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1 December 2017

The Honourable Justice Ross AO, President
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

By email: amod@fwc.gov.au; Chambers.Ross.j@fwc.gov.au

Dear Associate,

AM2016/15 & AM2014/284 - 4 yearly review of modern awards - Plain language re-drafting - Restaurant Industry Award 2010 – Allowance for distance work

We write in response to the 24 October 2017 Decision (the 'October decision')[1] and the submission of ABI, filed Friday 24 November 2017.

United Voice supports the provisional view of the Full Bench expressed in paragraph 44 of the October decision.

ABI have noted that Clause 34.3 – Penalty rates not cumulative of the current award contains a reference to *'ordinary rate'*.

It is the Union's position that the use of '*ordinary rate'* in the context of Clause 34.3 does not conflict with the provisional view expressed in the October decision in relation to Clause 24.4. The intention of Clause 24.4 of the current award is to provide compensation for employees for the additional travel time associated with working away from their employer's usual place of business. The appropriate compensation would depend on the time of the travel, and accordingly may include relevant penalties or loadings.

Further, we agree with the view expressed by the Full Bench in paragraph 45 of the October decision that the allowance being paid at the applicable rate of pay (including relevant penalties and loadings) ensures a fair and relevant safety net in accordance with s134(1) of the *Fair Work Act 2009*.

Regards,

Natalie Dabarera
Industrial Officer
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[1] [2017] FWCFB 5397