

COMMISSIONER WATLING: I'll take appearances, please.

**MR T.J. EDWARDS:** If it please the commission, EDWARDS, T.J. and appearing with me **MS J. THOMAS** and **A. CAMERON** for the TCCI.

COMMISSIONER WATLING: Thank you. No other appearances?

5 **MR P. GRIFFIN:** I appear on behalf of the Shop Distributive & Allied Employees' Association, Tasmanian Branch, GRIFFIN, P. Thank you, Mr Commissioner.

COMMISSIONER WATLING: Thank you.

**MR D. PYRKE:** If the commission pleases, I appear on behalf of the Salaried Pharmacists Association, Tasmanian Branch. My name is PYRKE, D.

10 COMMISSIONER WATLING: Good.

**MRS H.J. DOWD:** If the commission pleases, I appear on behalf of the Australian Municipal Administrative Clerical and Services Union, DOWD, H.J.

COMMISSIONER WATLING: Thank you. Mr Edwards.

15 MR EDWARDS: Thank you, commissioner. Commissioner, I think it's a relatively simple exercise to explain the nature of this application and that is, T6157 of 1996 is consequential in a lot of ways upon T5172, which was the Retail Pharmacy Award matter and the two matters to be called after this, being 5237 and 6158. That is, it's the dividing up, if you will, of the Chemists Award in the way that I described in my over-arching submission that I made in T5172 of 1994.

20 TCCI made this application so as to facilitate certain concerns that had been made known to us by the commission as part and parcel of the making of the Retail Pharmacy Award and which were very largely shared by the TCCI as a result of which we sent the document now titled exhibit TCCI.1 which was tabled in matter T5172 of 1994 advising the parties to the Chemists Award of our intention to vary the Chemists  
25 Award by way of title and scope to make it read as the Photographic Industry Award with a scope as being established in respect of photographers or sellers of photographic supplies and/or equipment.

30 I think the easiest way to describe this application to the commission so far as the contents of our proposed award, is that we have adopted a minimalist approach in respect of this application.

I take this opportunity if I might, commissioner, to seek to amend our application as it was forwarded to the commission on 9 April by tabling an exhibit by way of an amended application.

COMMISSIONER WATLING: We'll mark this exhibit E.1.

35 MR EDWARDS: You're only doing that to confuse me.

COMMISSIONER WATLING: I beg your pardon?

MR EDWARDS: I think you're only doing that to confuse me.

COMMISSIONER WATLING: I'm doing it so I don't confuse myself. Charity begins at home.

40 MR EDWARDS: Exactly.

COMMISSIONER WATLING: Now, this is an application to amend. Have the other side seen the document?

MR EDWARDS: They have got the document. Perhaps if I can explain what we've done. Very similar to the Retail Pharmacy matter, the only changes to this document  
5 over and above that that was circulated with our correspondence of 9 April, which was TCCI.1 and which also was forwarded to the commission and stamped by the commission on - I think it was 10 April, 1996, was the incorporation of the supported wage arrangements and the increased tea money quantum, which are consequential upon the order made by the commission in respect of the Chemists Award, in addition  
10 to which we have sought to update the supersession and savings clause to also pick up that change. I'm sure your associate will judge us on our success or otherwise of getting that clause right.

I thought it easier to table an entirely new document for the commission which is both by way of - now the application if our application to amend is granted by the  
15 commission and also by way of a draft order, if I could be that bold.

COMMISSIONER WATLING: Right. Is there any opposition to amending the application? No opposition. Everyone's nodding their heads, saying there's no opposition. Right. Leave granted then, Mr Edwards.

MR EDWARDS: Thank you, commissioner. Commissioner, exhibit E.1 is, I guess, a  
20 reprint of the Chemists Award, having removed those issues that apply solely to the retail pharmacy industry or the wholesale pharmaceutical industry. As I indicated in my earlier comments, we have adopted the minimalist approach of not seeking really to alter anything, so in our view the award will still be required to undergo a structural efficiency review to both deal with questions of classification structures and the  
25 conditions of employment and I suspect that the conditions may be the subject of fairly dramatic alteration to make them relevant to its more now narrow focus in terms of the industry it covers.

The application that's before you, I would suggest, sir, arises from the structural efficiency principle of the commission which enjoins the parties to examine the scope  
30 and the incidence of awards and in that regard, if I might use the term, we see this as the first step or a partial structural efficiency exercise, if you like, in respect of what was the Chemists Award and is now to be called, hopefully, the Photographic Industry Award.

In that regard, commissioner, principle 2 at the first dot point at page 2 of the principles of the commission asks the parties to both awards and non award matters  
35 to test whether or not work classification and work patterns et cetera and in point (ii) it says - but I think it's meant to be Roman (iii), it's obviously a typographical error, the scope and incidence of the award, and we would make the submission that that is the step that we are at in respect of the Photographic Industry and clearly the parties  
40 to this award, once it's established who the parties ought to be, will need to do a structural efficiency exercise in respect to the award.

We have incorporated in the parties and persons bound clause the names of all of those organisations of employees and employers who were named in the parties and persons bound clause to the Chemists Award. That's in keeping with our minimalist  
45 approach to the changes being made.

