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26 March 2021

Associate to Hon Justice Ross  
Fair Work Commission  
11 Exhibition Street  
**MELBOURNE VIC 3000**

By Email: [mirella.franceschini@fwc.gov.au](mailto:mirella.franceschini@fwc.gov.au)

Dear Associate,

**Application to vary the Aged Care Award 2010 (AM2020/99)**

1. As the HSU understands matters, what is being proposed by the ANMF and UWU is that:
  - (a) the timetable for evidence and submissions be rescinded with no replacement; and
  - (b) the three weeks of hearing dates set down in November this year be vacated, and not relisted,four working days before the HSU, ANMF's and UWU's evidence in chief is presently due to be filed.
2. The justification for this is, it appears, is that the ANMF and UWU:
  - (a) intend to, sometime in the next two months, commence separate proceedings to vary different awards, albeit in connection with the Royal Commission report into the Aged Care Industry, and will press for these to be heard together with this matter; and
  - (b) before any steps are taken in these prospective proceedings, want to confer with interested parties and the Australian Government with the idea of reaching a consent position.
3. As to the first, it is not presently apparent that it will be productive or efficient to hear the ANMF and UWU's proposed applications together with this matter. Both awards stretch far beyond the aged care industry (indeed, the *Nurses Award 2010* has no aged-care specific classifications) and the applications may well extend beyond the scope of this application.
4. In addition, there are obvious inefficiencies in that it will likely delay these proceedings – which are of critical importance to workers engaged under the *Aged Care Award 2010* – for a substantial period of time.

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5. In respect of the second, the HSU is more than happy to engage in talks with other unions, industry bodies and the Australian Government in relation to improving conditions for employees in aged care. The HSU has itself sought to meet with Government. However, there is no reason these discussions cannot happen in parallel with the current timetable in these proceedings.
6. It should be said, though, that the HSU has not brought this application to give effect to a Royal Commission recommendation. It made it months ago on its own initiative on behalf to address what it sees as inadequate wages in the aged care sector. There is no reason it should be delayed simply to see what the Federal Government's response to the Royal Commission report is.
7. Fundamentally, the ANMF and UWU's proposal is premature. An application for joinder cannot be fully considered until the matter to be joined is actually before the Commission and can be fully assessed. Collaboration between the parties is of course always desirable; however, nothing in the current timetable needs to change for this to occur.
8. The better course is to leave the timetable in respect of this application intact, and re-evaluate the matter once the ANMF and UWU file their applications, in light of any application to have the matters joined or heard jointly.

Yours faithfully



**Alex Grayson**  
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