SOUTH AUSTRALIAN WINE INDUSTRY
ASSOCIATION INCORPORATED

15 March 2018

Honourable Justice Ross AO, President Fair Work Commission
PO Box 1994
MELBOURNE VIC 3001

Via Email: amod@fwc.gov.au

Dear Associate

Exposure Drafts – Technical Issues – FWCFB [2018] 1405 – Wine Industry Award 2010 AM2014/249

Background

We refer to [217] of Decision FWCFB [2018] 1405 by the Full Bench on *Exposure Drafts – Technical and Drafting Issues of Group 3 Awards* issued on 13 March 2018 and the request that parties respond to the issue in relation to Clause 8.1 of the *Exposure Draft Wine Industry Award 2016* (Exposure Draft) by 27 March 2018.

The South Australian Wine Industry Association (SAWIA) is an industry association representing the interests of wine grape growers and wine producers throughout the state of South Australia. SAWIA is the oldest wine industry organisation in Australia and has existed since 1840. SAWIA is a registered association of employers under the South Australian *Fair Work Act 1994* and is also a Recognised State-Registered Association under the *Fair Work (Registered Organisations) Act 2009.*

SAWIA membership represents approximately 96% of the grapes crushed in South Australia and about 36% of the land under viticulture. Each major wine region within South Australia is represented on the board governing our activities.

South Australia overwhelmingly is the largest wine producing State in Australia, representing more than 50% of the total grape crush and is the home to the major wine corporations' production bases and produces around 80% of Australia's premium wines.

Clause 8.1

SAWIA actively participated in the conferences before Deputy President Clancy on the Exposure Draft.

In the conference on 8 August 2016, the proposal by AWU to insert a new Clause 8.1 to highlight that Clause 8 applies to dayworkers and shiftworkers with the exception of one specific clause (Clause 8.5) of the Exposure Draft Award dated 29 July 2016 as issued at the time of the conference.

AWU's proposal was accepted by the parties as reflected in the Report by Deputy President Clancy of 25 August 2016 (Attachment A).

The Full Bench in Decision [2017] FWCFB 5536 on 30 October 2017 incorporated the changes to the Exposure Draft as had been agreed to by the parties in Deputy Clancy's report.

However, when the Exposure Draft was updated to reflect this Decision and new Clause 8.1 was inserted into the Exposure Draft, the cross-reference to Clause 8.5 was not updated to reflect that *Clause 8.5 – "Ordinary hours of work – day workers"* now had been renumbered 8.6.

The Exposure Draft published on 2 November 2017 contains an error in that Clause 8.1 now refers to Clause 8.5 which deals with maximum ordinary hours per day, which plainly applies to both day workers and shift workers, as opposed to the provision *"Ordinary hours of work – day workers"* (Clause 8.6) which the parties agreed to should be cross-referenced in new Clause 8.1.

SAWIA therefore submit that Clause 8.1 does not reflect the agreed position of the parties as discussed in [214] of Decision FWCFB [2018] 1405 and kindly request that this error be corrected.

We also note the additional issue in relation to Clause 8.7 identified by AWU in their correspondence dated 14 March 2018. The first paragraph in Clause 8.7 is identical to the wording in Claus 8.1 and appears to be an error.

Yours sincerely

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