

**From:** Luis Izzo <[Luis.Izzo@ablawyers.com.au](mailto:Luis.Izzo@ablawyers.com.au)>

**Sent:** Monday, 1 March 2021 2:58 PM

**To:** Chambers - Ross J <[Chambers.Ross.j@fwc.gov.au](mailto:Chambers.Ross.j@fwc.gov.au)>

**Cc:** Tamsin Lawrence <[Tamsin.Lawrence@australianchamber.com.au](mailto:Tamsin.Lawrence@australianchamber.com.au)>; Brent Ferguson <[Brent.Ferguson@aigroup.com.au](mailto:Brent.Ferguson@aigroup.com.au)>; Nick Tindley <[nrt@fcbgroup.com.au](mailto:nrt@fcbgroup.com.au)>; Lindsay Carroll <[l.carroll@nra.net.au](mailto:l.carroll@nra.net.au)>; Sophie Ismail <[sismail@actu.org.au](mailto:sismail@actu.org.au)>; [Marie.brown@mga.asn.au](mailto:Marie.brown@mga.asn.au); [a.millman@nra.net.au](mailto:a.millman@nra.net.au); [djmacken@macken.com.au](mailto:djmacken@macken.com.au); Stephen Crawford <[stephen.crawford@nat.awu.net.au](mailto:stephen.crawford@nat.awu.net.au)>

**Subject:** Application AM2021/7 - Retail Award from SDA, AWU and Master Grocers Australia

Dear Associate

We act for the NSW Business Chamber and Australian Business Industrial in relation to the above proceedings, which relate to a joint application filed by the SDA, AWU and MGA (**Joint Application**) on 26 February 2021.

We understand that parties seeking to oppose the Joint Application are directed to file submissions in opposition by 12:00pm on Thursday 4 March 2021.

We wish to notify the Commission that it is likely that a number of major parties representing employers in this industry will oppose the Joint Application. A copy of a joint media release issued by a number of employer organisations today regarding the Joint Application is **attached** for the Commission's reference.

We also note that a number of employer parties have been working on a variation to the part-time provisions of the Retail Award that affect the same subject matter that is the subject of the Joint Application. None of these parties appear to have been consulted regarding the Joint Application – notwithstanding the conference held regarding the Award's part time provisions in proceedings AM2020/103 on 5 February 2021.

ABI and NSWBC will be taking up the opportunity to file materials in opposition to the Joint Application. We also have evidentiary materials that we intend to file in support of our position that may not be ready in time for 4 March 2021. We may seek some additional timeframe for the filing of these evidentiary materials so that the Commission can proceed with the benefit of as much relevant evidence as possible.

We look forward to having the opportunity to present our materials before the Commission.

Yours faithfully

**Luis Izzo**

Managing Director – Sydney Workplace  
Australian Business Lawyers & Advisors

140 Arthur Street North Sydney NSW 2060  
Dir: +612 9458 7640 | Fax: +612 9954 5029 | Mob: 0408 109 622  
Tel: +612 9458 7005 | Web: [www.ablawyers.com.au](http://www.ablawyers.com.au) |  [LinkedIn](#)

**Workplace Relations and Employment Law  
Team of the Year**  
2019 | 2018 | 2016



This is an email from Australian Business Lawyers & Advisors Pty Limited (ACN 146 318 783). It is confidential to the named addressee and may contain copyright and/or legally privileged information. No-one else may read, print, store, copy, forward or act in reliance on all or any of it or its attachments. If you receive this email in error, please telephone us on +612 9458 7005 or email [ablawyers@ablawyers.com.au](mailto:ablawyers@ablawyers.com.au). We do not accept liability in connection with computer virus, data corruption, delay, interruption, unauthorised access or unauthorised amendment. Liability limited by a Scheme approved under the Professional Standards Legislation. Legal practitioners employed by or being directors of Australian Business Lawyers & Advisors Pty Limited are members of the Scheme. This notice must not be removed.

**Fraud warning: Please be aware that there is a significant risk posed by cyber fraud, specifically relating to email accounts and bank account details. Our bank account details will never change during the course of a transaction, and we will never change our bank details via email. Please check account details with us in person. We will not accept responsibility if you transfer money into an incorrect account.**

No images? [Click here](#)



## **Part time flexibility application will reduce employment**

An ACTU and COSBOA flexible part-time employment proposal for the General Retail Award is poorly drafted, will add more red tape and risks exposing business operators, including small businesses, to costly disputes and the perils of 'go away' money.

The joint Union/COSBOA application to vary the General Retail Award largely resembles what is already contained in the IR Omnibus Bill but with additional compliance burden and risk for employers.

The proposed variation means that every time an employer wants to offer additional hours of work to a part-time employee they will need to enter into a new separate written agreement with the worker.

It also means once an agreement to offer extra hours is made, an employee must be paid for the extra hours even if they do not work the hours.

The extra paperwork and the requirement to pay someone when they didn't work is not workable for business.

There is no way a business will offer extra shifts to part timers under that arrangement.

Most worryingly the proposal also risks exposing business owners to unnecessary and costly litigation where a part-time flexibility dispute arises.

A major workplace relations concern of small business owners is litigation from unfair dismissal claims. This part-time flexibility proposal further exposes small business owners to the similar risk of litigation and 'go away' money.

While this deal appears to have had all the good intentions of creating a part time flexibility arrangement, it is problematic, rushed and will not work in practice for business, big or small.

Furthermore, none of the other employer representative parties currently working on changing part-time provisions in the General Retail Award ongoing Fair Work Commission proceedings were consulted on the deal.

ACCI, Ai Group, ARA, NRA and ABI look forward to continuing to participate in the General Retail Award proceedings in the Commission and to develop workable award variations. In the meantime, it is essential that the Government's IR Omnibus Bill is passed by Parliament.

**For more information:**

- Marie Hogg | ACCI | 0431 299 518
- Tony Melville | Ai Group | 0419 190 347
- Jessica Yu | ARA | 0414 467 176
- Malcolm Cole | NRA | 0408 612 603
- Damian Kelly | ABI | 0401 773 825

[Preferences](#) | [Unsubscribe](#)

The information contained in this message and any annexure is confidential and intended only for the named recipient(s). If you have received this message in error, please contact the sender immediately by return email and destroy the original message. If you have received this message in error, you are prohibited from reading, copying, distributing and using the information. Australian Chamber does not warrant that any attachments are free from viruses or any defects. You assume all liability for any loss, damage, or other consequences which may arise from opening or using the attachments. If you wish to opt out from future messages, send a reply email with the subject UNSUBSCRIBE.