



The Australian Industry Group  
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Australia  
ABN 76 369 958 788

12 July 2017

The Hon. Justice Ross, President  
Fair Work Commission  
11 Exhibition Street  
Melbourne VIC 3000

Dear Justice Ross,

**Re. AM2015/2 Family Friendly Work Arrangements – request for an extension of time**

We refer to the above matter and directions issued by the Fair Work Commission (**Commission**) on 22 December 2016 (**Directions**). Those directions require any party opposing the ACTU's claim to file comprehensive written submissions and any witness statements or documentary material upon which they seek to rely, **by 4.00pm on 25 August 2017**.

The Australian Industry Group (**Ai Group**) has a very significant interest in this matter and intends to file detailed submissions and evidence in opposition to the Australian Council of Trade Unions' (**ACTU**) claim.

Regrettably, Ai Group will not be in a position to file its material in accordance with the aforementioned deadline. We accordingly write to request that we be afforded an extension of time to file our material **by close of business on 6 October 2017**.

**The Basis for Ai Group's Application for an Extension of Time**

We note, firstly, that the Directions required the ACTU to file its material by 4.00pm on 24 April 2017. Pursuant to the grant of an extension of time by the Commission, the ACTU filed its submissions and evidence on 10 May 2017. This delay has self-evidently curbed the time available to respondent parties by two weeks.

Secondly, the Directions were issued by the Commission in December 2016. Since that time, several matters associated with the 4 yearly review of modern awards (**Review**) have been programmed during the intervening period between 10 May 2017 (when the ACTU filed its material) and 25 August 2017 (the current deadline for respondent parties to file their material in opposition). As a result, Ai Group's ability to prepare its material in response to the ACTU's claim has been significantly hampered.

Such matters include, but are not limited to:

- **AM2015/1 Family and Domestic Violence Clause:** filing submissions, preparation for and attendance at proceedings before the Commission and Federal Court in relation issues associated with the constitution of the Full Bench.
- **AM2014/196 and AM2014/197 Casual and Part-time Employment:** filing submissions in response to various proposals put and issues raised by the Commission in its decision of 12 July 2017.



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- **AM2016/8 Payment of Wages:** participating in discussions with other employer organisations and the ACTU.
- **AM2016/36 Blood Donor Leave:** filing submissions in reply opposing the SDA's claim, preparing for and attending Commission proceedings, including a Full Bench hearing.
- **AM2014/301 Public Holidays:** preparing for and attending a Full Bench hearing in relation to three union claims that could affect a number of awards in which Ai Group has a significant interest.
- **AM2014/305 Penalty Rates:** filing an application in relation to the *Hair and Beauty Industry Award 2010*.
- **AM2014/47 Annual Leave:** filing submissions regarding the shut down provision in the *Black Coal Mining Industry Award 2010*.
- **AM2016/35 Abandonment of Employment:** filing submissions, preparing for and attending an upcoming Full Bench hearing regarding the potential deletion of the abandonment of employment provisions from several awards in which Ai Group has a significant interest.
- **AM2016/17 National Training Wage:** preparing for and attending Commission proceedings regarding the plain language re-draft of the national training wage schedule.
- **Group 1 Awards:** filing submissions regarding over 20 exposure drafts.
- **Group 2 Awards:** filing submissions regarding 12 exposure drafts.
- **Group 3 Awards:** filing submissions regarding approximately 10 exposure drafts.
- **AM2014/75 Manufacturing and Associated Industries and Occupations Award 2010:** participating in detailed discussions with interested parties in order to give effect to the Commission's decision to incorporate vehicle manufacturing provisions from the *Vehicle Manufacturing, Repair, Services and Retail Award 2010*.
- **AM2014/93 Vehicle Manufacturing, Repair, Services and Retail Award 2010:** participating in detailed discussions between interested parties in order to give effect to the Commission's decision to remove vehicle manufacturing provisions from the award.
- **AM2016/25 Horticulture Award 2010:** filing submissions, preparing for and appearing in Full Bench hearings regarding Ai Group's claim to vary the coverage of the award. In addition, participating in ongoing discussions between interested parties regarding a secondary variation sought by Ai Group to the coverage clause.



