



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF  
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/5

AWARD MODERNISATION

**AFEI**  
Australian Federation of  
Employers & Industries

## **BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**MATTER NUMBER: AM2008/5**

### **METAL AND ASSOCIATED INDUSTRIES, RUBBER PLASTIC AND CABLEMAKING INDUSTRY, GLUE AND GELATINE INDUSTRY AND VEHICLE MANUFACTURING INDUSTRY**

1. The Australian Federation of Employers and Industries (AFEI), formed in 1904, is one of the oldest and most respected independent business advisory organisations in Australia. AFEI is a peak council for employers in NSW and has consistently represented employers in matters of industrial regulation since its inception.
2. With over 3,500 members and over 60 affiliated industry associations, our main role is to represent, advise, and assist employers in all areas of workplace and industrial relations and human resources. Our membership extends across employers of all sizes and a wide diversity of industries.
3. AFEI provides advice and information on employment law and workplace regulation, human resources management, occupational health and safety and workers compensation. We have been the lead employer party in running almost every major test case in the New South Wales jurisdiction.
4. AFEI is a key participant in developing employer policy at national and state (NSW) levels and is actively involved in all major workplace relations issues affecting Australian businesses.

5. The Australian Federation of Employers and Industries (AFEI) makes the following submissions concerning the proposed modern Metal Industry Award, as well as the Rubber, Plastic and Cablemaking Awards, the Glue and Gelatine Industry Awards, and the Vehicle Manufacturing Awards.
  
6. AFEI's membership interests include the following awards and Notional Agreements Preserving State Awards (NAPSAs):
  - Metal, Engineering and Associated Industries Award 1998 (MEAIA);
  - Notional Agreement Preserving the Metal Engineering and Associated Industries State (Award);
  - Rubber, Plastic and Cable Making Industry (General) Award 1998;
  - Notional Agreement Preserving the Rubber Workers (NSW) State Award;
  - Notional Agreement Preserving the Plastic Moulding, &c (NSW) State Award

And although perhaps not included in the Commission's initial consideration, AFEI's interests also include the:

- Vehicle Industry – Repair, Services and Retail Award 2002;  
and,
  - Notional Agreement Preserving Vehicle Industry – Repair, Services and Retail (NSW) State Award
7. In addition to the abovementioned Awards, AFEI membership interests include a number of other Awards and NAPSAs identified in the Commission's listings of 'Metal Industry' awards and NAPSAs, as identified later in this submission.

8. In the Commission's Award Modernisation decision of 20 June 2008, the Commission indicated that:

- It sees some potential to broaden the scope of a modern metal and associated industries award to encompass *comparable manufacturing industries* (our emphasis);
- It has decided to limit the scope of the modern metal and associated industries award initially and will give consideration to rubber, plastic and cabling, glue and gelatine and vehicle manufacturing industries in the priority list in conjunction with the proposed metals award;
- The Commission will give further consideration to the expansion of the scope of the award during the course of the award modernisation process;
- The Commission will also give consideration to whether it is more appropriate in a modern award context that maintenance and related classifications are included in the modern award made for a particular industry in order to reduce the number of awards which apply to a particular employer.

#### **POTENTIAL EXPANSION OF THE METAL INDUSTRY AWARD**

9. The Commission has an opportunity in the Award Modernisation process to replace an award making system of one size fits all with Awards that genuinely meet the needs of particular industries. In this process, the scope of an 'Industry' should not be based merely on whether there are apparent similarities between award wages and conditions

that, in many cases, are the product of a tortured industrial history. Where similarities have developed they have frequently occurred through the extension of the Metal Industry Award into other industries, often despite opposition from employers.

10. Consideration of what is a comparable industry should have regard to a variety of factors including product markets, productivity, labour markets, training frameworks and structures, and regulatory and operating frameworks. Importantly, key strategic factors should also be assessed, including the nature of bargaining relationships, the differing cultures, allegiances and locations of different parts of an employer's workforce, historical industrial relations climates and the importance of award content and coverage for future points of potential tension.
11. If the Award modernisation process results in a rationalisation of award coverage into broad groupings of disparate industries, the result is unlikely to be a modern award, at least not one that serves the needs of the industry into the 21st Century.
12. Depending on the criteria used to define 'industry', an expanded Metal and Associated Industries Award could potentially be broad enough to include all Manufacturing Industries, including all industries as shown in the Australian and New Zealand Standard Industrial Classification, namely:
  - Food, beverages and tobacco;
  - Textile, clothing, footwear and leather;
  - Wood and paper products;

- Printing;
  - Petroleum and coal product manufacturing
  - Basic Chemical and chemical product manufacturing;
  - Polymer Product and Rubber Product Manufacturing
  - Non-metallic mineral products;
  - Primary Metal and metal product manufacturing;
  - Fabricated metal product manufacturing
  - Transport Equipment manufacture;
  - Machinery and equipment manufacture
  - Furniture and other manufacturing;
  - Other
13. For the time being, however, the Commission has limited wider consideration to the inclusion of rubber, plastic and cablemaking, glue and gelatine, and, vehicle manufacturing industry awards into the proposed modern Metal Industry Award, the outcome, in our view, would not be a grouping of comparable industries and would not be supported by AFEI.
14. The 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC), which is described by the Australian Bureau of Statistics as a framework for organising data about businesses - by enabling *grouping of business units carrying out similar productive activities* (our emphasis), does not associate the abovementioned industries with the Metal Industry. The three industries in question are identified as follows:
- Rubber, Plastics, and Glue as industry classes within the Polymer Product and Rubber Product Manufacturing Division;

- Vehicle Manufacturing within the Transport Equipment Manufacture Division;
- Cablemaking, located as the Electrical Equipment Manufacturing Group within the Electrical Equipment Manufacturing Sub-Division.

