing it to CPI (estimated saving of 5% on the average restaurateurs superannuation bill) ;
- Further reviewing workers compensation arrangements with a view to reducing claims and premiums (estimated saving of 5% of workers compensation premiums) ;
- Eliminating payroll tax altogether.

*The estimates that Restaurant & Catering Australia has made suggest that the types of reforms noted above would yield a **saving of \$30.5 Million for the restaurant industry (or 0.33% of turnover)**.*

## Raising the Superannuation Guarantee Threshold

There are some key areas of leakage in the current superannuation arrangements. One of the significant areas of wastage is the payment of superannuation contributions for individuals who never collect the amounts deposited. In general this is either because the amount of the contribution is so small that it is not worth the hassle of rolling it over into another fund or the amount has been 'eaten-up' by administration fees.

This wastage should be minimised. Raising the threshold monthly earnings, before an individual qualifies for having a compulsory contribution to be made on their behalf, would be one way to start. The threshold has not been increased since the SGL<sup>3</sup> was introduced in 1992. At that time the average two-shift employee sat outside the threshold. They now sit well inside it.

Workplace Relations regulation creates a huge cost burden on restaurateurs. As labour intensive service businesses, any employee related matter will impact disproportionately on restaurants. In a recent survey (conducted for another Senate Inquiry<sup>4</sup>) it was found that '38% had defended an unfair dismissal claim in the past three years – in these cases the defense was at an average cost of \$3,675.00 and 63 hours away from their businesses'. Of these businesses the average number of claims was 2.7 per in a three year period.

Taken at face value these statistics suggest that the cost of defending unfair dismissal claims is \$18.2 Million in direct costs and \$15.5 Million in indirect costs (with the cost of the operator of the businesses costed at \$50 per hour) for the restaurant industry (allowing for the ABS assumption that 50% of restaurants are non-employing businesses). The same survey found that of respondent restaurants believed that 56% of claims would not have reasonably believed that they had been unfairly dismissed (vexatious claims).

*If the number of vexatious claims was halved the saving to the restaurant industry is estimated at \$9.4 Million.*

Initiatives such as providing for a small business exemption from unfair dismissal, returning the exemption for short-term casuals and retaining or increasing the lodgment fee (and extending a parallel fee to the State jurisdictions) would assist in achieving this goal.

### Cutting Vexatious Unfair Dismissal Claims in half in the Restaurant Industry

In the first instance, claims could be eliminated (through the small business exemption) in the Federal jurisdiction. The ABS details 20.1% of employees in restaurants and cafes<sup>5</sup> (both on average and for part-time employees) are located in Victoria. An additional 2.7% of employees work in the Territories. The Office of the Employment Advocate suggests that 15,641 Australian Workplace Agreements have been approved in the accommodation, cafes and restaurants sector of industry<sup>6</sup>. This could account for a further 3.5% of the hospitality workforce. This totals an estimated 26.3% of the restaurant workforce.

Leadership at this level in the Federal arena is anticipated to create a impetus for businesses to move to industrial arrangements that voluntarily place them under the coverage of the Commonwealth Workplace Relations Act 1996 (eg. AWAs). Restaurant & Catering Australia contends that this could result in an overall 35% coverage of the restaurant industry (an 8.7% increase).

A further 15% (reduction in vexatious claims in the restaurant industry) could be achieved through initiatives such as the retention or increase in the \$50 filing fee for lodging dismissal

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<sup>3</sup> Superannuation Guarantee Levy

<sup>4</sup> Inquiry into the provisions of the Workplace Relations Amendment Bills 2002

<sup>5</sup> ABS, Employed Persons, Unpublished data, August Quarter 2001

<sup>6</sup> Current Status of AWAs, Office of the Employment Advocate, 01 March 2002, Source: ABS Cat No: 6248 Sept 2001 Quarter, Table 12

applications. The Association believes that, as the average weekly earnings in restaurants are significantly lower than the all industry average, the deterrent effect of the fee on vexatious claims, is likely to be greater in the restaurant industry. The application of a consistent fee should be sort within the State jurisdictions. This would discourage *competition* among industry jurisdictions (on this matter).

