



The Australian Industry Group
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18 August 2020

Deputy President Gostencnik
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

By email: chambers.gostencnik.dp@fwc.gov.au

Dear Deputy President,

Re. AM2020/1 Application to vary the *Nurses Award 2010* – Variation to Directions and Adjournment Request

We refer to the above matter.

On 20 May 2020, the Fair Work Commission (**Commission**) issued amended directions, requiring the Australian Industry Group (**Ai Group**) to file submissions in reply by 5pm on 21 August 2020. In addition, the matter is listed for hearing on 1 September 2020.

We write to respectfully request that the Commission's directions be further amended and that the hearing be relisted for a later date, for the reasons set out below.

As we have previously advised, since directions for this matter were issued in February 2020, there has been a significant escalation of the impact of the COVID-19 pandemic (**Pandemic**) and the measures implemented to mitigate its spread. We have as a result been unexpectedly and extensively involved in:

- (a) Numerous Commission proceedings concerning award variations proposed by interested parties in light of COVID-19.¹
- (b) Each of the five working groups established by the Attorney-General and Minister for Industrial Relations regarding proposed industrial relations reform.
- (c) Providing urgent advice and assistance to industry and individual members.

¹ AM2020/10 Application to vary the *Clerks – Private Sector Award 2010*; AM2020/12 Application to vary awards at the initiative of the Commission; AM2020/13 Health Sector Awards – Pandemic Leave; AM2020/18 Application to vary the *Social, Community, Home Care and Disability Services Industry Award 2010*; AM2020/20 Application to vary the *Fast Food Industry Award 2010*; AM2020/22 Application to vary the *Vehicle, Manufacturing, Repair, Services and Retail Award 2010*; AM2020/28 Application to vary Construction Industry Awards; AM2020/30 Application to vary the *Clerks – Private Sector Award 2020*; AM2020/34 Applications to vary Schedule X; AM2020/37 Application to vary the *Vehicle Repair, Services and Retail Award 2020*; AM2020/86 Application to vary the *Manufacturing and Associated Industries and Occupations Award 2020* and the *Graphic Arts, Printing and Publishing Award 2020*; AM2020/87 Applications to vary Schedule X and AM2020/88 Application to vary the *Vehicle Repair, Services and Retail Award 2020*.



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The aforementioned consequences of the Pandemic have dramatically reduced our scope to prepare our reply submissions and will continue to have this effect in relation to our capacity to prepare for the hearing. We note in particular that one or both representatives of Ai Group involved in this matter have also had primary carriage of and involvement in the following matters since the ANMF filed their submissions on 31 May 2020:

- IR Reform Working Group – meetings on 5 and 6 August 2020 as well as associated preparations and out of session discussions;
- AM2016/8 Payment of Wages – proceedings before Justice Ross on 5 August 2020;
- AM2020/13 Health Sector Awards – Pandemic Leave – submissions due on 10 August 2020 regarding the *Social, Community, Home Care and Disability Services Industry Award 2010*; and
- AM2018/26 4 yearly review of the *Social, Community, Home Care and Disability Services Industry Award 2010* – submissions due about additional evidence sought to be filed by the relevant unions.

In addition, the relevant officers will be involved in the following matters over the coming weeks:

- IR Reform Working Group meetings on 19 and 20 August 2020 as well as associated preparations and out of session discussions;
- AM2020/13 Health Sector Awards – Pandemic Leave – a directions hearing before the Commission on 19 August 2020; and
- IR Reform Working Group meetings on 2 and 3 September 2020 as well as associated preparations and out of session discussions.

In light of the above, we respectfully request that:

- (a) Ai Group is granted an extension to file its submissions in reply by close of business on 11 September 2020; and
- (b) The matter is listed for hearing not before 25 September 2020.

We have endeavoured to contact the relevant officer at the Australian Nursing and Midwifery Federation (**ANMF**) in order to ascertain their position in relation to the proposed amendment to the directions and adjournment of the hearing but have not yet been successful.



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We thank the Commission for its consideration of our request. We have not made this request lightly and apologise for any inconvenience to the Commission and the ANMF.

Yours sincerely,

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Advocacy and Policy

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