



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**

## **Position Paper by the Australian Road Transport Industrial Organization (ARTIO) for FWC Conciliation Conference of 16 March, 2022**

The ARTIO continues to oppose the application by Menulog for the making of a modern award to cover the ‘On Demand Delivery Services Industry’.

Despite the Full Bench decision of 28 January, 2022, which made it crystal clear that the Road Transport & Distribution Award 2020 (RTD Award) covers the ‘on demand services industry’ ARTIO understands that Menulog is still pursuing the making of a new award – see PNs 502 & 503 from the transcript of the 25 February conference, although it seems that Menulog is open to discussions on variations to the RTD Award.

ARTIO will participate in the Conference in good faith and will make any decisions on issues raised, or materials presented by Menulog, through its established governance processes which involve its National Council. The Council generally meets on the first Wednesday of every second month.

It is still not clear to ARTIO what variations Menulog might seek should its primary submission of making a new Award for the ‘on demand delivery services industry’ be rejected. As the Full Bench stated at para 56:

“The next step in this matter is for consideration to be given as to whether the coverage of employers and employees in the “on demand delivery services industry” as defined by the Road Transport Award meets the modern awards objective in s 134(1) of the FW Act.”

Based on this statement, ARTIO presumes that Menulog will be submitting that the modern awards

objective detailed in s. 134 cannot be met as the RTD Award is currently structured.

ARTIO awaits any submissions or further materials to be submitted by Menulog to support this contention, especially as the RTD Award has been meeting the modern awards objective for the 'courier industry' for the past 12 years, since its inception in 2010.

Although the Menulog application is focussed only on its employees, working in the 'on demand delivery services industry' ARTIO observes that any outcome, whether it be in the making of a new award or variations to the current RTD Award, will have a much broader impact as it is clear that these 'platform' companies operating in the delivery of prepared meals are clearly seeking to expand their operations into other traditional transport services.

ARTIO

14 March 2022