## Wage Rates, Productivity, Profitability and Employment

Wage rates themselves have also been rated as a very significant deterrent to employment. At an industry wide level the notion of the impact of wage rates is most easily considered in concert with either turnover or profitability. This notion of productivity is important in proposing that it is not the take home pay of the employee that is at issue but the amount paid for the achievement of profit and turnover outcomes that is important.

The base case that restaurateurs pay too much for an hours productive work, on average, is supported by inquiries that have been conducted into the state of the service industries in Australia. The Department of Industry, Tourism and Resources Report, Industry Brief - Services Sector finds that productivity in accommodation, cafes and restaurants declined by 7% in 2001. The decline in productivity is a function of the rate of pay for a productive hour of work.

Factors adversely affecting productivity, in restaurant and catering business are: -

- Increased casualisation ;
- The retention of an outmoded penalty rates regime ;

The restaurant and catering industry, and in fact the hospitality industry more broadly, employs casuals for three key reasons. They are: -

- The 'perishability' of services
- The fluctuations in business (weekdays to weekends, breakfast to lunch to dinner etc)
- The lack of predictability of trading trends

Unlike goods, services are unable to be stored. Service businesses are therefore unable to complete work during efficient periods for use at some later time. The service of customers has an absolute immediacy.

The last two to three years have seen a pronounced lack of predictability to trading trends in restaurants, cafes and catering businesses. Whilst turnover has increased, this tendency toward a greater volatility in trading patterns has made the efficient use of labour increasingly difficult. These conditions have contributed to an enhanced use of casual employees.

In addition, restaurateurs surveyed on unfair dismissal arrangements suggested that in 70% of cases, that the threat of unfair dismissal had driven them to engage a casual over a full time employee.

Most industrial instruments in Australia also require the payment of penalty rates based on hours of work. These include penalties for the number of hours worked in a given week (full time, part time or casual), the spread of hours, times of day and days of the week.

These arrangements were based around more *traditional* vocations than those of restaurant employees. Restaurant businesses are disadvantaged by the origins of industrial arrangements. Initial benchmarks were developed before workers chose to work out of the 9 am to 5pm pattern

(usually because of other commitments during these times), before businesses, that opened outside *normal* working hours, like restaurant businesses, were more the norm than the exception and before the average Australia chose to eat out, in a restaurant. on average once every two weeks.

Whilst there are a range of remedies to correct these outmoded penalty arrangements, through agreement, many of them are out of the reach of the average restaurateur. This is generally because, as small businesses, the processes of agreement making, come at a level of expense that is not justified by their small number of staff. In addition many agreements are precluded because of the structure of the businesses (eg. sole proprietors and partnerships being excluded from Federal instruments, 35.8% of restaurant businesses).

### Safety Net Wage Cases and the Restaurant Industry

Restaurant & Catering Australia acknowledges the usage of the Safety Net Review cases to make adjustments to wage rates. The Association believes, however, that the Australian Industrial Relations Commission should allow relief to be granted to a group of employers under the Economic Incapacity Principle. . In particular Restaurant & Catering Australia contends that, due to the 'bottom heavy' nature of the restaurant industry and the large number of employees on penalty rates, any increase in wages across the board, has a greater impact in the restaurant industry than in others.

Casual workers make up 51%<sup>7</sup> of the restaurant industry. This is in contrast to the all industry average of approximately 26%. As a result there are more employees subject to penalty rates than in other industries. In addition, in the restaurant industry, 58% of employees work at or below the level of an advanced clerical or service worker, whereas in other industries this percentage is 46% (as detailed in the figure below). This being the case the likely flow on of safety net adjustments, to workers in the restaurant industry is greater than the all industry average. Restaurant & Catering Australia contends that a flow on of 2.7% (one estimate of the projected overall impact of the 2002 decision) would be around 3.85% for restaurants.

