From: Ruchi Bhatt [mailto:Ruchi.Bhatt@aigroup.com.au]
Sent: Friday, 27 January 2017 11:10 AM
To: Chambers - Hamberger SDP; AMOD
Cc: Brent Ferguson; Paul Ryan; 'Stuart Maxwell'; Wendy Carr; Therese Walton; 'Ian Macdonald'; Roushan Walsh; Kyle Scott; hughmc@artionsw.com.au; Martin Dunne; richard.calver@natroad.com.au
Subject: RE: AM2016/32 - 4 yearly review of modern awards - Transport Industry Awards

Dear Alicia,

We refer to the correspondence below.

On 18 January 2017, the TWU filed submissions and some evidence in support of its claims to vary the *Road Transport (Long Distance Operations) Award 2010*. At page 8 of its submissions, it advises that witness statements of **David O'Brien** and **Robert Bell** "will also be relied upon". We note that the proposed statement of Mr Bell is not identified in the correspondence from NatRoad dated 19 January 2017 or in the correspondence below.

On 19 January 2017, the TWU filed submissions and some evidence in support of its claims to vary the *Road Transport and Distribution Award 2010*. At page 16 of its submissions, it advises that witness statements of **David O'Brien** and **Glen Stutsel** "will also be relied upon".

To our knowledge, the TWU has not yet filed the aforementioned witness statements nor advised when it intends to do so. If the material has been filed, it has not been uploaded to the Commission's website. The Australian Industry Group has a significant interest in both of the awards that the TWU seeks to vary and we oppose the admission of each of the witness statements identified above into evidence.

The TWU was required to file submissions and evidence in support of its claims by 13 January 2017. It sought, and was granted, an extension of time to do so by close of business on 18 January 2017. Its material was ultimately filed on 18 and 19 January 2017, leaving respondent parties with just six weeks to file submissions and evidence in reply to some seven proposed award variations and 12 witness statements (excluding those not yet filed).

To allow the TWU to rely upon the additional four witness statements identified above would prejudice respondent parties. It would serve to further limit the time available to respond to the union's case; a process that necessarily involves understanding the union's case in its entirety, consulting with our membership, obtaining evidence from witnesses and drafting comprehensive written submissions. The unfairness that would flow is exacerbated by the absence of any scope within the directions issued by the Commission on 1 December 2016 to accommodate the grant of a commensurate further period of time to those that oppose the claim. This is because material in reply is to be filed by Thursday 2 March 2017 and the matter has been set down for hearing from Monday 6 March 2017.

For the reasons set out above, we respectfully submit that the Commission should not admit into evidence the witness statements of David O'Brien, Robert Bell or Glen Stutsel.

Kind regards,
Ruchi.

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