



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**ACTING PRESIDENT HATCHER**

**AM2022/35**

**s.158 - Application to vary a modern award**

**Application by Woolworths Group Limited  
(AM2022/35)**

***General Retail Industry Award 2020***

**Sydney**

**9.30 AM, MONDAY, 16 JANUARY 2023**

**MISSING AUDIO**

**[9.30 AM]**

PN1

ACTING PRESIDENT HATCHER: - - - appear for the National Retail Association?

PN2

MS L CARROLL: That's correct, Acting President.

PN3

ACTING PRESIDENT HATCHER: Mr Tindley, you appear with Mr Robertson for the Australian Retailers Association?

PN4

MR N TINDLEY: That's correct, Acting President.

PN5

ACTING PRESIDENT HATCHER: And, Mr Pardo, you appear for the SDA?

PN6

MR A PARDO: Yes, Acting President.

PN7

ACTING PRESIDENT HATCHER: All right. Mr Morris, do you want to start? How do you propose - - -

PN8

MR A MORRIS: If I may, thank you. This is an application that's been some time in gestation and over the last 12 months or more, there have been discussions at various levels of detail with I think most, if not all, of those who are on this conference hearing at the moment, or call hearing.

PN9

We have filed an application, we have filed our evidence-in-chief. The purpose of the application, we think, is very clear and the impression is that there's not, evident to us at the moment anyway, opposition to the objective, which is to ensure that there's absolute clarity around the coverage by the General Retail Industry Award 2020 of a defined category of online retail sales fulfilment facilities. Where there are some differences, not necessarily irreconcilable, is in the drafting that gives effect to that intended outcome.

PN10

What we would like, if it's consistent with the Commission's approach and availability, would be a conference at the outset. We have been told, at least by some of those on the call, that they have some difficulty consulting with all the relevant stakeholders in their organisations given the time of year in a particular speedy way, but perhaps a couple of weeks should enable them to do that.

PN11

What we were wishing to propose, as I say if it's convenient and consistent, would be a conference at the outset of interested organisations, associations and so on in,

say, the week beginning 13 February, and so that a conference might be made as productive as useful, we would suggest, again if it's consistent with the Commission's approach, that those who have an interest in the application notify the Commission in outline of their positions in relation to the objective and, if they wish, in relation to the drafting.

PN12

We may be getting ahead of ourselves, but we think that that's a realistic approach and we are certainly willing in the meantime to have further discussions with any of those who are participating today to see if we can't narrow the differences as much as possible and make things as convenient and easy for the Commission as we can.

PN13

ACTING PRESIDENT HATCHER: All right. Does that involve, what, the parties perhaps filing a short position document say a week prior to the date of the conference? Do you have that in mind?

PN14

MR MORRIS: Yes, Deputy President, yes.

PN15

ACTING PRESIDENT HATCHER: Mr Morris, has there been any contact or communication with or from the United Workers Union? Mr Morris, did you hear that?

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MR MORRIS: I heard that, yes. I'm sorry, I wasn't sure whether you were asking me or - - -

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ACTING PRESIDENT HATCHER: I was asking you in the first instance, but if any other parties - - -

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MR MORRIS: I'm sorry. Yes, we have heard nothing from them.

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ACTING PRESIDENT HATCHER: All right. When you say you've heard nothing, has there been any attempt to ascertain their position about the matter?

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MR MORRIS: Unless Ms Kerr can correct me, I think the answer to that is no.

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ACTING PRESIDENT HATCHER: All right. Ms Kerr?

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MS J KERR: That's correct, Acting President.

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ACTING PRESIDENT HATCHER: Mr Pardo, are you in any position to assist with that question?

PN24

MR PARDO: No, unfortunately, Acting President, I haven't been given instructions as to the position of other affiliated unions.

PN25

ACTING PRESIDENT HATCHER: All right. The other thing, Mr Morris - perhaps this could be done in conjunction with a conference - it occurs to me that one thing that might assist the Commission is to have an inspection of one of these fulfilment centres.

PN26

MR MORRIS: Yes, we can certainly look at what might be the most convenient way of doing that, you know, in terms of location and timing and so on, yes.

PN27

ACTING PRESIDENT HATCHER: What location for the conference would be most convenient?

PN28

MR MORRIS: Speaking for Woolworths, would it be a video conference like this or would it be around a table?

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ACTING PRESIDENT HATCHER: I think a conference in person so far as is practicable would be the best course. Obviously if parties can't attend physically, we can accommodate video appearance as well.

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MR MORRIS: I think our preference would be Sydney.

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ACTING PRESIDENT HATCHER: All right. Does anybody else wish to add anything?

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MR PARDO: Yes, if it's convenient, Acting President?

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ACTING PRESIDENT HATCHER: Yes.

PN34

MR PARDO: I think the SDA would generally be comfortable with the outline proposed by Mr Morris: a conference some time in February with an outline of position the week prior. The instructions I have is that, if it's possible, perhaps the written positions could be given in the week beginning 20 February and the conference might take place in the week beginning 27 February. Those are the kind of instructions I have received, Acting President.

PN35

MS B WEST: If I might also add to that, Acting President, the time frames would also be consistent with what the Ai Group would propose in that we would be seeking, in terms of the consultation, a period of four weeks to enable us to speak to our relevant members and then be able to form a position. So, after a period of four weeks, we would be in a position to potentially have that position paper-ready, so potentially later, if possible, would be our preference.

PN36

ACTING PRESIDENT HATCHER: All right. Do you have any problem with that, Mr Morris?

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MR MORRIS: I can't really say a problem. Obviously, this has been going a long time in terms of preparation and the sooner we can resolve it, the better, but we are obviously in the Commission's hands as well in terms of availability.

PN38

ACTING PRESIDENT HATCHER: All right. Does any other party wish to say anything?

PN39

MS CARROLL: Nothing from the National Retail Association, Acting President.

PN40

ACTING PRESIDENT HATCHER: All right. Mr Morris, would you wish to be heard against a direction that at least your client and the SDA confer with the UWU about this application?

PN41

MR MORRIS: I would need to get some instructions on that. I'm not sure whether Ms Kerr can give me that live at the moment.

PN42

ACTING PRESIDENT HATCHER: All right. It's more simply to ensure that they are alive to the application and find out whether they have any position about it. If they don't, they don't and there won't be a problem.

PN43

MS KERR: I'm comfortable with that approach, Acting President.

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ACTING PRESIDENT HATCHER: All right. Well, the parties can anticipate I will make directions that I am listing upon the lines indicated. Mr Morris, is it the intention that I would conduct the conference in the first instance?

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MR MORRIS: We would be very content with that, thank you, Acting President, yes.

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ACTING PRESIDENT HATCHER: All right. The parties can assume it will be in the week beginning 27 February, but I will have to pin down the place and time.

PN47

I thank everyone for their attendance. We will now adjourn.

**ADJOURNED INDEFINITELY**

**[9.39 AM]**