These sort of industry specific factors should be able to be taken account of, in the context of low profitability, on an industry wide basis, in the Commission reaching a decision of the level of the safety net. This logic was rejected in the 2002 Living Wage Case.

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<sup>7</sup> ABS Employed Persons, Café and Restaurant Industry, Unpublished Data, August Quarter, 2001

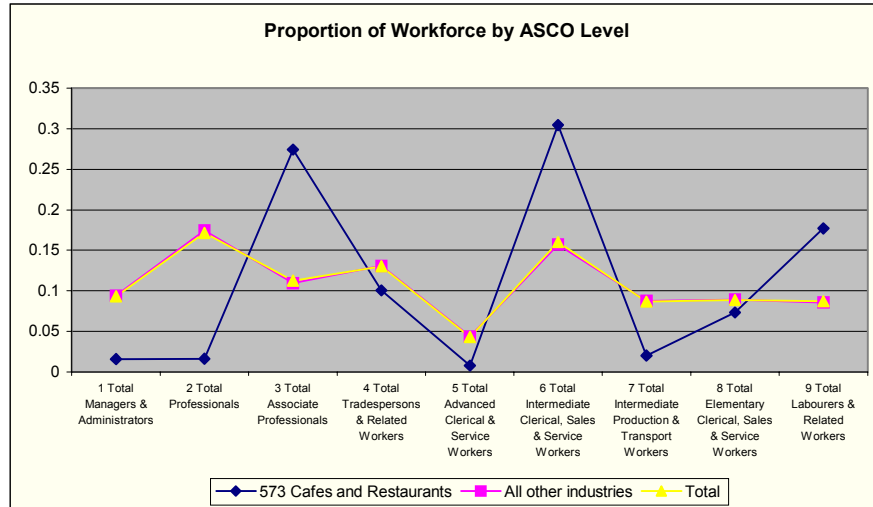


Figure 7 – Proportion of Workforce by ASCO level

### Smoothing out the Peaks and Troughs in Demand as a driver for de-Casualisation

The corporate spend, in restaurants, occurs at times in which peak demand for the private sector is not experienced (ie. mid-week lunch and some dinner business). Further the average spend for a corporate is approximately 58% greater than private spend.

The timing of corporate expenditure (in smoothing business trends) facilitates the engagement of full time employees with the industry and maximises the usage of high rental cost facilities.

The taxation treatment of business meals is a significant inhibitor to growth in the corporate sector of the restaurant market.

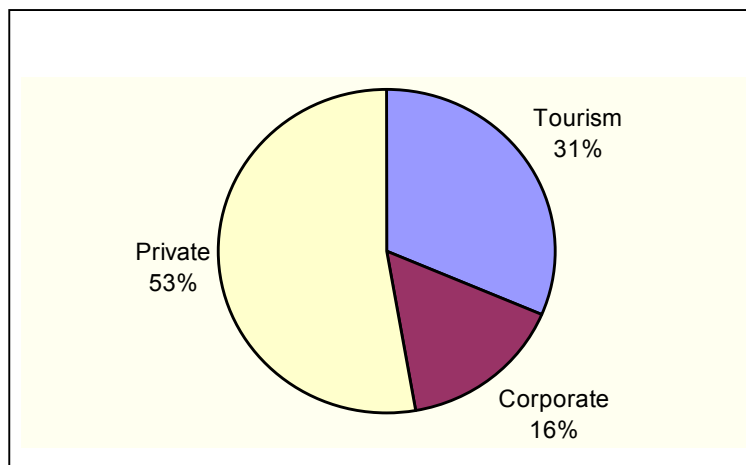


Figure 8 – Restaurant Spend by Market Segment

The taxation treatment of business meals has a significant impact on the restaurant market. In terms of its deterrent impact on employment it:

- Casualises the restaurant workforce; ;
- Reduces restaurant profitability (the number one deterrent to employment);

In a report for Restaurant & Catering Australia, Geoff Carmody of Access Economics stated that *"In its tax treatment of business meals, Australia leads the world in complexity, in discriminating against business dining as a legitimate business input and, as a result in inefficiency, and in unfairness"*

