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Sent: Tuesday, 21 June 2016 5:41 PM
To: AMOD; Chambers - Ross J
Cc: 'Nick Tindley'; 'Alexandra Terrill'; 'annabel.anderson@aigroup.com.au'; Sharlene Wellard; 'gstarr@actu.org.au'; 'Helen Carayannis'; 'Richard Tait'; 'Jessica Light'; 'c.brehas@nra.net.au'; 'stephen.bull@unitedvoice.org.au'; 'djmacken@macken.com.au'; 'Sue-Anne Burnley'
Subject: Penalty Rates Case - AM2014/305 - Clarification re Joint Employer Contributions document

Dear Sir/Madam

We refer to the above proceedings and to the Joint Employer Analysis of public contributions to the Proceedings filed on 2 May 2016 (**Analysis Spreadsheet**).

The **attached** document seeks to clarify the content of two of the columns contained within Analysis Spreadsheet.

Should there be any queries in relation to this matter, please do not hesitate to contact me.

Yours sincerely

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FOUR YEARLY REVIEW OF MODERN AWARDS - PENALTY RATES

**CLARIFICATION OF JOINT EMPLOYER REVIEW OF
CONTRIBUTIONS RECEIVED FROM INTERESTED PERSONS**

FILED ON BEHALF OF THE FOLLOWING EMPLOYER PARTIES:

**AUSTRALIAN BUSINESS INDUSTRIAL
THE NSW BUSINESS CHAMBER
AUSTRALIAN INDUSTRY GROUP
RESTAURANT AND CATERING INDUSTRIAL
CLUBS AUSTRALIA INDUSTRIAL
AUSTRALIAN RETAILERS ASSOCIATION, MASTER GROCERS AUSTRALIA, RETAIL COUNCIL,
THE NATIONAL RETAIL ASSOCIATION**

21 JUNE 2016

1. BACKGROUND

- 1.1 On 2 May 2016, a number of the joint employer parties in these proceedings filed submissions and an accompanying spreadsheet (**the Spreadsheet**) identifying their analysis of the public contributions received from the Fair Work Commission in relation to these proceedings.
- 1.2 On 16 May 2016 and 17 May 2016, the United Voice and SDA filed submissions responding to the joint employer analysis of the public contributions.
- 1.3 No orders were made by the Fair Work Commission for the joint employer parties to file submissions in reply and the joint employer parties accordingly do not intend to file reply submissions.
- 1.4 However, upon review of the submissions filed by the United Voice, it is apparent that two of the columns appearing in the Spreadsheet may have been misunderstood and the joint employer parties wish to clarify the meaning of these two columns.

2. COLUMNS 6 & 7 OF THE SPREADSHEET

- 2.1 Column 6 of the Spreadsheet is headed as follows:

“Does the submission seek to oppose the abolition of penalty rates?”

- 2.2 Column 7 of the Spreadsheet is headed as follows:

“Does the submission seek to oppose the reduction of penalty rates?”

- 2.3 These two questions were directed towards identifying whether, based on the face of the text used in a contribution, the contribution was discussing the abolition of penalty rates or the reduction of penalty rates (or both).
- 2.4 Many public contributions simply discussed the abolition of penalty rates (as opposed to the reduction of penalty rates). This point is made at paragraph 3.1(d) of the joint employer submissions filed on 2 May 2016. In such circumstances, the Spreadsheet recorded such contributions as:
 - (a) Column 6 (Does the submission oppose abolition of penalty rates?) - “Yes”
 - (b) Column 7 (Does the submission oppose the reduction of penalty rates?) - “No”
- 2.5 The joint employer parties do not submit that these contributors consent to the reduction of penalty rates. Nor do we submit that the contributors oppose the reduction of penalty rates. We simply submit that these contributions only discuss the abolition of penalty rates.
- 2.6 It has further been previously submitted by the Joint Employer Parties that such contributors likely misunderstood the nature of a large number of the applications filed in the proceedings (given that the vast majority of the applications do not seek to abolish penalty rates).

Filed on behalf of

**Australian Business Industrial
New South Wales Business Chamber
Ai Group
Australian Retailers Association
Clubs Australia Industrial**

**Master Grocers Australia
Retail Council
The National Retail Association
Restaurant & Catering Industrial**