



Australian Road Transport  
Industrial Organisation

ABN: 63 734 697 902

# AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION

*Respect, Respond and Represent*

## **In the Fair Work Commission**

**Matter No: AM2021/72**

**S. 158 - Application by Menulog Pty Ltd to make a Modern Award for the On Demand Delivery Services Industry**

### **Submission in Reply by the Australian Road Transport Industrial Organization (ARTIO)**

These submissions are made in response to the Menulog Pty Ltd (Menulog) application to make a modern award for the ‘On Demand Delivery Services Industry’ and pursuant to the Statement issued by the Fair Work Commission (FWC) Full Bench on 12 July, 2021.

**The ARTIO opposes the application made by Menulog for the making of a modern award to cover the ‘On Demand Delivery Services Industry’. ARTIO submits that there is already an applicable modern award in place which meets the modern awards objective, provides a fair and minimum safety net of standards and conditions of employment to those employees working in the so-called ‘on demand delivery industry’ – that modern award is the Road Transport & Distribution Award 2020.**

### ***Background***

1. The Australian Road Transport Industrial Organisation (ARTIO) is the only Industrial Organisation of Employers registered under the Fair Work Act 2009 which specifically represents employers in the road transport and distribution industry. As at July 2021, it had around 400 members. These include the large multi-national transport companies down to the small family-owned businesses that perform a large percentage of Australia’s freight task.

2. ARTIO operates as a federation with Branches in all States, except South Australia. ARTIO and its Branches operate independently and in accordance with a common set of rules applying across the Organisation.
3. ARTIO Council, which has a representative from each State, meets on a bi-monthly basis to consider and discuss IR issues impacting the organisation and its members. Much of its day-to-day activities are carried out by the Branches, especially when dealing with operational IR issues. This submission is made on behalf of the Organisation and its Branches.
4. ARTIO has been closely involved, since its registration in 1984, with the Transport Awards, specifically the Road Transport and Distribution Award 2020 (RTD Award) and its various predecessor awards of both the Australian Industrial Relations Commission and the Conciliation and Arbitration Commission.
5. ARTIO's area of knowledge is around the 'transport industry, more specifically the road transport industry' and its submissions will focus and address issues arising out of the Menulog submissions filed on 18 November and concerning the 'transport industry' and the related tasks associated with the transport and delivery of 'food, beverages, goods or other items'.
6. ARTIO relies on its earlier submissions filed on 9 August 2021.

## **Submissions**

### **A. Definitions**

7. The ARTIO notes that the Macquarie Dictionary defines 'transport' to mean 'to carry or convey from one place to another' and this is precisely what a Menulog courier, whether an employee or contractor does upon collection of 'food, beverages, goods or other item'.
8. The Menulog submission would have one believe that the use of an 'app' changes the transport task by making the delivery of the meal as simply the final step in a marketing exercise, rather than the most critical component of the transaction.
9. In para 4.10 of its submission, Menulog claim that the 'online or application-based platform places the consumer at the centre of the process, in a way that is foreign to traditional forms of transport'.

10. ARTIO submits that the consumer is critical to any movement of 'goods, wares or merchandise', whether the transaction is generated by phone, facsimile, internet, application or any other means of communication - it is always about the successful transport and delivery of the item sought by the consumer.
11. ARTIO submits that the Menulog model, and the same applies to the other 'on demand delivery companies,' is about the transport and delivery of 'food, beverages, goods or other items.'
12. Without the successful delivery of the 'food, beverages, goods or other items' there is no completion of the transaction and one can therefore assume that no payment would be deducted for such a service failure.

ARTIO

29 November 2021