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1. General opening submissions		
ACTU	09/05/17	Existing regulatory approaches are not meeting the needs of parents and carers, because access to flexible working arrangements is arbitrary and inequitably granted, unenforceable and even when granted can involve occupational downgrading in the form of less secure and lower status work.
AiG	31/10/17	• Opposes granting of ACTU claim. • Submits claim reflects disregard for operational realities facing businesses. • Submits that claim overlooks simple proposition that there are (and will be) circumstances in which an employer cannot accommodate the hours of work demanded by an employee due to legitimate business grounds. • Submits that the ACTU proposition (that those with parenting and/or caring responsibilities are precluded from participating in the labour force due to the manner in which the safety net regulates various employment conditions, in particular flexible working arrangements) is not properly made out. • Submits existing safety net mechanisms are already being effectively used and no evidence to establish are precluding workforce participation.
ACCI	30/10/2017	• Opposes ACTU's claim. • Submits the Australian industrial framework has operated on a fundamental principle that the employer ultimately organises labour within their business. • Submits the ACTU's claim would compel an employer to accept any request from an eligible employee for 'family friendly hours' to accommodate parental or caring responsibilities, with no right of refusal provided to an employer no matter how justified or warranted. • Submits that a fair and relevant minimum safety net could not confer on an employee a unilateral right to determine their hours, regardless of the operational considerations of the employer. • Submits the ACTU's claim is either beyond the jurisdiction of the Commission or so fundamentally contradicts the intended operation of the FW Act that it should be refused. • Submits in seeking to remove the ability of an employer to refuse a flexible work request, the ACTU's claim could not operate practically, particularly for small businesses. • Submits the claim cannot be considered appropriate in a fair and relevant minimum safety net as it removes the ability of businesses to make decisions concerning how to roster their labour. • Submits the existing provisions of the FW Act (specifically s. 65) and informal arrangements operate appropriately in facilitating flexible work arrangements and this is made out by the ACTU's own case. • Submits the Commission is required to determine whether the claim: ○ is prohibited by s. 55(1) of the FW Act (the threshold jurisdictional question);

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		○ is allowable within the scope of ss. 55(4), 139 and/or 142 of the FW Act; ○ will result in modern awards which satisfy the modern awards objective only to the extent necessary in achieving a fair and relevant safety minimum net within the meaning of s. 138; and ○ is supported by materials consistent with the requirements of the *Preliminary Issues Decision* i.e. probative evidence properly directed to demonstrating the facts supporting the proposed variation, such as to warrant the Full Bench exercising its discretion pursuant to s. 139 of the FW Act.
CMIEG	30 October 2017	• Opposes ACTU claim. • Supports submissions by Ai Group.
NFF	30 October 2017	• Opposes ACTU claim. ACTU has not established why it is necessary under s.157 FW Act.
PHIEA	27 October 2017	• Opposes ACTU claim. Submits the ACTU has failed to advance a merit argument demonstrating that inclusion of its proposed clause is necessary to meet the Modern Awards Objective in the Health Professionals & Support Services, Medical Practitioners and Nurses Awards.
NatRoad	1 September 2017	• Opposes the ACTU's proposed claim. • Does not support the introduction of family friendly work arrangements into the road transport industry awards. • Identifies a number of concerns about providing for family flexible working arrangements in the modern awards, but particularly in the road transport industry awards.
2. Jurisdiction of the Commission		
ACTU	09/05/17	• Submits that s. 578 of the FW Act requires the Commission to take into account the objects of the FW Act in performing its functions and exercising its powers. • Submits s.3(d) of the FW Act provides that one of the seven objectives of the FW Act is assisting employees to balance their work and family responsibilities by providing flexible working arrangements. • The Commission's power to order that all modern awards be varied to include the proposed clause is in s.139(1)(b) of the Act, which provides that modern awards may contain terms about "the facilitation of flexible working arrangements, particularly for employees with family responsibilities". • Submits that s.65 of the FW Act does not represent a 'minimum' condition or standard in relation to flexible working arrangements. Submits that as a result, there is a significant gap in the safety net. • Submits the proposed clause would overlap with s.65 of the FW Act only where parents and carers with at least 12 months service wish to access reduced hours. Submits that it would still be open to an employee in this category to use s.65 of the FW Act if they wished.
ACTU	27/11/2017	• In response to ACCI's submission that the ACTU claim does not disclose the jurisdictional basis on which it is made,

