

## IN THE FAIR WORK COMMISSION

Matter No: AM2016/15

Section 156 - Four Yearly Review of Modern Awards –Plain language re-drafting –  
reasonable overtime

### SUBMISSION OF UNITED VOICE

16 October 2018

1. This submission is responsive to the Decision<sup>1</sup> of the Full Bench of the Fair Work Commission dated 17 September 2018 ('Decision') concerning the plain language re-drafting of reasonable overtime clauses and in reply to the submissions of other interested parties.
2. United Voice has a significant interest in the *Cleaning Services Award 2010* ('Cleaning Award') and the *Hospitality Industry (General) Award 2010* ('Hospitality Award').
3. In our submission dated 9 March 2018, we did not oppose the provisional view expressed by the Commission in the Statement<sup>2</sup> dated 22 December 2017 ('the Statement'). The clause proposed in the Statement referred directly to the National Employment Standards ('NES'). The NES provides a more beneficial entitlement for employees than the relevant award clauses in that the award clauses in the Cleaning Award (clause 28.1) and Hospitality Award (clause 33.1(a)) state explicitly that the employer may require an employee to work overtime, which is not found in the NES.
4. However, in the Decision, the Commission departed from the provisional view expressed in the Statement. In paragraph [50] of the Decision, the Commission stated that '*there is a need to formulate a term which makes explicit both the employers right to require an employee to work reasonable overtime and an employee's right to refuse to work unreasonable additional hours*' and provides three options.
5. In respect of the options provided in the Decision, United Voice supports the inclusion of Option 1 and we support the submissions of the CFMMEU dated 28 September 2018, the SDA dated 27 September 2018, the HSU dated 2 October 2018 and the AMWU dated 3 October 2018.
6. We disagree with the submissions of Australian Industry Group (AiG) that Option 1 is unnecessary and inappropriate.

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<sup>1</sup> [2018] FWCFB 5749

<sup>2</sup> [2017] FWCFB 6884

7. Option 1 provides greater clarity for employees than both Options 2 and 3.
8. Option 1 should be included with 2 amendments.
9. Clause X.3 of Option 1 should be amended to include '*any other relevant matter*' in accordance with section 62(3)(j) of the *Fair Work Act 2009* ('the Act'). In this regard, we support the submission of the SDA dated 27 September 2018 in paragraphs [11]-[12] and the submission of the HSU dated 2 October 2018 in paragraph [6].
10. Clause X.3 (i) of Option 1 should also be amended to delete '*or with an averaging arrangement agreed to by the employer and employee under section 64*'. Section 64 of the Act relates to averaging of hours of work for award free employees. It has no relevance to employees covered by a modern award and should not be included.

**UNITED VOICE**  
**16 October 2018**