The access economic report went on to state that :

- *General equilibrium modeling shows that, for a variety of scenarios, implementation of the RCA proposal would benefit the Australian economy, producing useful gains in GDP, real consumption, investment and gains in employment. It also increases output of meals (eating-out) and employment in the production of such meals. Implementation of the RCA proposal would generate:*
  - *Real GPD gains of between \$133.4 – \$247.8 million*
  - *Real consumption increase of between \$89.0 – \$144.30 million*
  - *Real investment increase of between \$48.4 – \$108.9 million*
  - *Real meals industry total production increase of between \$86.5 – \$140.0 million*
  - *Meals industry employment increase of between 1,168 – 1,876 people*

<p><b>Reform of the taxation treatment of business meals, to remove legitimate and verifiable business meals from the FBT net, and retain the 50% deductibility of business meals, would lift significant regulatory burden from small business generally and create up to 1876 jobs in the restaurant industry. This initiative would also increase profit levels in the restaurant business.</b></p>
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***The special needs and circumstances of small business, and the key factors that have an effect on the capacity of small business to employ more people.***

Restaurants, cafes and catering businesses are typical small businesses (94% turnover less than \$500,000), they are also small service businesses and by another measure, that also determines characteristics of an industry, the industry DOES NOT have big conglomerate businesses that can 'set the agenda'.

Some of the factors detailed below are broad small business deterrents to employing more people and some are more targeted to restaurant businesses.

## Lack of Skilled and Motivated Staff

As detailed in the survey results above, the lack of potential staff with the right attitude and the lack of appropriately skilled applicants were both significant barriers to employing more staff, for restaurateurs. The attitude of potential staff was a much greater deterrent (over 3.5 out of 5) than skills.

This result concurs with results of an early 2002 study by CPA Australia which found that ‘a shortage of skilled and motivated employees is a major barrier for small business’.

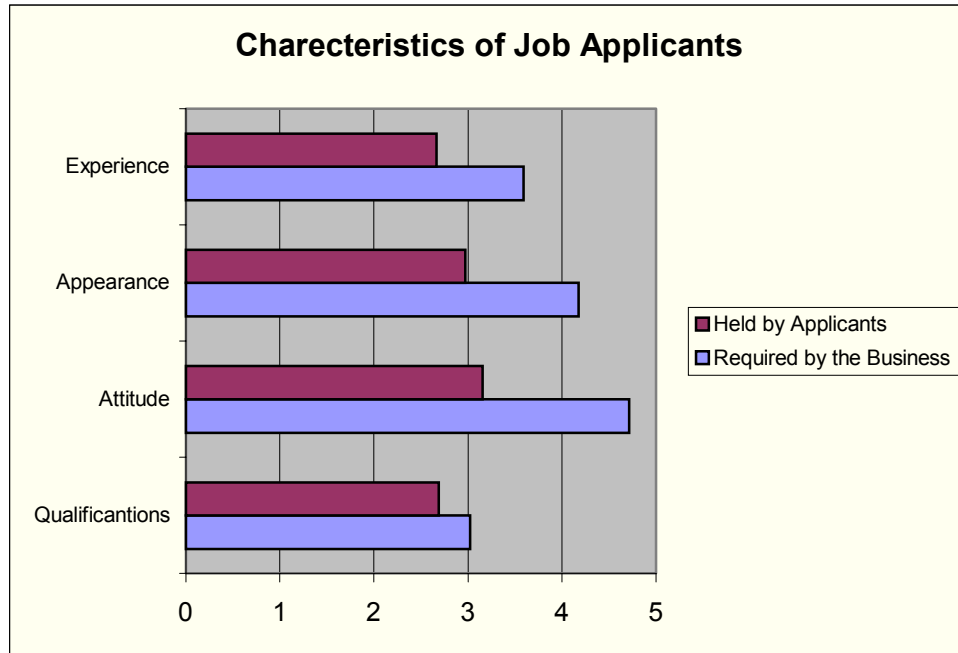


Figure 9 – Characteristics of Job Applicants

In the survey of restaurant operators (referred to in the introduction to this submission) respondents were asked to rate their requirements of employees (in terms of qualifications, attitude, appearance and experience) and those presenting for positions. The results detailed in figure 9, shows that applicants presenting for positions are lacking in each of the four characteristics, but the gap is widest in the attitude and appearance traits.