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		submit that the proposed clause is permitted by s 136(1)(a) of the FW Act or, in the alternative, by s.136(1)(c). • Submit that the term is permitted by s.136(1)(a) because is it deals with flexible working arrangements and arrangements about when work is performed including variations to working hours (s.139(1)(b) and (c)). • Further or in the alternative submit that the proposed clause is a permitted term within the meaning of s.136(1)(c) as it is a term that supplements the NES (s.55(4)(b)). Submit that the term supplements s.65 because it seeks to complete and/or remedy the deficiencies in s.65. In the alternative submit that the proposed term is supplementary to s.84 of the FW Act because the right of employees to return to their pre-parental leave position is extended
AiG	31/10/17	• Submits s.65 of the FW Act affords legislative right to request flexibility and a corresponding right to refuse where there are reasonable business grounds. • Submits that should proposed clause be inserted in modern awards, the underlying policy intent of s.65 of the FW Act would be undermined. • Submits the Commission does not have jurisdiction to include the proposed clause because its excludes s.65(5) of the FW Act in the sense contemplated by s.55(1) of the FW Act. • Notes decision in *4 yearly review of modern awards—Alleged NES Inconsistencies* [2015] FWCFB 3023 where Full Bench stated at [37] that ' [a] provision which operates to exclude the NES will not be an incidental, ancillary or supplementary provision authorised by s.55(4).' • The provision proposed is not necessary to ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net of terms and conditions, taking into account the matters listed at s134(1) of the FW Act.
ACCI	30/10/2017	• Latest iteration of claim has not yet been subject of jurisdictional submissions. ACTU submissions do not expressly disclose jurisdictional basis upon which the claim is made (i.e ss 139. 142 or 55). • Assuming basis of claim is s139(1), claim must still be permissible under s55. S55(6) directed towards industrial instruments providing same entitlements as in NES, employees are not entitled to 'double dip' and same rules applicable to NES entitlements apply to industrial instrument entitlements. • If requests subject to claim were made under s65, then s65(5) would apply to allowing employer to refuse request on reasonable business grounds. Therefore, Claims excludes s65(5) and prohibited by s55(1). Practical effect of claim would to exclude operation of s65(5) for some classes of employees. • Raised *Canavan Building Pty Ltd* [2014] FWCFB 3202 decision and *Alleged NES Inconsistencies Decision* [2015] FWCFB 3023. Adapting formula in these decisions, apparent that s55(1) requires modern award not exclude NES. The Claim excludes s65(5) as it negates effect of sub-section. • Notes Common Issue - Award Flexibility [2015] FWCFB 4466 decision about insertion of model TOIL clauses where Full Bench considered potential exclusion of s65. Commission determined if employee was denied request under TOIL model

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		clause then could make subsequent request under s65 meaning s65(5) was not excluded. • In alternative, statutory framework identifies clear statutory presumption against granting claim including employer to determine how to deploy its labour.
CMIEG	30 October 2017	• Submits the proposed clause would operate in a way to exclude the operation of s. 65(5) and would contravene s. 55(1) of the FW Act.
3. Merits of the claim		

ACTU	09/05/17	• Submits labour force participation for men and women is relatively equal until childbirth when there is a dramatic divergence in employment.
		• Submits that there is a strong need for structural reform to enable greater and more secure workforce participation for parents and carers over the life cycle.
		• Submits there is a need for a shift in the balance of power between employees and employers when it comes to family friendly work arrangements.
		• Submits that for too long attempts to accommodate workers family responsibilities have proceeded from the starting point that all employees will be available to work full-time and any attempt to reconcile work and family commitments must make out a case to justify departure from that norm. Submits that claim seeks to tilt the starting point to a more equitable and realistic position, where it is accepted that employees must reconcile work and family responsibilities.
		• Submits that the clause is necessary because:
		  • Both men and women regard employment, parenthood and caring as important aspects of their lives.
		  • The work of caring for young children, in particular, is substantial and is largely borne by women, regardless of the nature of their pre-parenthood labour force participation. As a result, the majority of part-time workers are women with dependent children.
		  • The high levels of part-time work in Australia disguise the fact that many part-time positions are precarious, and do not offer secure employment that properly supports working parents and carers or allow them to re-enter the full-time workforce when they are able to do so.
		  • Family responsibilities have a negative effect on employment patterns and earning patterns of women who are mothers, and parenthood is associated with high rates of occupational downgrading that are not experienced by men after becoming fathers, or by women without children.
		  • Existing regulation regarding family friendly working arrangements is failing to meet the needs of working parents and carers.
		  • The AHRC Report *Supporting Working Parents: Pregnancy and Return to Work National Review Report* (2014) found that discrimination against mothers in the workplace is 'pervasive'.

