

**From:** Michael Nguyen [<mailto:michael.nguyen@amwu.asn.au>]  
**Sent:** Friday, 26 August 2016 3:10 PM  
**To:** Chambers - Hatcher VP  
**Cc:** AMOD  
**Subject:** AM2014/196&197 Part time and Casual employment

Dear Associate to the Vice President

The Union submits that the following proposed changes to the transcript for the hearing on Thursday 18 August 2016 in matters AM2014/196 & 197 Part time employment and Casual employment.

**1) Proposed change “employees” to “employers” and change “work” to “where”**

**PN3549** Finally, it's also not about those **employees** who also consider that they are required to or are benevolently converting employees to permanency after six to 12 months. A category of employer that the union doesn't challenge exists. The case is about employees without bargaining power whether collective or individual who need and rely upon a safety net to obtain a fair share of the benefits of economic growth. Before I outline the specific findings we submit the Commission should make, it is also important to note that no organisation has put forward a case that casual conversion should be deleted from the safety net **work** that currently exists.

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**2) Proposed change “and seeks” to “. And sixth”**

**PN3552** The second finding is that these permanent casuals are being denied their request to convert. The third is that the reasons for denying conversion are unreasonable and that there are no circumstances where if employees are eligible that there could be a reasonable reason for refusal. The fourth is that the right to elect to convert requiring the employee to take the initiative is a deterrent to some employees. And the fifth is that it's not reasonable for the safety net to expect that a casual employee would have the wherewithal to go to court to enforce any right to request **and seeks** where an employer is refusing the safety net requires the involvement of the union to get employers to convert, which means to some extent the safety net at the moment requires the presence of unions to be fair and relevant.

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### 3) Proposed change “no” to “not”

**PN3580** The AI Group say that no agreement exists about whether temporary employment is a health risk. The statement simply reflects the fact that there is heterogeneity in temporary employment and as the union and Dr Underhill readily agree, some casuals are not impacted by poorer health outcomes. More importantly, long term casuals referred to in this case, particularly those seeking but denied permanency, do **no** come within the category of temporary workers whose health is unaffected by the employment status. That is the evidence of Dr Underhill and also in the key piece of evidence in table 6 of the published version of the Richardson & Others paper.

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### 4) Proposed change “Mr Ferguson” to “Mr Nguyen” and “employees” to “employers”

#### **PN3622**

**MR FERGUSON:** Just returning to now the second finding that we seek to be made which is that permanent casuals are being denied their requests to convert. It's possible for the Commission to make this finding on the basis of the ACTU survey which indicates that there are casual employees who are entitled to and should be converted to permanent employee. I won't address the **employees'** reasons for refusal in this section. I will be doing that in the next section.

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**MR NGUYEN:** Just returning to now the second finding that we seek to be made which is that permanent casuals are being denied their requests to convert. It's possible for the Commission to make this finding on the basis of the ACTU survey which indicates that there are casual employees who are entitled to and should be converted to permanent employee. I won't address the **employers'** reasons for refusal in this section. I will be doing that in the next section.

### 5) Proposed change “Bower” to “Bauer”, change “Hines’s” to “Hynes”, change “Fornah’s” to “Fornah’s”, change “Ewan” to “Yuen”

#### **PN3623**

But just quickly on the union's evidence in these proceedings, Mr Peter **Bower** and Simon **Hines's** evidence supports this general finding. James **Fornah's** evidence also supports this finding. The union's involvement in James **Fornah's** case should be considered separately as a separate factor in that particular case. Ms Heidi Kaushal's evidence also supports this finding and it would appear Simplot accepts that they are denying the election of casuals who seek to be converted. Mr Kubli's evidence is clear and unchallenged that he also had attempts to convert which were denied. Mr Malone and Ms **Ewan's** evidence also support the position put by the union.

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#### 6) Proposed change "employee's" to "employer's"

##### PN3627

We also make some general statements which are the following. If an employer has one business for themselves and for employees that sustains a level of activity, it's reasonable to expect that the employer should continue to seek to win business and work at similar levels. When employers and employees sit down in the clause that we propose, under the clause that we propose, they will be able to plan the averaging of hours to take into account the expected amount of business that's likely to be ongoing as a result of the employee's ability to win and sustain that level of business.

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#### 7) Proposed change "employees" to "employers"

##### PN3669

The cross-examination of Ms Heidi Kaushal demonstrated that employees have a misconception of what constitutes a reasonable refusal and how an employee's history of hours of work pattern are to be used in determining the hours of work for the permanent role they are entitled to elect to convert to.

##### PN3669

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Regards

Michael

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