As small businesses, new staff members in restaurants need to be able to reach a productive level very quickly. Unlike larger businesses that have the luxury of extended induction programs and formal processes for slowly blending in new staff, small businesses need new staff to ‘hit the ground running’. The table above would suggest that the aspects that are most wanting in this regard are attitude and appearance.

**If restaurant business are to employ more people, applicants must more closely meet their needs in terms of attitude and appearance.**



## Small Business (in industries where there are no large businesses) and access to Employment Services

42% of the restaurants surveyed stated that they were currently looking for staff. Of these the average number of staff currently being sought was just over 2.5 per business. If this ratio is consistent across the restaurant industry, the industry is 7% underemployed. This is consistent with estimates made previously that, given the high attrition rate from the industry, underemployment runs consistently between 5 and 10%.

The underemployment situation is made worse by the inappropriate job referral arrangements. In the survey of Association membership noted above, 28% of respondents had used the Job Network and of those the satisfaction rating sat between 2 and 2.2 out of 5 (where 1 was totally dissatisfied and 5 totally satisfied). 50% of respondents noted that they were totally dissatisfied.

The restaurant and catering industry has been advised, by members of the Job Network, that they will not service the industry because the 'strike rate' from applicant to interview is too low for them to be able to 'make money'.

In 2001, Restaurant & Catering Australia, in conjunction with the Department of Employment, Workplace Relations and Small Business conducted a search for Best Practice, among the Job Network, in dealing with this sector of industry. Not one Job Network member nominated themselves for consideration as best practice.

In other industries it is understood that some of the large businesses generally set the pace. They educate the Job Network as to characteristics that make for successful employees in their business. The Job Network is prepared to invest in developing this understanding on the back of 'business' generated from these businesses. Without big businesses the restaurant industry does not have any pace setters and can not guarantee a quantum of placements to a Job Network member.

<p>The transient nature of the restaurant labour market would suggest that there will always be a level of underemployment. If this was halved, however, <b>an additional 7,000 plus people could be employed.</b></p>
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## Small Business Investment

It is well understood that the lack of investment in small business inhibits growth of businesses and as a result growth in employment. An Arthur Anderson Study, quoted in the 1996 Report, Going for Growth, suggested that the barriers to small business investment were:

- An inherent high risk and associated monitoring costs;
- High costs in screening potential investments;
- Long term commitment required to gain acceptable returns;
- Limited exit mechanism; and
- Very small funding requirements.

These factors certainly ring true for restaurant and catering businesses. It is clear that a large number of restaurant businesses start out under-capitalised or experience a need capital injection at some stage within their first 5 years of operation. The lack of availability of funds (at the appropriate level) usually means that the restaurateur brings in a partner or draws down further

funds on the mortgage of their own home. These means of finance are both limited and problematic.

In a 2000 paper, *Closing the Finance Gap for Small Firms*, Brian Gibson of the University of Newcastle notes that 'Clearly SMEs make a significant contribution to the Australian economy in respect absolute employment and perhaps more importantly in respect of new employment generation possibilities'. He goes on to suggest that 'Where inhibitors to SME activities are identified, it seems logical to seek to minimise their impact. This appears to be the case with the finance gap'.

Gibson describes the finance gap as the differential between the amounts able to be invested, in small businesses, by informal private investors (at approximately \$500,000) and those available through formal funds (at some \$2.5 Million). In summary he contends that somewhere between these two points is the level at which the most prudent investment might sit.

The issue of small business investment is obviously tied to profitability of small businesses. As detailed above, the restaurant business experiences very low levels of profitability. This has an impact on the ability of businesses to provide returns to investors and to demonstrate net worth and some form of security to those looking to invest.