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		• The economic and productivity benefits that flow to employees, employers, and the national economy from the increased female labour force participation of parents and carers associated with family-friendly working arrangements
AiG	31/10/17	• Submits the existing safety net (including NES and modern awards) provides various mechanisms through which employees can seek flexibility in relation to their hours of work in order to accommodate parenting/caring responsibilities. • Submits available mechanisms are effectively utilised and evidence does not establish that these mechanisms are failing to accommodate employee needs or precluding employees from participating in the workforce. • Submits a vast majority of requests made under s.65 of FW Act are being granted; a matter that goes to the necessity of the claim. • Submits grant of claim would be at odds with prior consideration given by the Commission and its predecessors to issues concerning flexible working arrangements, ability of employees to reconcile work with family responsibilities and part time employment more generally. • Submits that the labour force of women has been increasing and is expected to continue increasing. Submits participation rates for men and women are converging. Submits that evidence does not establish that the grant of the claim will promote social inclusion through increased workforce participation. Submits granting of claim should not be presumed sole remedy for non or reduced participation. • Submits claim at odds with fundamental right of an employer to manage its business and to exercise control over the hours worked by an employee. • Submits grant of claim would have significant impact on business including productivity, efficiency, employment costs and regulatory burden. • Submits the grant of the claim would have a negative effect on productivity and efficiency across the national economy.
ACCI	30/10/2017	• Submits the claim seeks to address matters which are already directly addressed by existing sections of the NES. • Identifies the following sections of the FW Act as bearing directly on the subject matter of the claim and the jurisdictional basis on which the claim could be granted: 44, 55, 65,136, 137, 138, 139, 142, 146, 739 and 740. • Submits the existence and operation of s. 65 of the FW Act (as well as the practical and informal arrangements which currently exist in the labour market) render the claim unnecessary and inappropriate. • Submits the central tenant of support for the claim is the ACTU's submission that the entitlements provided by s. 65 are ineffective because they unable to be enforced. • Does not accept that employers can refuse flexibility requests under s. 65 arbitrarily or with impunity. Submits the ACTU's submissions provide a multifaceted critique of the operation of s. 65 and state that s. 65 neither provides "a

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		substantive entitlement to anything at all" nor does it constitute a guaranteed minimum set of enforceable employment standards. • Submits when considering the framework of s. 65 of the FW Act as a whole, particularly s. 65(4)-(6), it is apparent that the legislature did not intend the provision to provide a free rein to employers to dispose of flexibility requests. • Identifies rights for employees in s. 65 of the FW Act including: to make a formal written request; to 'an answer' to their request within 21 days; and if request is refused, to written reasons for the refusal. • Submits s. 146 of the FW Act does not permit the Commission to deal with a dispute about whether an employer had reasonable business grounds to refuse a flexibility request. Submits the drafting makes it clear that the Parliament did not intend to include as part of the minimum safety net a review mechanism on the ability of an employer to determine flexibility requests (refers to "National Employment Standards Exposure Draft – Discussion Paper" released by the Federal Government in February 2008; Explanatory Memorandum to the *Fair Work Bill 2008* at [258]; and "Towards more Productive and equitable workplaces: An evaluation of the Fair Work Legislation"). • Submits the ACTU's case ignores long-standing and powerful legislative protections applicable to employees requesting flexible working arrangements arising under existing state and federal anti-discrimination laws (i.e direct and indirect discrimination in Sex Discrimination Act). • Difficult to predict what effect claim would have on labour market participation of women :likely to increase proportion of women working part-time and increase proportion of unpaid caring work by women. • Argue that the benefits outlined in Stanford Report are likely to arise in current legislative context. Data in Stanford Report arises from systems where employers are able to exercise a 'right of refusal.'
NFF	30 October 2017	• Notes evidence of Dr Jill Murray that overwhelming majority of requests for flexible working arrangements were granted. Low level of refusal indicates employers aware of obligations under s65. • ACTU submission does not indicate that inclusion of proposed variation would encourage employers and employees into collective bargaining but would alter content of what bargained for. • Proposal fails to provide incentives for businesses to employ persons with parental and caring responsibilities arising from absence of employer's right to refuse request. • Fails to consider the operational needs of employer.
NatRoad	1 September 2017	• Refers to Dr Jill Murray's Report (ACTU's witness). Observes that approximately 25% of Australian workers are not happy with their working arrangements, yet they do not request a change. Submits that if these workers are not currently seeking change under existing rights, they may not be likely to seek change or flexible working arrangements if they were provided with additional rights. In addition, stresses that the road transport industry is a male-dominated industry. • Submits the under-utilisation of IFAs and group facilitative provisions under the awards system is due to a lack of

