

## BEFORE THE FAIR WORK COMMISSION

**Title of matter:** Review of the Pharmacy Industry Award 2010 and  
Hospitality Industry General Award 2010

**Section:** s.156

**Matter number:** AM2014/305

### OBJECTIONS BY THE AUSTRALIAN HOTELS ASSOCIATION (AHA)

### & ACCOMMODATION ASSOCIATION OF AUSTRALIA (AAA) AND

### PHARMACY GUILD OF AUSTRALIA TO EXPERT EVIDENCE

Evidence	Objection	Submission
<p>Expert report from Professor Charlesworth and Dr Fiona McDonald dated 26 August 2015</p> <p>Part B</p>	<p>Not expert evidence</p> <p>Hearsay</p>	<ul style="list-style-type: none"> <li>• Part B of the Report purports to be a qualitative analysis of answers given during telephone interviews with 25 AWALI survey respondents.</li> <li>• Part B of the Report is, in effect, lay evidence from anonymous individuals who have not filed statements in the proceedings.</li> <li>• It is not apparent that Dr McDonald has any expertise on the lay evidence the subject of the interviews. She merely recites their responses to questions.</li> <li>• The employer groups will be prejudiced unless the identity of the individual participants giving qualitative evidence is disclosed, witness statements are filed and the individuals are made available for cross-examination.</li> </ul>
<p>Expert Report of Helen Bartley</p> <p>Answer to question 4</p>	<p>Relevance</p>	<ul style="list-style-type: none"> <li>• The answer to question 4 is expressed in general terms about the general necessary pre-requisites for establishing and conducting of a survey from which reliable conclusions may be drawn.</li> </ul>

		<ul style="list-style-type: none"> <li>• Ms Bartley’s evidence does not address whether any of the survey evidence meets these requirements so as to invalidate or reduce the reliability of the survey results.</li> <li>• At this level of generality, the material can be of no assistance to the Commission.</li> </ul>
Report of Olav Muurlink entitled “Response to literature review and quantitative work in the Pezzullo Report”	No expertise in area	<ul style="list-style-type: none"> <li>• It is not apparent that any of the evidence to the literature search is based wholly or substantially on the knowledge, experience or expertise of Dr Muurlink.</li> <li>• Dr Muurlink does not set out his expertise in conducting literature searches on the particular topic or survey studies.</li> </ul>
Report of Olav Muurlink entitled “The impact of weekend work: consecutivity, overload, uncontrollability, unpredictability, asynchronicity and arrhythmia”  Answers to questions 1 and 2	Relevance	<ul style="list-style-type: none"> <li>• The answers to questions 1 and 2 of the report address the alleged physical and psychological health effects of weekend work.</li> <li>• Section 134 of the Fair Work Act does not identify work health and safety as part of the modern award objective.</li> <li>• The Commission has found that “penalty rates” are designed to compensate workers for disabilities of working at unsociable times and to provide a sufficient incentive for workers to work voluntarily during such times and not to discourage businesses to employ workers to work outside standard hours (see <i>Restaurant and Catering Association of Victoria</i> [2014] FWCFB 1996 at [103]).</li> <li>• The answers could only be relevant to the question as to whether weekend work should be allowed at all on health and safety grounds. These matters are not the subject of these proceedings.</li> </ul>
Report of Serena Yu entitled “Evaluating the Impact of Sunday Penalty Rates in the NSW Retail Industry”	Not relevant to Pharmacy Industry Award	<ul style="list-style-type: none"> <li>• The report applies to the General Retail Industry Award and is not relevant to Pharmacy Industry Award .</li> <li>• The Guild does not object to the report if it is not relied upon in relation to the Pharmacy Industry Award.</li> </ul>

<p>University Student Finances in 2012 – A study of the financial circumstances of domestic and international students in Australia’s university”</p>	<p>Relevance  Not expert evidence</p>	<ul style="list-style-type: none"> <li>• National Union of Students has not been granted permission to appear.</li> <li>• The NUS is not a registered organisation under the Fair Work (Registered Organisations) Act.</li> <li>• The report does not appear to be relevant to any parties’ submissions.</li> <li>• The report does not purport to be an expert report and none of the authors have been made available for cross-examination</li> </ul>
<p>Report entitled “The importance of penalty rates to the lives of Australia’s post-graduate students”</p>	<p>Relevance  Not expert evidence</p>	<ul style="list-style-type: none"> <li>• Council of Australian Postgraduate Associations Incorporated has not been granted permission to appear.</li> <li>• CAPA is not a registered organisation under the Fair Work (Registered Organisations) Act.</li> <li>• The report does not appear to be relevant to any parties’ submissions.</li> <li>• The report does not purport to be an expert report and none of the authors have been made available for cross-examination</li> <li>• Report appears to be more in the nature of a submission.</li> </ul>