There have been a vast range of policy responses to small business investment and to closing the investment gap (as noted by Gibson in the above paper). It is suggested that, for restaurant businesses at least, some form of information to these businesses as to investment pathways and complementary advice to investors as to the advantages and pitfalls to investment in small businesses, could be useful.

## Enhancing the Skills of Restaurant Operators

There is no doubt that, like most small business people, restaurant operators have skills gaps. The lack of business skills, particularly, of new restaurant operators act as a barrier to employment in so far as they restrict the cut through of remedial initiatives. In addition, unskilled new entrants to the industry have a very significant negative impact on the industry.

An Industry Vision Statement, *Food Service 2010* defined this phenomenon as follows:

*A major problem concerning new entrants was the apparent lack of qualifications and experience in foodservice. Respondents commented that many new entrants are attracted to the industry because they have a desire to own their own business. It is often perceived that many new entrants have just received a large superannuation payout, for example, and without any expertise or knowledge of how to manage a food business, they offer unrealistically low prices.*

*New businesses attract customers away from existing businesses, albeit for a short time. They put viable businesses at risk during this period while they continue to attract customers with low prices until they close because they cannot cover their costs. During this period existing businesses are forced to cut prices to compete and as a result have to reduce their profit margins. New businesses, which close in this way, are sold cheaply and the cycle of low prices and rapid business turnover continues.*

*Another concern regarding new entrants without experience or qualifications is that their service standards are often not consistent and this may have the effect of putting customers off eating out altogether.*

In the context of the employment potential of restaurant and catering businesses, business skills development programs, of new and potential industry entrants and existing operators are vital. These programs need to be both industry specific and generic. In particular, skills relating to managing finances, liquor licensing, food handling and workplace relations are important for all operators. The acquisition of these skills not only directly increase profitability but decrease business failure rates, which in turn provide stability to employment.

***The extent to which the complexity and duplication of regulation by Commonwealth, state and territory Governments inhibits growth or performance in the small business sector.***

The restaurant business is becoming increasingly regulated, and there is significant duplication in the regulatory systems that the industry encounters. Whilst much of the regulation occurs through the States, there are areas in which the Federal Government provides duplicitous regulation.

### Food Business Regulation

The regulation of food businesses, whilst administered by the State, is done on the basis of National Standards (Departments of Health and Agriculture). These standards require restaurant businesses to be registered. This registration is not linked in any way to the Australian Businesses Register that already has the required detail on the business (Australian Tax Office). Half of these businesses are then also required to be licensed (by Liquor Licensing Authorities).

Aside the issue of registration or notification as a food business, there are several other complex and duplicitous food regulations. As the outset, all three layers of Government are involved in food regulation. The Commonwealth sets standards through ANZFA (The Australia New Zealand Food Authority), the States are part of the standards setting process and implement legislation to enact the standards and then local government provides the enforcement role. As a result there is a significant lack of consistency through the layers of regulation.

On order to detail the impact of these regulations some detail of the current state of play is required. Briefly it is as follows:-

- States had existing food regulations (that were not nationally consistent)
- ANZFA has food safety standards agreed to for premises, equipment and practices (that are being implemented at different rates by different States)
- ANZFA has a model standard for food safety plans, the is currently subject to a cost:benefit analysis

The costs associated with this area of regulation are well documented. In a soon to be released report, compiled by the Allen's Consulting Group, for the Commonwealth Department of Health, Food Safety Management Systems, Costs Benefits and Alternatives, costs were detailed as follows (cost per restaurant business per annum) :

Existing State Requirements	\$2,200
Additional requirements in moving to New ANZFA Standards	\$350 up front and \$140 per annum ongoing
Estimate of Food Safety Plan Standard IF ADOPTED	\$1,500 up front and \$1,600 per annum ongoing

In summary arrangements already accepted will cost restaurant businesses \$2,340 per annum (plus some transition costs). If food safety plans are introduced as a mandatory measure, the costs in the first year will reach \$5,440 PLUS Audit costs.

