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9 March 2018

The Hon. Justice Ross, President
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

Dear Justice Ross

Re. AM2016/15 – Plain Language Re-drafting – Reasonable Overtime – Hospitality Industry (General) Award 2010

We refer to the Commission's Statement of 28 February 2018 and, in particular, the issue of whether or not the following Note should be inserted into the *Hospitality Industry (General) Award 2010 (Hospitality Award)*:

NOTE: Under the NES (see section 62 of the Act) an employee may refuse to work additional hours if they are unreasonable. Section 62 sets out factors to be taken into account in determining whether the additional hours are reasonable or unreasonable.

For the reasons set out in [Ai Group's submission of 22 February 2018](#), it is not appropriate for provisions which give employers the right to require employees to work a reasonable amount of overtime to be deleted from awards. The Hospitality Award currently includes such a provision at subclause 33.1.

Instead of the above Note, the following provision should be inserted into the Hospitality Award, for the reasons set out in Ai Group's submission of 22 February 2018:

'XX. Subject to section 62 of the Act, an employer may require an employee to work reasonable overtime at overtime rates.

NOTE: Under section 62 of the Act an employee may refuse to work additional hours if they are unreasonable. Section 62 sets out factors to be taken into account in determining whether the additional hours are reasonable or unreasonable.'

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Smith'.

Stephen Smith
Head of National Workplace Relations Policy