

MinterEllison

22 March 2017

BY EMAIL

Michelle Robinson
Associate to Deputy President Kovacic
Fair Work Commission
CML Building
17-21 University Ave
Canberra ACT 2601

Dear Ms Robinson

AM2014/300 – Award Flexibility – TOIL in the *Journalists Published Media Award 2010* (Proceeding)

We write on behalf of Nationwide News Pty Ltd, Bauer Media Pty Limited and Pacific Magazines Pty Limited (**Clients**).

We refer to the above Proceedings and, in particular, to the conference before Deputy President Kovacic held on 16 March 2017 (**Conference**).

During the Conference, the Media, Entertainment and Arts Alliance (**MEAA**) raised the possibility of the Proceedings being transferred from the Award Flexibility Full Bench to the Full Bench hearing the award specific matters relating to the *Journalists Published Media Award 2010* (**Journalists Award**).

As per the Deputy President's request, we have sought instructions from our Clients about this issue.

Our Clients are opposed to the Proceedings being transferred.

They each feel it would be inappropriate for this to occur now given the Proceedings:

- are at an advanced stage, having already been the subject of written submissions and evidence before the Award Flexibility Full Bench;
- were partly heard by the Award Flexibility Full Bench on 5 December 2016;
- raise complex issues about TOIL which, with respect to the members of any Full Bench hearing the award specific claims, are best placed to be determined by the dedicated Award Flexibility Full Bench that has been considering applications relating to TOIL as a common issue since late 2014; and
- are unlikely to be finalised more efficiently if they are transferred. In this regard, we note the Award Flexibility Full Bench said in hearings related to the Proceedings on 10 December 2015 (PN2170) and 5 December 2016 (PN123) that it is possible that multiple Full Benches will be convened to hear the different issues even at the award specific phase.

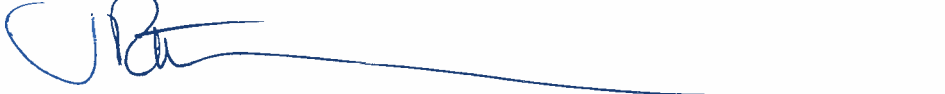
Despite the above, we note that our Clients' remain open to exploring options to narrow the issues in dispute between them and the MEAA, and that the progress of these discussions will not be affected by the Proceedings remaining with the Award Flexibility Full Bench.



In this regard, we note the Award Flexibility Full Bench indicated during the hearing on 5 December 2016 that it would not finalise the Proceedings until after the award specific issue relating to the coverage of the Journalists Award is determined (see PN242 to 244). An opportunity for the parties to have further discussions there remains available.

Our Clients appreciate the opportunity to comment on the proposal.

Yours faithfully
MinterEllison



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