Clearly, some of those will probably be deemed to be inappropriate but that's for the organisations concerned, I think, to make the appropriate applications to the registrar to recall their certificates and have the appropriate alterations made. That'll be a consequential change that needs to flow from these proceedings.

COMMISSIONER WATLING: You're right, because there'd be no organisation of employees here today that would have an interest in this award, if I was to grant the application, because their certificate would not name the Photographic Award. Their certificate would name the Chemists Award and the Chemists Award will no longer exist after we carve this up.

MR EDWARDS: Yes. I tried to find another way of doing this and I could not find one. I think this is the only -

COMMISSIONER WATLING: Well, there's not an easy way and we are being slightly unorthodox in the way that we're handling it.

MR EDWARDS: Yes. I did try to come up with an alternative and couldn't find one that would adequately deal with the minimalist approach we've adopted and not wishing to - at fairly short notice as it's turned out, put on people a substantive rewrite of the award including the stigma that often attaches to removing people's names from awards.

COMMISSIONER WATLING: Well, what you'll find is, if this award ever comes on for hearing, the commission will only be dealing with those organisations that have their certificate of registration. You're probably only dealing with yourself if the others don't pick it up.

MR EDWARDS: In which case the structural efficiency will be progressed very quickly, sir.

COMMISSIONER WATLING: The committee of one system.

MR EDWARDS: Yes. I like committees of three actually, commissioner, with two absent but the effect is the same.

So, from that point of view, perhaps it is appropriate if I do just place on the record a commitment from my organisation, which was perhaps the only organisation that is a party to the award in an official sense, that we won't be seeking to take advantage of that. During the period of time, the people will have an opportunity to amend their certificates. We're not seeking to take advantage of something that's beyond the control of anyone including ourselves. So, I place that on the record and people can accept it or otherwise, as they see fit.

Commissioner, we submit that there are no changes in fact embodied in the application, other than the name and the scope of the award. Whether or not that scope is in fact - at the end of the day, correct, we would make the submission that that ought to be dealt with by the parties to the new award once that is established correctly. I didn't, again, in keeping with the minimalist approach that we've adopted - I didn't wish to be too adventurous with respect to the scope clause and we would prefer to negotiate that issue with the people that are ultimately to be party to the award and that would be part of the structural efficiency exercise that I've referred to.

We've made those comments, commissioner - we would make the submission that nothing of substance has altered in the award. People covered by the old Chemists Award and now the Photographic Industry Award will have no changes in wage rates or conditions as a result of the application. That's the intent. Unless we've made an error, that will be the outcome. We therefore submit that the public interest test is well and again, most particularly, the structural efficiency principle of the commission and we ask that the application be granted in the form now before the commission in exhibit E.1, with operative effect from the beginning of the first pay period to

commence on or after 1 May, in keeping with the need, I think, for common operative date between 5172, 6157, 5237 and 6158.

If it please the commission, unless there are any questions, that would conclude my submission.

5 COMMISSIONER WATLING: Any further submissions? Mr Pyrke? Mr Griffin?

MR GRIFFIN: Thank you, Mr Commissioner. I rise to support Mr Edwards' submission in relation to this new award, Photographic Industry Award, and to my understanding, it reflects what has come out of the Chemists Award and whatever other adjustments that have to be made in relation to the restructuring principles et cetera, well, they'd be taken on in due course.

Following what you mentioned in relation to parties becoming - a party to the award, I suppose, with their certificates et cetera. That's really all I have to mention.

15 COMMISSIONER WATLING: Yes. The thing that counts is really what's on the certificate, not the name in the award. So, if you're going to - I'd suggest if you feel that you have an interest in the award, you should apply to the registrar to have this particular award name appear on your certificate.

MR GRIFFIN: I understand. Thanks, Mr Commissioner.

MR PYRKE: If the commission pleases, the SPA supports the application lodged by the TCCI and we also support what Mr Edwards said in support of that application. If the commission pleases.

COMMISSIONER WATLING: In this renamed award, your organisation may not have an interest, do you think, Mr Pyrke?

MR PYRKE: I think that would most definitely be the case. I believe that all of our people in Tasmania are working for retail pharmacy.

25 COMMISSIONER WATLING: Thank you. Mrs Dowd, have anything?

MRS DOWD: Thank you, Mr Commissioner. The only thing I have to say is that I support the application in relation to this introduction of the Photographic Industry Award to replace what was in the Chemists Award.

30 COMMISSIONER WATLING: Thank you. Well, no further submissions, I can indicate to the parties that I accept the submissions put and the Chemists Award will be renamed, the Photographic Industry Award and I just point out that it will come out as the Chemists Award first up. You understand that, because the cover page will be Chemists Award and then it will show that it is amended to call it the Photographic Industry Award. It's one of the quirks of the system, but anything that appears after  
35 that will be Photographic, because we have to show that we are actually amending the Chemists Award to call it the Photographic Industry Award.

I'll hand out a written decision in due course, which will be in favour of the application.

**HEARING CONCLUDED**