

Tuesday, 15 June 2021

Justice Iain Ross, AO
President
Fair Work Commission
PO Box 1994
Melbourne VIC 3001

By email: amod@fwc.gov.au

Dear Justice Ross,

Application by The Real Media Collective to vary the Graphic Arts, Printing and Publishing Award 2020 [MA000026]

Submission in support of Application

1. This submission is made in support of the Application, made by The Real Media Collective (“**TRMC**”) on behalf of its members, seeking to reinstate the terms of the expired (29 March 2021) Schedule X within the Graphic Arts, Printing and Publishing Award 2020 (the “**GAPPA**”).
2. Specifically, we seek a reinstatement of the terms of the expired Schedule X contained within the GAPPA until 31 December 2021.
3. For the reasons outlined in this submission, TRMC and its membership believe the reinstatement of Schedule X into the GAPPA is a necessity given the ongoing circumstances created by COVID-19, and its effects on employers and employees, for the remainder of 2021.

The Real Media Collective and the industry

4. TRMC is an industry association representing the collective interests of companies in the paper, print, publishing/media, mail, packaging, graphics, and related distribution sectors. Our membership encompasses both large and small businesses within the sector and across Australia.
5. The majority of our members and their employees have the terms of their employment covered by the terms of the GAPPA.

6. Our industry is the largest manufacturing employer in the country providing critical communication products and services to ensure our country operates well. Businesses within the printing, publishing, media, communications, advertising, marketing, graphic arts, mail and distribution, related IT businesses, along with supplier and related businesses are part of a national industry that employs approximately 250,000 individuals across full-time, part-time and casual employment.
7. Our member base and the broader industry provide critical services to the community – news, media and information services, printed medical labelling and packaging, Government notices and communications, magazine publications providing in-home media and community notices, signage to advise public health and other notices to the public, food labelling and packaging, toiletries, transactional mail and postal services, finance and insurance notices and more.
8. Due to the supply chain based necessity afforded our industry by state and federal governments throughout the last 12 months as a result of COVID-19, it has been able to continue operating for onsite work during the current and previous lockdowns in Victoria, and in other states during periods of lockdown and workplace restrictions for over the last 12 months.
9. Employers within the industry, on a national basis, have been proactive in taking appropriate steps to minimise possible employee exposure to COVID-19 in the workplace. Examples of such actions include restricted public access to production sites, work from home arrangements for administration and sales personnel have generally operated under work from home arrangements, well ventilated production areas, appropriate PPE utilised where required, and well-separated personnel stations to create physical distancing.
10. As a collective industry we have unilaterally implemented strong safety measures to protect our employees. From industry engagement on a national basis TRMC have developed Printing and Distribution Protocols to which our members, and those from several other industry bodies and organisations, have agreed full compliance. Additionally, Australia Post and the Distribution Standards Board support and are signatories to these protocols. Such measures continue to be adapted to stay in line with government health directives.
11. However, for over twelve months each business within our industry has experienced mixed business outcomes for reasons that include the specialized nature and diversity of each business, their geographic location, the periodic and variable state and territory restrictions, as well as the mixed experiences and production needs of their client bases over that time.

Schedule X - Graphic Arts, Printing and Publishing Award 2020

12. Schedule X was originally inserted into the GAPPA as a result of a Full Bench decision ([2020] FWCFB 1837) and related determination (PR718141). At that time an operative end date of 30 June 2020 was applied to Schedule X.
13. As a result of ongoing COVID-19 related effects on businesses and employees during 2020, and further to the related consideration and decisions of the Commission the operative end date of Schedule X within the GAPPA was ultimately extended until 29 March 2021.
14. TRMC supported both the original interleaving of Schedule X into the GAPPA as well as the several extensions to the operative end date. In our previous submissions (6 April 2020 and 27 July 2021) to the Full Bench on this issue, TRMC stated its support for the Full Bench provisional view that the GAPPA and other industry related Awards be varied to include the proposed model clause – “Schedule X”, relating to unpaid pandemic leave and the ability of employees and employers to agree to an employee taking annual leave at half pay.
15. Leading up to the final expiry date of Schedule X within the GAPPA, no party made an application to further extend the operative date of Schedule X, which then expired as at 29 March 2021. It is for this reason, and the grounds as outlined below, that we make this application to reinstate the terms of Schedule X and for a limited duration until 31 December 2021.

Grounds and considerations for seeking reinstatement of Schedule X in the GAPPA

We outline our grounds for seeking reinstatement of Schedule X in the following points.

16. Recent developments of new community cases of COVID-19 in various states, along with the emergence of new variations of the virus, evidence both the ongoing and potential detrimental effects of COVID-19 on Australian employers and employees.
17. Despite a national COVID-19 vaccination program being underway, and which appears critical in reducing further outbreaks of the virus, there is a strong basis to believe at this time that the national vaccination program will not reach crucially relevant levels until at least the last quarter of 2021.
18. Additionally, the recent lockdown conditions experienced in Victoria, and the ongoing potential for further such situations to occur across the country, evidences the need within the industry to have access to mutually beneficial workplace flexibilities and options so as to preserve employment relationships.

19. TRMC believe the proposed reinstatement of Schedule X until 31 December 2021 will, as and where necessary, assist employers and employees in our industry to achieve that outcome.
20. In line with our previously submitted views on the inclusion of Schedule X, we welcome appropriate and cooperative steps that can offer assistance to both employees and employers to overcome or mitigate any detrimental impacts of COVID-19 in workplaces.
21. Further, it is our view that the previous considerations which applied to the Commissions original decision to interleave Schedule X into the modern Awards in 2021, continue to remain cogent and relevant, and support the reinstatement of Schedule X into the GAPPA at this time.
22. TRMC believe the reinstatement of Schedule X into the GAPPA until 31 December 2021 is in keeping with the objectives of modern Awards both now and as previously examined when originally interleaved into modern Awards last year.
23. Such further or other grounds that the Commission considers appropriate.

Retrospectivity

24. Given the subject matter of this Application, and upon consideration of section 165 of the *Fair Work Act 2009*, TRMC understands that the Commission is not empowered to retrospectively vary the GAPPA. Rather, the proposed variation of the GAPPA should apply from the date of any decision of the Commission.
25. We respectfully submit that our Application to vary the GAPPA be granted.

Should the Commission require any further information or assistance on this matter please contact Charles Watson, at charles@thermc.com.au or via mobile 0428 568 032.

Yours sincerely,



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