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13 August 2016

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

Dear Justice Ross,

Re. AM2016/8 Payment of Wages – Black Coal Mining Industry Award 2010

We refer to the above matter and a statement issued by the Fair Work Commission (**Commission**) on 8 September 2016 ([2016] FWCFB 6401). Attached to that statement is a series of draft determinations that propose variations to several modern awards in relation to the payment of wages on termination of employment. Interested parties were “invited to review the draft determinations and make submissions in accordance with the Directions set out in the 15 August 2016 Statement”.

The Construction, Forestry, Mining and Energy Union, Mining and Energy Division (**CFMEU**) is the only union to have filed a submission in response to the Commission’s statement. It has proposed a variation to the *Black Coal Mining Industry Award 2010* (**Black Coal Award**) which differs in its terms to that proposed in the Commission’s draft determinations.

On 20 September 2016, the Australian Industry Group (**Ai Group**) filed detailed submissions in support of its claim to vary nine modern awards to enable payment upon termination of employment by EFT in the usual pay cycle. For the reasons there articulated, the variation proposed by the Commission to the Black Coal Award should be made, and that proposed by the CFMEU ought to be rejected. Whilst we acknowledge that the variation proposed by the CFMEU would afford greater flexibility than the current clause 16.7, it does not address the central issue to which Ai Group’s claim is directed: alleviating the additional costs and regulatory burden associated with administering a separate payment by EFT.

Accordingly, Ai Group relies on its submissions of 20 September 2016 in relation to the CFMEU’s proposal.

Yours sincerely,

Stephen Smith
Head of National Workplace Relations Policy