

From: Abha Devasia [mailto:abha.devasia@amwu.org.au]
Sent: Monday, 19 November 2018 1:55 PM
To: Chambers - Gostencnik DP
Cc: Stephen Smith; 'paul.mitchell@paaa.org.au'; Margaret Hogan; Lorraine Cassin
Subject: AM2016/33 Graphic Arts Printing and Publishing Award 2010

Dear Associate

We write in relation to AiG's correspondence of 16 November 2018. We understand that AiG is now requesting that two variations be dealt with "on the papers":

- a. its new proposal to entirely delete Schedule C; and
- b. its proposed amendment to Schedule B.

Schedule C

The AMWU objects to the AiG's new proposal to delete schedule C being dealt with on the papers, or at all. It is not the case that the deletion to schedule C was intended to be dealt with at the hearing on 10 December 2018; that listing was solely for the purposes of the AMWU's claim.

This proposed variation, contrary to Mr Smith's correspondence, was not filed in accordance with any direction of the Full Bench. The [Directions](#) issued on 31 October 2018 only dealt with the AMWU's claim. This is a new claim which has been brought only in reply to the AMWU's submissions, and has not been the subject of proper discussion or directions.

In 4 yearly review of modern awards – Group 2 [\[2016\] FWCFB 7254](#), the Full Bench identified at [95] the outstanding claims in relation to the review of the Graphic Arts Award 2010. One of these claims was the AMWU's proposed variation to Schedule C, which was to be the subject of the hearing on 10 December 2018. This was the subject of extensive discussion between the various parties. Ultimately directions were issued requiring the filing of evidence and submissions in respect of this claim.

AiG did not raise its new proposal until [5 June 2018](#), and then only in passing in correspondence from Mr Smith. It was not particularised until the AiG filed its submissions in reply to the AMWU's proposal on [15 October 2018](#).

The proposed variation involves a major change to the operation of the classification structure of the award. It is likely to have significant effects on the classification of employees and, in that sense, if the AiG's construction of s.156(3) is correct, would need to be justified by work value reasons – none of which are identified in AiG's submissions. It is not the kind of matter that is suitable for determination without a hearing. There are significant changes proposed in the variation that the AMWU wishes to test at hearing should the application be pressed.

It would be inappropriate for stakeholders to be taken by surprise by such a significant change; it should not be dealt with until the Commission can be satisfied that all interested parties have had proper opportunity to discuss, consider and respond to this proposal. Accordingly, if the AiG presses

this variation as a stand-alone claim (as opposed to an alternative to the AMWU's claim, which has now fallen away), the matter should be listed for directions.

Schedule B

The AMWU has not had sufficient time to form a view to the variation to Schedule B now proposed by the AiG. Other parties such as the PIAA should also have the opportunity to do so.

We request that the Commission provide a timetable to enable responses to be filed in the usual manner.

Kind regards,

Abha Devasia
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AMWU