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		knowledge by employers and employees about the existence and possibilities associated with their use. Submits it is an education issue rather than a rights, entitlement or access issue. • Maintains with increased education about IFAs within the road transport industry, there has been a gradual increase in the uptake of IFAs. • Purports IFAs provide a viable alternative to including family friendly work arrangements.
PHIEA	27 October 2017	• Submits the ACTU's proposal does not provide employers with an ability to refuse a request on reasonable business grounds. • Submits removing the certainty that the appropriate workforce will be in place to meet the needs of the business on a particular day, would be to remove the certainty that the business can remain viable. • Submits in the case of hospital employers, there is an additional and overriding imperative to ensure that an appropriately skilled and experienced workforce is engaged on each and every shift, in every clinical unit, to facilitate the delivery of safe patient care. • Submits the ACTU's proposal would be contrary to the efficient and productive performance of work; adversely impact on employment costs and administrative complexity; and remove the hospital's ability to ensure the delivery of safe patient care on each and every shift. • Submits that introducing a proposal which enables employees' wishes to take precedence over patient safety would be contrary to the public interest and must be rejected. • Submits from the experience of PHIEA's members that employees over the age of 50 years increasingly have some degree of weekly caring responsibilities – either grandchildren or elderly or incapacitated family members. Further submits these predominantly female employees manage parenting and/or caring responsibilities through part-time or casual employment. • PHIEA anticipates that there will be further reductions in the percentage of full-time employees and an increase in employees seeking to work on a part-time or casual basis due to already have caring responsibilities and/or an ageing workforce.
ACTU	27/11/2017	• Submits that there is no evidence to support the employer group submissions that unfair dismissal, general protections and anti-discrimination laws have a deterrent effect on employers. Submit that these laws are remedial not preventative and that any deterrent effect is limited and difficult to measure. • Submit that it is not disputed that the implementation of a flexible working arrangement may have some cost or cause some inconvenience to business. Submit that the current test requires a refusal to be 'reasonable' but without an enforcement mechanism this means that any ground for rejection must be accepted by an employee.

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4. Submissions regarding ACTU draft determination		
ACTU	09/05/17	• Proposed clause would entitle eligible employees to temporary reduced working hours in their existing position to accommodate their parenting responsibilities and/or caring responsibilities, with a right to revert to their former working hours after the family friendly working hours arrangement ceases. • Proposed clause applies only to working parents and carers, a narrower range of employee circumstances than is covered by s.65 of the FW Act. • Proposed clause provides access to a temporary reduction in working hours only. Submits this is narrower than s.65 of the FW Act which does not place any limits on the types of changes to work arrangements that can be requested. • Proposed clause includes right to return to former working hours at the end of the family friendly working hours arrangement. Submits employees with parenting responsibilities are entitled to revert to their former working hours up until the child is of school age, after which time the right to revert expires. • Submits carers are entitled to revert to their former working hours for a period not exceeding two years from the date of commencement of the arrangement. • Submits there is a six month minimum service requirement for access to family friendly working hours arrangement under the proposed clause. • Submits that under proposed clause, if employee meets the eligibility and procedural requirements of the clause, the employee is entitled to family friendly working hours and the employer must implement the arrangement. Submits that it is envisaged that disputes under the clause would be dealt with in the usual way (under the dispute settlement provisions of the relevant award or by the Federal Court or Federal Circuit Court where a breach of the award is alleged).
ACCI	30/10/2017	• Submits the claim in effect provides employees with an ability to determine their hours of work so long as those hours were referable or calibrated to the accommodation of the employee's parenting and/or caring responsibilities. An employee would be able to unilaterally redefine the contractual relationship, dictate their hours, days and time of work, and dictate when they will work those hours. • Submits an employee's ability to determine their hours under the claim: o does not appear to be restricted by a limit on the number of times an employee could request changes, or the frequency of those requests; o does not appear to be conditioned by the availability of part-time employment under the terms of the relevant modern award; o is not conditioned by any limitation on whether the employee can be practically or efficiently substituted; o does not appear to be limited by the ordinary operating hours of an employer or to an employer's requirement for labour; o may entitle an employee to work hours to which penalty rates apply; and

