

HEARING COMMENCED 9.35am

PRESIDENT: Appearances please.

MR I. PATERSON: If the commission pleases, IAN PATERSON; I appear for the Australian Municipal, Administrative, Clerical and Services Union in this matter.

PRESIDENT: Thank you, Mr Paterson.

MR T.J. EDWARDS: If it please the commission, EDWARDS, T.J. for the Tasmanian Chamber of Commerce and Industry.

PRESIDENT: Thank you.

10 MR EDWARDS: Whilst on my feet and making an appearance, president, perhaps I might just foreshadow that at subsequent proceedings in respect of this matter I may seek to enlarge that appearance to incorporate other organisations, but I just foreshadow that at this stage. That will depend upon the discussions that Mr
15 Paterson and I are having.

PRESIDENT: Yes. Yes. Good. That's those other organisations' right at any time to seek to intervene if there's an interest. Very good. Mr Paterson.

MR PATERSON: If the commission pleases, I'd propose to put on record our intentions in making this application today and before I do proceed to do that I'd indicate that there have been substantial discussions between my union and Mr Edwards from his organisation. I believe that we are close to progressing an agreement on the scope clause which is obviously the primary task in front of us at this
20 moment.
25

PRESIDENT: Mm.

MR PATERSON: At the end of these proceedings I would be seeking a date to come back again and hopefully a date at which we'd be able to present a consent position or otherwise proceed to relevant determinations on the matter.
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To just provide the background, my union has been aware for some time that there are a number of difficulties with the Clerical and Admin Employees (Private Sector) Award. There are organisations that operate in some of the areas that we're seeking to cover with this award that do use the Clerical and Admin Award, there are others that dispute that it applies to them. Clearly that award is an occupational award and anything that is sought to clarify its application in the scope of that award or otherwise or to add new classifications for instance to cover things like call centres is problematic in terms of it
35 being seen or deemed to be the making of a new occupational award.
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5 In the material that I've put to Mr Edwards in the first instance was much more extensive than what we're dealing with here. Our intent in the first instance is to effectively mirror the provisions of the Clerical and Admin Employees (Private Sector) Award but to foreshadow the need for further development of relevant classifications as they apply to the services - the business services that we're seeking to cover.

10 Probably one of the more important ones is the call centre services - the operators in call centres; it can be open to argument that they're not performing clerical functions; it's an argument we don't want to have and our intention is to have a business services award which would provide at the very least the relevant award test for what I imagine would be more likely which is industrial or enterprise agreements for those organisations and services.

15 I'm aware that there are organisations pursuing that course at the moment and whether the fair-all-round test can be applied is, I guess, a problematic issue in itself when there's no clearly self-evident award that does apply.

20 The scope as in our - oh, and in the subsequent proceedings, obviously these proceedings go to the questions of the first - effectively the first five or so clauses of the award - scope - title and scope in essence - clearly the subsequent proceedings would then go to award interest and then the making of the award itself. And in the making of the award I would just like to put on the record that we're not totally wedded to all the provisions in the Clerical and Admin Employees Award, and if there are provisions there that are archaic, outdated or not particularly relevant, then we're, you know, we're not taking a bulldozer approach to all or nothing. We will look at exactly what the requirements of the employment relationships in those services are. And as I said, we also intend to look at initially the clerical and administrative employees classifications being inserted into the award as a first step in the making of the award with subsequent to that ongoing discussions about relevant other classifications that may be put into the award.

35 I will, at our next hearing, be seeking leave to amend the application to reflect the discussions and the agreement that hopefully we will have reached in terms of refinement on the scope. Mr Edwards can speak to his organisation's general concerns on that, but we are not in dispute with him over the fact that it needs to be as clear as possible in terms of identifying those employers and their businesses to which it will apply, so that essentially is the nature of our discussions is to make - to give that clarity to the scope that would allow its application to be clearly identified and in the first instance for Mr Edwards to consult with his constituents and know who he has to consult with.