This will have a significant impact on the ability on the growth of employment in restaurants. As detailed earlier in the submission the average profit before tax, in a restaurant / catering business in 1998/99 was estimated, by the ABS at 4.8%. The average turnover of a restaurant is \$321,000. The costs of implementing food safety plans as a mandatory measure would cost restaurateurs (in conjunction with other food regulatory costs) 35% of their profit before tax in their first year of introduction. This is clearly unacceptable for an initiative that does not demonstrate any direct benefit.

### State Legislation as an Impediment

The differential bans on smoking, across State jurisdictions creates a market impediment for restaurants. On balance, restaurants are required to ban smoking in all areas and hotel / clubs are not. Whilst this does change from State to State, the differential treatment of restaurants in comparison to other sectors of the hospitality industry creates a market impediment.

In addition to smoking, the industry is discriminated against by gaming regulations. Hotels and Clubs subsidise the cost of food through gaming revenue, thereby lowering the market price of meals.

Whilst the overall impact of these phenomena has not been quantified, it is expected that the impact on menu prices would be significant in many markets.

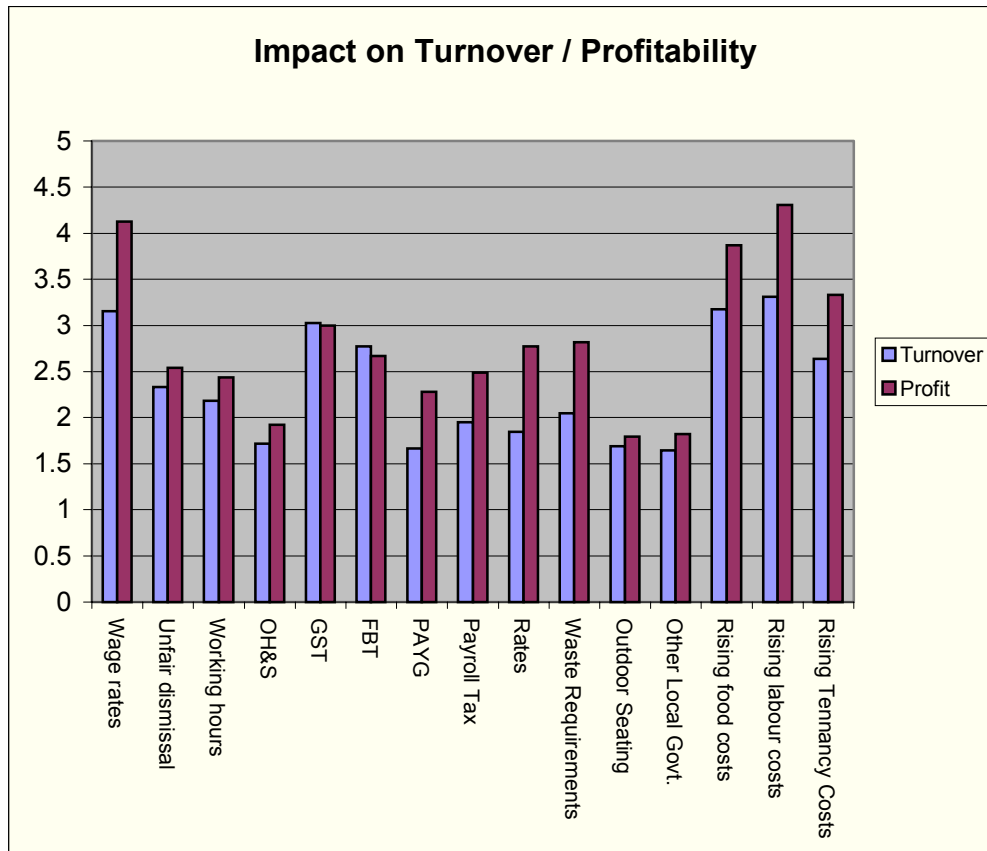


Figure 10 – Impact on Turnover / Profitability

As part of the survey of members of State Restaurant and Catering Associations, Restaurant & Catering Australia surveyed the level of impact, of a range of factors, on both profitability and turnover.