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		○ may not have an effect on any relevant minimum engagement period. • Submits the claim would be accessible from the time an employee had a child up until their youngest child completed school. This period of eligibility for parents would conceivably range from 16 years in the case of a parent with one child and would have no upper limit. • Submits the claim would be available at *any* time the employee undertook caring responsibilities and could provide right to determine their hours of work for the majority of their working lives. For example, an employee's eligibility under the Claim as a parent as their children grow older may overlap with their eligibility as a carer for their 'frail and aged' parents. • Submits the Reversion Entitlement includes a time limit on the ability to revert to 'former working hours' (creating a 2-year 'window' for carers and approximately a 5-6 year 'window' per child for a parent), however the Flexibility Entitlement is not limited. Provides example of an employee with a 10-year-old child requiring an employer to provide reduced hours, notwithstanding that they would have no entitlement to revert.
AiG	31/10/17	• Submit that the provision proposed is not simple or easy to understand. • Submits that the clause enables an employee not only to select the quantum of hours performed but also the days and times as employees are entitled to access "Family Friendly Working Hours", but also FFWA. The employer is required to implement the particular arrangement specified in employee notice. There are no parameters on the days or hours than an employee may identify pursuant to clause. • Submit that the obligation to maintain an employee's 'existing position' does not define what constitutes an employee's position other than providing a non-exhaustive list of matters that form part of a position. It is unclear whether it would prevent an employer changing the particular tasks or supervisory responsibilities. • Submit that on the literal interpretation 'remuneration' encompasses the entitlement for employee to work reduced hours whilst receiving the same remuneration. Potential that clause drafted on assumption that employee paid an hourly rate and any reduction in work performed would result in reduction in income and failed to consider other remuneration types (ie annualised salary). Clause also does not define 'remuneration.' • The permissible and maximum duration of a FFWA is unclear: potential that a FFWA is not limited by parameters in clX.2 • The absence of any restriction on repeated access to the proposed entitlement makes it appear that if employee still has caring responsibilities, employee will simply be able to give notice under clause to access FFWA for a further unlimited period of time. • The notion of parenting and caring responsibilities under the clause and the nexus with an entitlement does not mandate that the flexible arrangements are necessary or required to enable meet responsibilities. • Issues associated with the breadth of the proposed clause as there is no limitation on who may be caring for a child (ie no requirement that immediate family member or not paid carers);

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		• Uncertainty regarding what constitutes the 'parenting or caring responsibilities' or 'of school age' as the terms are not defined; • The proposed eligibility requirements require the employee only to be employed for 6 months prior to the request whereas s65 requires 12 months of prior employment; • Difficulties with the reference to 'continuous service' in establishing eligibility for casual employees and the application of the clause to casual employees; who are not required to work a particular number of hours per week. • There are no proposed evidentiary requirements to establish it is FFWA necessary to enable employees to undertake caring responsibilities
NFF	30 October 2017	• Theoretically possible for employee to request family friendly working arrangements for a period of up to 17 or 18 years, depending on the definition of 'school age' in the relevant State of Territory. • No requirement that the employee show working arrangements requested are linked to or necessary for parenting or caring responsibilities
PHIEA	27 October 2017	• Submits 'reasonable notice' is not defined which would create the potential for dispute as in the absence of a specified period, perceptions of what may be considered 'reasonable' are likely to differ. • Submits 'school age' is not defined which would create potential for dispute, given that there are different State regulations regarding 'school age.' It is not specified whether 'school age' under this clause means the first year of compulsory schooling – i.e. 6 years of age in most, but not all States, or if 'school age' would be interpreted to mean the age at which the child of the particular employee commenced school, which could be less than 6 years of age. • Submits that potentially the employer may be required to hold the previous working hours open for up to 6 years, however if an employee with parenting responsibilities then has another young child to care for, it is assumed that the employee would be permitted to refresh the advice to their employer, provide the birth certificate of the new child, with the effect that the initial period of up to 6 years could potentially extend by up to 6 years for each subsequent child. • Submits that once the child reaches school age, the employee no longer has an entitlement to family friendly working hours under the clause and it is assumed is then required to revert to their former working hours. Further submits that in reality it is highly unlikely that the employee would want to return to a 7-day rotating roster. • The clause applies to any employee who has responsibility (whether solely or jointly) for the care of a child of school age or younger. Submits the way the clause is worded meaning this entitlement is not just for parents but could be for grandparents who care for their grandchildren or for someone who cares for their neighbour's children. • Submits the word 'responsibility' in isolation is not defined. An employee does not have to have any family ties to the child or the person being cared for. • Submits the clause does not stipulate that caring responsibilities have to be for a family member or a member of the

