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21 January 2019

The Hon. Justice IJK Ross
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

By email: chambers.ross.j@fwc.gov.au

Dear Justice Ross,

Re. AM2018/26 Social, Community, Home Care and Disability Services Industry Award 2010 – Request for extension by various unions

We refer to the above matter.

On 17 January 2019, United Voice, the Health Services Union and the Australian Services Union (collectively, **Unions**) sought an extension of time to file submissions and evidence in support of the variations they seek to the *Social, Community, Home Care and Disability Services Industry Award 2010 (Award)*. The period of the extension sought by the Unions is four weeks; such that they would be required to file their material on 15 February 2019. If granted, the extension of time sought would have the consequence of affording the Unions some 11 weeks to prepare their material.

The Australian Industry Group (**Ai Group**) writes in response to correspondence received from Your Honour's chambers on 18 January 2019 in relation to the Unions' extension request. That correspondence states that Your Honour "is minded to grant the request, as it incorporates a 4 week extension in the due date for both submissions in support of the claims and submissions in reply". Respectfully, it appears to us that if the directions previously issued by the Commission are varied as sought by the Unions, respondent parties will be granted an extension of only 3 weeks. Further, whilst the current directions grant respondent parties a period of 8 weeks to respond to material filed by the proponents, the directions proposed by the Unions would leave respondent parties with a lesser period of time (i.e. 7 weeks) to respond.

Without having reviewed the material that the unions intend to rely on in support of their claims, it is difficult to assess whether the amendments to the directions sought by the Unions will prejudice Ai Group and/or whether the amended directions would afford Ai Group sufficient time to prepare its material in response. We note however that the proposed amendments to the directions would see respondent parties file their material only one week before the commencement of the hearing of the matter. Accordingly, if the directions are amended as sought by the Unions and respondent parties subsequently require additional time to file their material in reply, the grant of such an extension may have a bearing on whether the matter can proceed to hearing as currently listed on 12 April 2019.

In our view, in light of the above considerations, if the Commission is minded to grant the Unions' request for an extension of time, the directions should be varied such that proponents and respondents are afforded an additional three weeks to file their material. That is, the directions should be varied such that the proponents are required to file their material on or before 8



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February 2019 and material in reply is due on or before 5 April 2019. This would ensure that all parties are provided with a comparable extension of time and that respondent parties retain a period of 8 weeks to prepare their material. We anticipate that this will minimise the risk of respondent parties subsequently requiring a further extension of time.

If the Commission is nonetheless minded to amend the directions as sought by the Unions, in the interests of fairness, respondent parties should be granted liberty to seek a further period of time to file their material in reply and to seek an adjournment to the hearing scheduled to commence on 12 April 2019. Ai Group may seek to make the relevant application in due course if it considers it necessary to ensure that its interests are not prejudiced by any extension of time granted to the Unions.

Yours sincerely,

A handwritten signature in black ink that reads "Brent Ferguson".

Brent Ferguson
National Manager – Workplace Relations
Advocacy & Policy

A handwritten signature in blue ink that reads "R. Bhatt".

Ruchi Bhatt
Senior Adviser – Workplace Relations
Policy