The majority of these have now been addressed in this submission. The exceptions, that are significant in their impact, are GST / PAYG and rising tenancy costs.

### GST and PAYG

At the outset of the GST and revised individual income tax collection (now PAYG) changes, the average restaurateur spent \$529.00 per month and took 10.8 hours per week in preparing their business activity statements and managing the paperwork that sat behind them.

Data gathered since suggests that the time involved has been cut in half due to the revisions made to reporting arrangements. This could be further refined. The restaurant industry is disadvantaged by the current arrangements for PAYG lodgment. The labour intensive nature of the industry requires that the majority of restaurant business need to lodge PAYG monthly and GST quarterly. This duplication of effort comes at an estimated load of 4 hours per month.

The current threshold of \$25,000 of PAYG collected in any year, means that restaurants turning over as little as \$260,000 will be required to lodge a monthly PAYG return.

## Rising Tenancy Costs

Whilst there are a number of aspects of rising tenancy costs that can not be laid at the feet of Government, there are some that can. Principally the cascading range of taxes and charges that apply to commercial leases, should be eliminated or at least reduced.

The application of stamp and other duties on leases should have been eliminated upon the implementation of GST. The restaurant industry's third largest cost is the cost of tenancy. These costs run to some 11% of turnover for the 59% of businesses that lease both the building and land that they occupy.

As detailed in the survey data referred to above, the impact of the increase in these costs are deemed to be having a significant impact on profitability.

### ***Measures that would enhance the capacity of small business to employ more people.***

The above submission details a wide range of barriers faced by restaurateurs in their quest to employ more staff. As detailed, the restaurant industry would employ more staff if it could, however, profitability stands as the greatest hurdle to this objective. The initiatives noted in this submission stand to create an additional **22,676 jobs** in the restaurant industry. This is approximately an additional 10% of the industry workforce.

The initiatives include:

- Raising the Superannuation Guarantee Threshold from \$450 per month to \$600 per month and indexing it to CPI;
- Further reviewing workers compensation arrangements with a view to reducing claims and premiums ;
- Eliminating payroll tax altogether ;
- Providing for a small business exemption from unfair dismissal, returning the exemption for short-term casuals and retaining or increasing the lodgment fee (and extending a parallel fee to the State jurisdictions) ;
- Extend the limitations of the corporations power so as to facilitate sole traders and partnerships accessing industrial arrangements in the Federal jurisdiction ;
- Facilitate small business (and particularly restaurants) access to AWAs through providing simpler arrangements and providing subsidised advice ;
- Change the parameters by which safety net wage decision are made such that 'incapacity to pay' can be determined for a group of employers (ie. the restaurant industry) ;
- Reform of the taxation treatment of business meals, to remove legitimate and verifiable business meals from the FBT net, and retain the 50% deductibility of business meals ;
- Modify the training and education systems such that applicants for jobs in restaurants are better prepared in terms of attitude and appearance whilst retaining the focus on industry skills ;
- Make changes to the operation of the Job Network such that industries (such as the restaurant industry) that do not have large employers are able to set an Agenda for the industry can easily access this service ;

- Facilitate the provision of INDUSTRY SPECIFIC advice to restaurant operators on financing pathways with complimentary advice to financiers on the various small business dominated industries ;
- Facilitate the availability of INDUSTRY SPECIFIC business skills programs to new and existing restaurant operators ;
- Cease moves to implement mandatory food safety plans and focus on the implementation of agreed standards bolstered by mandatory training and an industry education program;
- Insist on consistent smoking bans in all enclosed public places where people work ;
- Put in place mechanisms to stop the cross-subsidy of food and beverage product by gaming revenue ;
- Move to consistent criteria for monthly lodgment of PAYG and GST ;
- Eliminate stamp and other duties on commercial leases.

ANNEXURES

Survey of State Association membership