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		household but simply for another individual who needs care on an ongoing or indefinite basis because they: a) have a disability; b) have a medical condition; c) has a mental illness; or d) are frail and aged. • Submits the wording in the clause does not reflect the ACTU's intent at para 178 of its submission of 9 May 2017 '*paid caring roles are not intended to be included in the definition of caring responsibilities in the ACTU's clause and the mere fact that an employee resides with someone who needs care would not be, of itself, sufficient to enliven the clause.'* • Submits employees engaged to replace an employee on family friendly working hours under this proposal must be informed of the temporary nature of their engagement. • Further submits employers face additional administrative burdens, such as maintaining systems to make sure the replacement employee is converted to permanent in 2 years' time, and the scenario of the replacement employee requesting family friendly working hours.
ACTU	27/11/2017	• Reject the submission of the AiGroup that the proposed clause would allow an employee to nominate hours after the business closed, or only hours that attract penalties or hours that would breach the terms of applicable legislation. Submit that the definition of 'existing position' within the clause means that an employee could not use the proposed clause to commence working in a completely new position or one that seeks to alter opening hours, rosters or shift arrangements in the organisation at large. • Reject the submission of AiGroup that the proposed clause would require an employer to pay the same remuneration for fewer hours of work. Submit that intention of the proposed clause is that any reduction of hours by an employee in accordance with the clause would result in a pro-rata decrease in remuneration in the usual way. • Reject the submission of the AiGroup that an employee undertaking paid caring work would be able to access reduced hours. Submit that this is not the intention of the proposed clause. • Reject the submission of the AiGroup that the period that an employee would be entitled to family friendly working hours is ambiguous and uncertain. Submit that the proposed clause is drafted to ensure access to reduced hours is limited. • Do not agree with the concerns of AiGroup about what constitutes parenting/caring responsibilities. Submit that those terms are clear and well understood.
5. Award specific submissions		
CMIEG	30 October 2017	• Makes additional submissions concerning the black coal mining industry and the *Black Coal Mining Industry Award 2010* (BCMI Award). • Submits the clause is not 'necessary' to achieve the modern awards objective in respect of the BCMI Award. Family friendly working arrangements policies already in place in company groups that form CMIEG and s. 65 FW Act adequately deal with family friendly working arrangements in the BCMI.

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		• Submits that family friendly work arrangements are best dealt with, as occurs now, by discussion between the employee and their supervisor or manager as circumstances arises. • CMIEG unaware of evidence filed demonstrating that employers in the BCMI are not already taking a practical and supportive approach to the use of family friendly work arrangements. Submits in the absence of such evidence, there is no demonstrated need to introduce the provision into the BCMI Award. • Submits there are practical difficulties that may be associated with the use of family friendly work arrangements that must be considered on a case-by-case basis and may be unique to the coal mining such as: many roles are essential to continued operation of the mine; operations normally utilise shift work arrangements; and some operations take place in remote areas (e.g. utilise fly-in fly-out employees). These practical issues present a barrier to the establishment of the ACTU's proposed arrangements.
NFF	30 October 2017	• Concerned clause would allow employees to lock employers into working arrangements that do not address their labour needs. This would affect the viability of farms, animal welfare and health and safety of other employees. • Proposal inconsistent with the modern awards objective as fails to recognise realities of running a farm. Farmers face particular challenges faced in few other sectors: fluctuations in weather, livestock, harvest, unpredictable work and difficulty in backfilling staff in rural locations. Farmers need flexibility to make changes to workforce and staff need to be available (i.e. to deal with animals).
PHIEA	27 October 2017	• In respect of the private hospital industry, rejects the ACTU's assertion that part-time positions are 'precarious and do not offer secure employment that properly supports working parents and carers or allow them to re-enter the full time workforce when they are able to do so.' Refers to data for the financial years of 2008 and 2015. • Provides examples of situations in which it is already difficult for private hospitals to manage staffing, such as employing relatively few salaried doctors, and having maternity units and emergency departments in which patient numbers are difficult to predict. • Submits rostering in the private hospital sector is already complex, and because of this it is imperative that private hospital employers are afforded maximum flexibility in rostering the right staff to the right clinical units at the right time. Provides examples of rapidly ageing workforce and shortages in specialty areas of nursing as well as rostering nurses for a clinical unit over 24 hours. • Submits if the ACTU's proposal was included in the health care awards such that eligible employees with parenting or caring responsibilities had a right to determine the hours and days they were to work, the complex process of rostering would become almost impossible. • In relation to the explanation provided for the term 'working hours' at para 188 of the ACTU's submission of 9 May 2017, submits in a hospital environment there are positions which generally cannot be job-shared without considerable