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- **AM2016/31 Health Professionals and Support Services Award 2010 and Nurses Award 2010:** preparing for and attending Commission proceedings; and filing submissions in reply opposing numerous substantive union claims.
- **AM2014/281 Professional Employees Award 2010:** preparing for and attending proceedings before the Commission and participating in independent discussions between interested parties regarding substantive variations and technical and drafting matters.
- **AM2014/289 Water Industry Award 2010:** preparing for and attending proceedings before the Commission and participating in independent discussions between interested parties regarding technical and drafting matters.
- **AM2014/268 Food, Beverage and Tobacco Manufacturing Award 2010:** filing written comments regarding outstanding technical and drafting issues.
- **AM2016/33 Graphic Arts, Printing and Publishing Award 2010:** participating in ongoing discussions between interested parties regarding a significant variation sought by the AMWU to the coverage of the award.
- **AM2014/222 Contract Call Centres Award 2010:** participating in discussions with interested parties regarding the CPSU's proposal to vary the classification structure.
- **AM2016/3 Proposed Helicopter Aircrew Award:** preparing for and attending Commission proceedings and participating in independent discussions between interested parties regarding the AMWU's application for a proposed new award.

The concurrent programming of numerous matters has inhibited our ability to attend to formulating our response to the ACTU's case; a process that necessarily involves engaging with our membership, gathering evidence and drafting comprehensive written submissions. Absent an extension of time to file our material, we consider that our interests will be prejudiced by the serious strain that the conduct of the Review has placed, and continues to place, on our resources.

It is on this basis that we respectfully request an extension of time to file our material. Having regard to the many matters flowing from the Review to which we are required to attend between the date of drafting this correspondence and the current deadline for filing our material, we consider that a period of six additional weeks (until 6 October 2017) is necessary in order to ensure that we have an adequate opportunity to prepare our submissions and evidence in reply.

The Directions require that the ACTU and any party supporting its claim file material in reply to those who oppose the claim by 4.00pm on 15 September 2017; and the matter has been set down to hear any evidence on 9 – 20 October 2017. We acknowledge that if the extension sought by Ai Group is granted, these elements of the Commission's Directions will necessarily require amendment. We address these matters below.



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## The ACTU and ACCI's Position in Relation to Ai Group's Application

Ai Group has engaged in discussions with the ACTU and the Australian Chamber of Commerce and Industry (**ACCI**) in relation to our application.

We understand that both the ACTU and ACCI consent to our request and indeed the ACCI too seeks an extension as sought by Ai Group. The proposed date selected for the filing of material in reply has been selected as a product of discussions with ACCI and is intended to address their similar desire for further time.

### Proposed Next Steps

Should the Commission be minded to grant our request, we propose that:

1. The Commission amend the second paragraph of the Directions as follows:

Any party opposing the ACTU's claim shall file comprehensive written submissions and any witness statements or documentary material on which the party seeks to rely, **by 4.00pm on ~~25 August~~ 6 October 2017**.

2. The Commission amend the third paragraph of the Directions as follows:

The ACTU and any other interested party supporting the ACTU's claim shall file any written submissions and evidence in reply **by 4.00pm on ~~15 September~~ 27 October 2017**.

3. The Commission vacate the hearing currently listed on 9 – 20 October 2017.
4. The Commission list the matter for mention to discuss the future programming of the matter, including hearing dates.

We thank the Commission for its consideration of our request.

Yours sincerely,

A handwritten signature in black ink that reads 'Brent Ferguson'.

**Brent Ferguson**

National Manager – Workplace Relations Advocacy and Policy