



VTCH, ASU, HWU and AMIEU submission in response to the
Regulatory Impact Statement on Christmas Day Public Holiday
Arrangements

Introduction

VTHC was founded in 1856 and is the peak body for unions in Victoria. VTHC represents 41 unions and over 430,000 workers in Victoria. These workers are members of unions that reach into every industry in the state, both in the public and private sectors. The Australian Services Union represents workers in the local government and social services sectors and the Health Workers Union represents workers in Victoria's health sector.

Christmas Day is a significant holiday to a vast majority of Victorians. For Christians living in Victoria Christmas Day is a vitally important religious and spiritual observance. For other Victorians Christmas is a culturally important time to spend with family and friends both celebrating and reflecting on the year past and the one to come. Numerous studies have shown the social benefits of public holidays, concluding that increased participation in leisure activities increase quality of life.

The practice of providing a substitute public holiday on the first available weekday following a weekend Christmas Day is appropriate acknowledgement of the importance of Christmas for Monday to Friday workers. However, it manifestly fails to address the reality that many Victorians are required to work on weekends. The submitters are pleased to note that the Victorian Government is moving to address this by permanently gazetting Christmas Day as a public holiday when it falls on the weekend.

In 2016 it took until November for Christmas Day to be gazetted as a public holiday. This uncertainty had negative impacts on employers and workers alike who were left unable to plan their Christmas period until very late. The decision to permanently gazette Christmas Day as a public holiday when it falls on weekends provides vital certainty to employers and acknowledges the importance of spending important holidays with friends and families.

In this submission the submitters will briefly address the questions raised for further consultation.

Do you believe the social benefits of observing Christmas Day as a public holiday (when it falls on a Saturday/Sunday) outweigh the associated cost?

The submitters firmly believe that the benefits of always observing Christmas Day as a public holiday greatly outweigh any associated costs. As identified in the RIS a number of scientific papers have shown the substantial social benefits of public holidays. Specifically, Merz and Osberg (RIS page 13) found that leisure time coordinated with family and friends provides a greater overall benefit than individual leisure time. Those workers who miss out on this benefit must be fairly compensated and recognised for the sacrifice that they make to work on Christmas Day.

Other benefits of this reform including providing clear and permanent arrangements, suitable work and life balance, recognition of a day of cultural significance and providing a break from work to recharge are highlighted in the RIS.

These benefits clearly outweigh the minimal costs identified by the RIS. With appropriate certainty and time to plan these costs can be mitigated against effectively through a number of measures including reduced staffing, surcharges or simply closing businesses on Christmas Day. Additionally given that Christmas Day only infrequently falls on a weekend any costs that may arise can be absorbed over a long period of business.

Does the report include those employers/workforce participants most likely to be affected by the proposed change to observe Christmas Day as a public holiday when it falls on a weekend?

The RIS identifies in a broad sense the employers and workers most likely to be affected by the proposed reform. The submitters believe further evaluation could be done on the real number of workers who will be required to work on Christmas Day. This would give a truer sense of just how many Victorian workers will be impacted.

Are the sectors of the economy likely to be most affected by the proposed change included in the analysis of this report? Have the relevant sectors been covered adequately?

The RIS examines all of the sectors of the economy most likely to be affected by the proposed reform. Further work could have been done to gain a true reflection on the level of staffing likely to be present on Christmas Day and the potential for skeleton staffing across all sectors. Nevertheless the RIS does adequately identify the affected sectors and provide some insight into the potential impacts of the proposed reform.

Are there any gaps in the analysis/assumptions of this report in relation to impacts/costs/social benefits of observing Christmas Day as a public holiday when it falls over a weekend?

The RIS attempts to overcome the difficulties of quantifying social benefits of shared leisure time and the limited data available of an event as infrequent as a weekend Christmas Day. However the submitters believe that the social benefit of Christmas Day have been heavily understated.

The most significant shortfall in the RIS is the treatment of Christmas Day as largely just another cultural public holiday. Victorian Christians place a far greater religious and spiritual emphasis on Christmas Day than just leisure time to be spent with family. For other Victorians Christmas is a culturally important time to spend with family and friends both celebrating and reflecting on the year past and the one to come.

When assigning a dollar value to the social benefits of observing Christmas Day as a public holiday it appears that the RIS has erred in underestimating the importance of Christmas. The submitters believe that any assessment of the value of a public holiday to employees as being equal to ordinary pay or as low as 50% is wrong. If a dollar figure is to be attached to the social benefit of public holidays it must as a minimum use the penalty rate mandated in each industries relevant Award, such as 250% for a casual employee on the General Retail Industry Award.

The Easter Sunday RIS used 50-100% of the average daily earnings to calculate the value of leisure time. The RIS for Christmas Day has decided to use the midpoint of 75% in its calculation. While the reasoning is based on the consultation respondents, it would appear to dramatically understate the importance of Christmas Day, particularly in relation to Easter Sunday.

For many Victorians Easter Sunday is an important day in our religious and cultural calendar. However, it cannot be said to hold the same cultural significance to Victorians as Christmas. Christmas is a day on which the vast majority of Victorians come together with family and friends, often times visiting multiple gatherings. The same cannot be said of Easter. The RIS' estimated overall cost of the proposed reform is too high as a result of this understatement.

What is the likelihood that employees are not paid public holiday penalty rates due to existing industrial arrangements covering public holidays in some sectors?

As the RIS has demonstrated, the vast majority of Victorians do not work on Christmas Day, irrespective of whether the day is on a weekend or not. Of those who do work, a significant number are employed in essential services and will be required to work on Christmas regardless of what day of the week it falls or its public holiday treatment.

Workers in essential services including energy services, public administration and safety, transport and healthcare are likely to be covered by industrial agreements that already acknowledge Christmas Day as a public holiday. This further limits the impacted workers and employers as a result of the proposed reform.

Conclusion

The RIS on Christmas Day public holiday arrangements does an admirable job in assessing the impacts arising out of this proposed reform. As has been highlighted the main difficulty in this process arises in attempting to quantify the social benefit of not just any public holiday but Christmas Day in particular. The submitters believe that any attempt at equating a dollar figure to the benefit of a public holiday must as a minimum use the applicable penalty rate as found in the industry Award.

Permanently gazetting Christmas Day as a public holiday is an important reform that has the full support of the Victorian union movement. Any costs are negated by the cultural and religious importance of Christmas Day to a vast majority of Victorians. The submitters believe nothing in the RIS should prevent this reform from being adopted.