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		duplication between all people undertaking that task, such as positions involving clinical research, clinical investigations, safety and quality auditing for accreditation or licensing requirements, or customer complaints. • Submits PHIEA's members indicated that in the female dominated private hospital industry, employee requests for flexible working arrangements are usually accommodated. Further submits that accommodating these requests is not without cost to the employer. • Submits that the ACTU's evidence is generalised and it has failed to provide a merit-based argument for the inclusion of its proposal in the Nurses Award, Medical Practitioners Award, or Health Professionals and Support Services Award
NatRoad	1 September 2017	• Does not support the introduction of family friendly work arrangements into the road transport industry awards. • Identifies a number of concerns about providing for family flexible working arrangements in the modern awards, but particularly in the road transport industry awards. • Expresses concern that the ACTU's claim relates to "very much a (female) gendered problem" and the road transport industry is a "very male-dominated industry" and also an "industry dominated by small business enterprises which can ill-afford such provisions". • Contends there is no evidence that family friendly work arrangements are relevant to or necessary in the road transport industry. • Highlights NatRoad members' concerns relating to: o Existing, under-utilised, access to flexible working arrangements such as Individual Flexibility Arrangements (IFAs); o Workforce issues (such as ageing workforce, skills shortage, difficulties attracting younger workers, increased casualisation); o Consequences on the industry's workforce in response to technology changes (such as reduction in the number of truck drivers due to introduction of autonomous vehicles); o Cost and regulatory burden currently impacting the industry; o Additional costs associated with introducing provisions, particularly for small businesses; o Impact on operations (difficult to work long-distance driving tasks around part-time or family friendly working arrangements); and o Lack of evidence around the need for such provisions. • Refers to the Australian Industry Standards, Transport and Logistics IRC Skills Forecast 2017 for statistics relating to businesses within the road transport industry. • Suggests that including family friendly work arrangements in the road transport industry awards would be extremely problematic due to a number of workforce issues (such as predominance of small business, significant skills shortage, recruitment difficulties, ageing workforce, limited career progression, and increased casualisation of the workforce in addition to increased number of part-time employees).

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		• Submits the introduction of automation and robotics in the industry will have a major impact on the economy and workforce. Suggests employers may elect to increasingly use automation and driverless vehicle technologies to do the traditional work of truck drivers, particularly when costs and the regulatory burden on business, and the costs, entitlements and demands of employee drivers, increase. • Observes that access to part-time work is currently not available under the *Road Transport (Long Distance Operations) Award 2010*. Submits it seems incongruous to introduce provisions for family friendly work arrangements into an award which does not yet even have access to part-time work. Maintains that availability for upskilling and/or re-training of employees to ensure compliance with meeting new requirements (such as changes to the Heavy Vehicle National Law, and work health and safety laws) may be adversely impacted through paid/unpaid absences relating to family friendly working arrangements.

Abbreviation	Party name
ACCI	Australian Chamber of Commerce and Industry
ACTU	Australian Council of Trade Unions
AIG	Australian Industry Group
AMWU	"Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)
CMIEG	Coal Mining Industry Employer Group
NatRoad	National Road Transport Association
NFF	National Farmers Federation
PHIEA	Private Hospital Industry Employers' Associations