

From: Liana D'Ascanio [<mailto:liana.dascanio@amma.org.au>]
Sent: Wednesday, 6 December 2017 4:22 PM
To: Chambers - Hatcher VP
Cc: Clarence.Paul@svitzer.com; David Parker; Amanda Mansini
Subject: AM2016/5 - 4 Yearly Review of Modern Awards - 7 December 2017 Hearing

Dear Associate,

We act for Svitzer Australia Pty Ltd, who has an interest in the above matter.

We refer to the **attached** Statement [2017] FWCFB 5833, issued 8 November 2017, inviting interested parties to provide their views in relation to possible amalgamation of the Modern Awards referenced in the Statement, at the hearing listed for 7 December 2017.

We understand arrangements have been made for a video-link to the Fair Work Commission in Perth for the purposes of this hearing. We respectfully request to attend tomorrow's hearing via the Perth video-link to the Commission's rooms in Perth. We understand the hearing will commence at 8.00am Perth time (11.00am AEDST).

We also provide, by way of filing, an outline of initial submissions on behalf of Svitzer Australia Pty Ltd – **attached**.

Kind regards,



Liana D'Ascanio

AMMA | Workplace Relations Consultant

Level 7, 12 St Georges Terrace | Perth | WA 6000

t (08) 6381 0428 | m 0475 000 108



**IN THE FAIR WORK COMMISSION
MATTER NO: AM2016/5**

FOUR YEARLY REVIEW OF MODERN AWARDS

*Ports, Harbours and Enclosed Water Vessels Award 2010
Seagoing Industry Award 2010
Marine Towing Award 2010*

OUTLINE OF SUBMISSIONS ON BEHALF OF:

SVITZER AUSTRALIA PTY LTD

1. The Australian Mines and Metals Association Inc., files this submission on behalf of Svitzer Australia Pty Ltd (**Svitzer**).
2. This submission is made in response to a Statement issued by the Full Bench in this matter (Vice President Hatcher, Deputy President Gooley and Commissioner Cambridge) on 8 November 2017, in relation to the proposed amalgamation of the following modern awards:
 - a) *Ports, Harbours and Enclosed Water Vessels Award 2010*;
 - b) *Seagoing Industry Award 2010*; and
 - c) *Marine Towing Award 2010*.
3. Svitzer opposes an amalgamation of these Awards.
4. Svitzer respectfully:
 - (a) advises the Commission of its intention to appear at the hearing currently listed for Thursday 7 December 2017;
 - (b) requests the opportunity to be heard and participate in any future proceedings relating to this matter; and
 - (c) requests an opportunity to prepare, including with the benefit of any further rationale for the proposed amalgamation that may be provided by the Full Bench or those parties supporting amalgamation, substantive submissions in respect of the proposed amalgamation of these Awards.
5. As per paragraph 4(c) above, Svitzer respectfully seeks an opportunity to provide further submissions to the Commission. However, in broad terms, the proposed amalgamation is opposed for reasons including the following:
 - (a) The operations caught by each of the three Awards are considerably different to each other;
 - (b) Whilst some of the classifications covered by the Awards may be transferable between the Awards' scopes, and there may be other similar features amongst the Awards, there are significant differences between the terms and conditions of employment under each of the Awards;
 - (c) Notably, but without limitation, there are significant differences between the provisions dealing with wages, allowances, leave (including annual leave), hours of work and breaks;
 - (d) Svitzer has enterprise agreements in place made pursuant to the *Marine Towing Award 2010*, with provisions referable to that Award's provisions,

which would potentially be disturbed by any amalgamation of the relevant Awards;

- (e) Svitzer has structured its business operations and commercial arrangements with reference to, and in reliance upon, its enterprise agreements (and in turn the *Marine Towage Award 2010* underpinning those agreements). Such operations and arrangements would potentially be disturbed by any amalgamation of the relevant Awards;
- (f) Svitzer also relies upon the services of providers whose operations are underpinned by the *Ports, Harbours and Enclosed Water Vessels Award 2010* (for example marine pilotage). Accordingly changes to that Award may also have an impact upon the operations of Svitzer.

- 6. Svitzer submits that there are cogent reasons for maintaining the differences between the relevant Awards.

Submitted on behalf of Svitzer Australia Pty Ltd, by
Australian Mines and Metals Association Inc.
6 December 2017

[2017] FWCFB 5833
FAIR WORK COMMISSION
STATEMENT

Fair Work Act 2009
s.156 - 4 yearly review of modern awards

**4 YEARLY REVIEW OF MODERN AWARDS - PORTS, HARBOURS AND
ENCLOSED WATER VESSELS AWARD 2010, SEAGOING INDUSTRY
AWARD 2010, MARINE TOWAGE AWARD 2010**
(AM2016/5)

VICE PRESIDENT HATCHER
DEPUTY PRESIDENT GOOLEY
COMMISSIONER CAMBRIDGE

SYDNEY, 8 NOVEMBER 2017

*Ports, Harbours and Enclosed Water Vessels Award 2010, Seagoing Industry Award
2010, Marine Towage Award 2010.*

[1] The Full Bench having reviewed the submissions made in relation to the draft determination concerning the coverage of the *Seagoing Industry Award 2010* and the *Ports, Harbours and Enclosed Water Vessels Award 2010* has formed a preliminary view that, given the potential for the coverage of the industries to which the awards apply to overlap if the proposed exclusions from the respective awards are removed from each award, it may be appropriate as part of the 4 yearly review to amalgamate the two awards. The Full Bench has additionally formed the preliminary view that further amalgamation with the third award, the *Marine Towage Award 2010*, is also worthy of consideration.

[2] A hearing will be held on 7 December 2017 at 10.00am in Sydney (with video-links on request) to hear from any interested party in relation to:

- 1) the preliminary views of the Full Bench; and
- 2) the draft determinations regarding coverage of the *Seagoing Industry Award 2010*, the *Ports, Harbours and Enclosed Water Vessels Award 2010* and the *Marine Towage Award 2010* published on 30 June 2017.



VICE PRESIDENT

Printed by authority of the Commonwealth Government Printer

<Price code , PR597521>