

**From:** Brent Ferguson [mailto:Brent.Ferguson@aigroup.com.au]  
**Sent:** Thursday, 25 May 2017 4:59 PM  
**To:** Chambers - Hatcher VP  
**Cc:** Ruchi Bhatt; Michael Nguyen (michael.nguyen@amwu.asn.au); roushan.walsh@nat.awu.net.au; AMOD  
**Subject:** FW: AM2016/3 Proposed Helicopter Aircrew Award

Dear Associate,

Ai Group has concerns with two elements of the AMWU proposed directions. They are;

- the assumption within the directions that the proceedings should determine whether helicopter crew should be award covered, rather than merely whether the granting of a specific AMWU claim is warranted, and
- the proposition that the AMWU file a draft determination on 31 July 2017.

This correspondence explains these concerns and sets out alternate directions.

#### **The proceedings should be directed towards consideration of a specific claim**

The AMWU proposed directions appear to require that the parties direct their submissions and material towards an abstract question concerning whether or not the modern award system should cover "helicopter aircrew" (howsoever that term may be defined).

Ai Group contends that the proceedings should instead be directed towards determining whether the making of specific AMWU proposed award or award variation is warranted.

#### **The proposed direction for filing a draft determination**

Ai Group is opposed to the element of the directions that contemplates the AMWU filing a new draft determination on 31 July 2017 (direction 2).

On the 20<sup>th</sup> of May 2016 the Vice President directed the AMWU to file a full draft of its proposed Helicopter Aircrew Award by Friday 17 June 2016. The AMWU filed such a draft award in accordance with that direction. However, in the course of recent discussions with Ai Group, the AMWU has foreshadowed an intention to likely vary both the substantive terms and coverage provisions of the proposed award from those contained in the original claim.

The nature and extent of Ai Group's involvement in these proceedings will depend upon both the coverage provisions and the substantive terms of any proposed award. Similarly, the interest of specific parties that we may separately represent in the proceedings will depend upon such matters. Accordingly, it is important that the AMWU clarify the actual claim that they now intend to pursue. This will enable Ai Group and others to determine the extent of their involvement in the proceedings. It will also enable parties that may either support or oppose the proposed variation to commence the preparation of their material.

Any conference convened by the Commission is also likely to be more productive if the parties are provided with the terms of the AMWU proposed Award before the conference. Moreover, whether or not particular parties (including Ai Group) participate in the conference will depend upon the nature of the claim proposed.

For the above reasons, Ai Group contends that the directions should require the AMWU to file any amended proposal at a much earlier date than is contemplated in their proposed directions. We do not envisage that this should cause the AMWU any real difficulty given that union first proposed the making of a new award in 2014.

### **Proposed amended directions**

Absent clarity as to what precisely the AMWU is seeking we are not able to sensibly commit to specific timeframes for replying to the case that they may ultimately advance.

Nonetheless, if the Commission intends to set a timetable for the conduct of the proceedings we propose that the following directions would be preferable to those advanced by the AMWU.

1. The AMWU will file a draft determination setting out the terms of any proposed new award, or variation to an existing award, by **5 June 2017**.
2. The matter will be listed for a conference before a single member of the Commission at a date after **12 June 2017**.
3. Any party supporting the AMWU proposed determination will file with the Commission comprehensive written submissions, witness evidence and documentary material upon which they rely by **31 July 2017**.
4. Any party opposing the AMWU's draft determination is to file with the Commission comprehensive written submissions, witness evidence and documentary material upon which they intend to rely by close of business on **23 October 2017**.
5. Any party may lodge with the Commission comprehensive submissions in reply to the material lodged pursuant to the fourth direction, by close of business on **20 November 2017**.
6. The matter will be listed for mention on not before **27 November 2017**.
7. The matter will be listed for hearing not before **11 December 2017**.
8. The parties are afforded liberty to apply for a variation to these directions.

Regards,

### **Brent Ferguson**

**National Manager – Workplace Relations Advocacy & Policy**



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**Subject:** RE: AM2016/3 Proposed Helicopter Aircrew Award

Dear Parties,

I refer to the email of the AMWU below.

The Commission invites the AiGroup to provide its views on the draft directions below and any alternative propositions by **5.00pm Thursday 25 May 2017**.

Kind regards,

**Ingrid Stear**

Relief Associate to Vice President Hatcher

**Fair Work Commission**

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