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12 April 2017

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

Dear Justice Ross

4 Yearly review of modern awards – Plain language project [2017] FWCFB 1638

On 27 March 2017, a Full Bench of the Fair Work Commission issued a Statement setting out the next steps in the plain language project as part of the 4 yearly review of modern awards. In **Section 4 – The second tranche of awards** at paragraph [21] of the 27 March 2017 Statement, the Full Bench provisionally selected another 10 modern awards to be reviewed as part of the plain language project. The Vehicle Manufacturing, Repair, Services and Retail Award 2010 (VMRSR Award 2010) and the Manufacturing and Associated Industries and Occupations Award 2010 (Manufacturing Award 2010) have been provisionally selected as two of the awards to be part of the second tranche of awards to be reviewed.

This submission is filed by the Motor Trades Organisations on behalf of the major parties involved in the review of both these awards, seeking the removal of the awards from the second stage of the plain language project. The major parties are:

- The Motor Trades Organisations (VACC, MTA NSW, MTA SA and MTA WA)
- Australian Industry Group
- AMWU
- SDA

The parties respectfully submit that as a result of major changes to both the content and structure of both awards as a result of a Full Bench decision in 2016, the plain language drafting of these awards would be inappropriate for the reasons outlined below.

On 16 August 2016, a Full Bench of the Commission handed down a decision which determined that Section 2 of the VMRSR Award 2010 should be removed from this award and incorporated in the Manufacturing Award 2010 ([2016] FWCFB 4418).

The current awards listed as the “Vehicle Manufacturing, Repair, Services and Retail Award 2010 and the Manufacturing and Associated Industries and Occupations Award 2010” will be substantially altered as a result of the 16 August 2016 Full Bench decision.

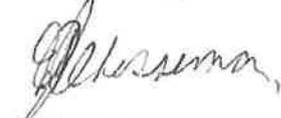
The VMRSR Award 2010 is currently referred to as an Exposure Draft titled the "Vehicle, Repair, Services and Retail Award 2016" in the Award Issues section on Fair Work Commission website listings. When the award review is completed, the VMRSR Award 2010 will no longer exist in its current state as a modern award.

The removal of Section 2 of the VMRSR Award 2010 will result in substantial changes to this award, both in terms of deleting some existing clauses and redrafting other clauses, particularly in relation to **Section 1 – Repair, Services and Retail** of this award. Substantial changes will also be made to the Manufacturing Award 2010 to reflect the inclusion of the employers and employees currently covered by Section 2 of the VMRSR Award 2010.

Since the Full Bench decision the major parties to both awards have been involved in numerous meetings to discuss the composition of both coverage clauses and the provisions in the body of each award. These discussions have been very time consuming and complex given the differences in the entitlements in each award, and the need to avoid disadvantaging employers or employees. These discussions are ongoing and it would be very disruptive and counter-productive for a plain language drafting exercise to be embarked upon this year in either of these awards. The parties are reporting back regularly to Commissioner Bissett

For the reasons outlined above the major parties to both awards have filed this joint submission seeking the removal of both awards from the second tranche of awards in the plain language project.

Yours sincerely



WJ (Bill) Chesterman
Industrial Relations Manager

Yours sincerely



P Bastian
National Secretary
AMWU

For and on behalf of:

Motor Trades Organisations – VACC, MTA NSW, MTA SA & MTA WA
Mr S. Smith: Head of National Workplace Relations Policy – Australian Industry Group
Ms Sue Anne Burnley: National Industrial Officer, Shop Distributive and Allied Employees Association