

# HENRY DAVIS YORK

23 May 2016

Our Ref AJW/FZH/3126847

**BY EMAIL** [amod@fwc.gov.au](mailto:amod@fwc.gov.au)  
Fair Work Commission  
80 William Street  
EAST SYDNEY NSW 2010

**4 yearly review of modern awards - common issue - award flexibility - time off in lieu of payment for overtime  
(AM2014/300)**

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We act for Aurizon, Australian Rail Track Corporation, Brookfield Rail Pty Ltd, Metro Trains Melbourne, Sydney Trains and V/Line Passenger Pty Ltd in relation to the 4 yearly review of the Rail Industry Award 2010.

We refer to the Full Bench decision issued by the Fair Work Commission on 24 April 2016 regarding time off instead of overtime (**TOIL**) and to the model TOIL term on which comments are to be provided by 4.00pm on Monday 23 May 2016.

The position of the rail entities is that the Rail Industry Award 2010, which already includes a TOIL provision, should not be varied to include the model TOIL term. The rail entities support the submissions of the Australian Industry Group and Australian Business Industrial and the New South Wales Business Chamber which set out the reasons why awards which already contain a TOIL provision should not be varied to include the model term.

Yours faithfully  
Henry Davis York



Tony Woods  
Partner  
61 2 9947 6329  
[tony.woods@hdy.com.au](mailto:tony.woods@hdy.com.au)

Felicity Hines  
Senior Associate  
61 2 9947 6891  
[felicity.hines@hdy.com.au](mailto:felicity.hines@hdy.com.au)