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Sent: Monday, 19 November 2018 6:48 PM
To: Chambers - Ross J; AMOD
Cc: Chambers - Bissett C; Lena Lettau
Subject: 4 yearly review of modern awards—Award stage—Group 4 Decision - Food Award and Manufacturing Award

Dear Justice Ross

We refer to the *4 Yearly Review of Modern Awards – Award Stage – Group 4 decision* ([2018] FWCFB 6852) of 13 November 2018.

At paragraphs [32] to [45] of the decision, an issue is discussed regarding the rate of pay for an employee who agrees to work in excess of five hours but not more than six hours without a meal break under the *Food, Beverage and Tobacco Manufacturing Award 2010* (**Food Manufacturing Award**).

We advise that discussions in October between Ai Group and the AMWU, in respect of both the *Manufacturing and Associated Industries and Occupations Award 2010* (**Manufacturing Award**) and the Food Manufacturing Award, resulted in a consent position being reached between the parties.

The agreed wording is outlined in the [submission](#) that the AMWU filed on 19 October 2018 in respect of the both Manufacturing Award and the Food Award. The AMWU submission (at paragraph 2) indicates that the AWU and the CEPU support the AMWU's submission.

Essentially the parties have agreed that the wording of the relevant provision in the two awards should reflect the wording that the parties had jointly proposed earlier in the Review proceedings. The agreed wording is:

(b) by agreement between an employer and an individual employee or the majority of employees in an enterprise or part of an enterprise concerned, an employee or employees may be required to work in excess of five hours but not more than six hours without a meal break, at the rate of pay applying to the employee immediately prior to the end of the fifth hour of work.

At paragraph [45] of the decision of 13 November 2018, the Full Bench stated:

[45] The issue in dispute appears to be whether the clause in both the Manufacturing Award and the Food Manufacturing Award should reference the fifth hour or the fourth hour. This issue will be referred to the separately constituted Full Bench in the Food Manufacturing Award (AM2018/22), who will determine the issue in both awards.

Given the agreement reached between the parties, it would appear to be no longer necessary for the dispute to be referred to a separately constituted Full Bench, if the Commission supports the agreed wording.

Yours sincerely

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