

Australian Industry Group

Application to vary the General  
Retail Industry Award 2020

**Reply Submission**  
(AM2021/66)

14 September 2021



## **AM2021/66 APPLICATION TO VARY THE GENERAL RETAIL INDUSTRY AWARD 2020**

1. Ai Group files this submission in reply, in response to submissions filed by:
  - (a) The SDA; and
  - (b) The Newsagents Association of NSW and ACT (**Newsagents**).
2. We use the same abbreviations in this submission as those used in our submission of 3 September 2021.

### **The SDA's Submissions**

3. The central proposition advanced by the SDA can be found at paragraphs [5] – [6] and [12] of its submission. In essence, the union argues that the 2020 Clause and the 2010 Clause have the same meaning and that the PLR process did not result in any substantial change to the 2010 Clause.
4. Ai Group disagrees with the SDA's contention, for the reasons described in our earlier submission. In particular, we submit that the 2010 Clause did *not* entitle a casual employee to 3 hours' pay (or 1.5 hours' pay, where relevant), even if they worked for a shorter period of time.
5. The 2010 Clause created an entitlement to be engaged or provided work for 3 hours / 1.5 hours. If an employee was not so engaged, the requirement imposed by the 2010 Clause would not have been satisfied. The 2010 Clause did not, however, create an entitlement to, or a guarantee of, a minimum 3 hours' pay.
6. An entitlement to a minimum engagement period and a minimum payment period are, in this way, inherently different in nature. Accordingly, the 2020 Clause is substantively different vis-à-vis the 2010 Clause.

## **The Newsagents' Submissions**

7. We agree with the Newsagents' submissions that:
  - (a) The PLR process was not intended to result in substantial changes.
  - (b) The changes to the 2010 Clause are an unintended consequence of the PLR process.
  - (c) The Commission should vary the Award of its own motion, even though the Association does not appear to have standing.