45 PRESIDENT: So really this is just a - the hearing this morning is just to -

MR PATERSON: At this stage it's really a -

PRESIDENT: - record events to date and -

MR PATERSON: And the intention, I'm seeking - I'm taking the opportunity to put the intention of the -

5 PRESIDENT: So there's no point in me asking all these questions I have in relation to definitions.

MR PATERSON: They may be worth still asking in terms of assisting us in further progressing our discussions.

PRESIDENT: Mm.

10 MR PATERSON: I'm quite happy to take them on notice, if you like, rather than undertake to reply to them.

PRESIDENT: Yes, well, I mean if there may be some of them that you will have dealt with. I think it better if I wait to see what you come back with and then I can ask my questions then.

15 MR PATERSON: That's fine. I mean I'll conclude my remarks at that stage, Mr President.

PRESIDENT: Yes, I see. All right, thanks for that, Mr Paterson. Yes, Mr Edwards.

20 MR EDWARDS: Yes, president, I too will be very brief this morning and I perhaps won't even go into some of the issues that have been raised thus far by Mr Paterson.

I certainly do confirm that there have been a number of discussions between the ASU and ourselves over the making of a business services award. Those discussions have not been free from some controversy over the proposal that's been advanced by the ASU and I think it's not 25 unfair to say that I have harboured a number of concerns about the way in which the proposed scope clause has been constructed, the way it perhaps could be interpreted and perhaps to some extent the generality of it rather than being specific enough to clearly identify the scope of coverage, and that has to some extent hamstrung my ability 30 to seek very clear instructions from my members about the further making of the award because I haven't necessarily been able to satisfy myself that I can identify all of my members that will be caught by its terms. So that's been one of the problems.

35 The other problem we've confronted which has slowed progress to some extent has been this move by the ASU to in part move away from the Clerical and Administrative Employees (Private Sector) Award and to take people currently covered by that and create a new award to cover their work.

5 You, president, will recall that the TCCI was far from an enthusiastic
supportor of the C and A Award in the making stages and we remain of
that view. We are very strongly of the view that industry awards
provide by far the best means of coverage for industry because you can
often end up with a single instrument covering the entirety of the
employment relationship whereas if you start breaking it down by
various categories of employee you could end up with a multiplicity of
awards which will inevitably lead to confusion, additional costs and
indeed I suspect probably at the end of the day award breach by
10 inadvertence or otherwise.

15 Having said all of that, we do indicate on the record that we agree in
principle to the approach made by the ASU. That shouldn't be
interpreted at this stage as agreement to any of the components of the
proposed scope clause that's currently before the commission; that is
at this stage something of a moving feast. As the discussions progress
we have amended it already and I suspect we will amend it further
before we return to the commission. There are issues that are still
there from my point of view that need to be resolved.

20 We commit ourselves to that process and we would agree with the
request for an adjournment this morning with the setting of a date for
us to report back to the commission hopefully with a consent position
where we can present the results of the work of the parties, and at
that stage, president, I think I would agree it would be the appropriate
time to take on any concerns the commission may then have over the
25 proposal.

In that respect it may well be prudent for us to forward to you prior to
the next hearing a copy of what it is we will present to you so that -

PRESIDENT: I was going to ask you if you could do that for me.

30 MR EDWARDS: I think it would be wise, it would save us all a lot of
time and probably yourself as well.

PRESIDENT: Yes.

MR EDWARDS: Because hopefully we will answer all if not most of
the questions you've got there.

35 So having said all of that we would agree that this matter be adjourned
to a date we hopefully might now identify.

PRESIDENT: Well, we might go off the record and discuss a possible
date then. All right. Thanks.

OFF RECORD 9.45am

ON RECORD 10.00am

PRESIDENT: Well, thank you for that discussion. We will then I think adjourn until possibly the 3rd June. If there's any change to that date the parties will be consulted and notified. Thank you.

HEARING ADJOURNED 10.00am