15. In our view there is a lack of comparability between the Metal Industry and the other three industries. Where apparent similarities exist between awards, such as between the MEAIA and the Vehicle Industry Award 2000, it has resulted from the Commission's prior approach of extending the Metal Award to other industries.
16. The proposed modern Metal Industry Award should be limited to a consideration of the needs of the Metal Industry, and more particularly, the Fabricated Metal Products Manufacturing Industries. The Award Modernisation process is also an opportunity to recognise the changing relative position of the Metal Industry within the Australian economy. One outcome of the award modernisation process should be that effective steps are taken to negate the potential for the Metal Industry Award (and other awards that have had a similar status) to unleash significant, inflationary and destructive, wages rounds.
17. Two crucial elements of such steps are, first, the narrowing of the breadth of coverage of a Modern Metals Award and,

second, the containment of the classifications in that Modern Award to the industry itself. One of the 'accidents' of the interplay of our federal industrial relations system and the idiosyncrasies of the Australian Constitution has been the spread of the Metals Award into many other, unrelated, industries through effective responsiveness of employers therein in relation only to classifications in the Metals Award which are substantially limited to maintenance work in these 'unrelated industries. These two factors have been the direct cause of Metal Industry Award increases travelling so quickly into non-metals industries and, within a short period, across the economy. Moreover, it is clear that the Reserve Bank is now conscious of these connections and is likely to move much faster than it would have done historically to try to head off the inflationary consequences.

#### **RUBBER, PLASTIC AND CABLEMAKING INDUSTRY (RPCI)**

17. As indicated above AFEI does not support the inclusion of the Rubber, Plastic and Cablemaking Industry awards in a proposed modern Metal Industry Award. As indicated earlier, it is our view that the test of comparability should not be based on Award similarities achieved through historical flow on processes.
18. It is noteworthy also that NSW award coverage, as reflected in the NAPSAs, has recognised a distinction between the Rubber Industry and the Plastics Industry. AFEI would support retention of separate awards for the Rubber and Plastics Industries, along similar lines to the current NAPSAs.

Not only should the RPCI not be added to the Metal Industry modern award, but the assortment of non-exclusively metals industries already in the current Metals award should be removed and relocated so that these, so-called, 'associated' industries, do not tie employers in numerous other, strictly non-metals areas, into the metals web. Drafting, surveying, engineering, etc, need to be looked at closely.

### **GLUE AND GELATINE INDUSTRY**

19. As indicated above AFEI does not support the inclusion of Glue and Gelatine Industry awards in the Metal Industry Award. Apart from the lack of comparability between the industries, the Adhesives Industry and Gelatine Manufacturing Award 2001 – Pre-Reform Award and the Notional Agreement Preserving Gelatine and Glue Industry (State) Award reveals significant differences with the Metal, Engineering and Associated Industries Award. There does not appear to be any commonality in classification structures, pay rates, and penalties and loadings. If anything, the inclusion of glue and gelatine in a metal award context seems to be a clear invitation by the Commission to engage the central debate about the nature and extent of 'industry'. If any party seriously argues that this glue and gelatine connection is justified, then one might think it could, with even more legitimacy, be proposed that glue and gelatine should be part of a vertically integrated racing industry. Needless to say, that is not our view.
  
20. There are also significant disparities between the Adhesives Industry and Gelatine Manufacturing Award 2001 – Pre-

Reform Award and the Notional Agreement Preserving Gelatine and Glue Industry (State) Award. The NAPSA also make a distinction in classifications and pay rates between a Glue Stream and a Gelatine Stream.

21. The award modernisation process, in our view, provides an opportunity to review the processes by which glue and gelatine are manufactured. Glue manufacture may be more appropriately included with Polymer Product Manufacturing, whereas Gelatine Manufacturing may be more appropriately included in Food Product Manufacturing.

## **VEHICLE INDUSTRY**

22. AFEI does not support the inclusion of Vehicle Manufacturing or other aspects of the Vehicle Industry in the Metal Industry Award. We note that historically, including the Decision of the Commission to make the Vehicle Industry Award, 1953 (CAR Vol. 76 p280), the Commission has not accepted that a nexus existed between Metals and the Vehicle Industry.
23. Related Vehicle Industry Awards such as the Vehicle Industry – Repair Services and Retails Award 2002, and the NSW NAPSA are concerned with vehicle sales and service, vehicle parts sales and petrol station sales. These functions quite obviously have even less in common with the Metal Industry.
24. We note also that both the Australian Motor Trades Industrial Council and the Vehicle Division of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (AMWU) support the retention of vehicle industry awards, albeit in rationalised form.

25. In our view it is also timely for the Commission to consider whether the changing nature of the retail aspects of the Vehicle Industry – Repair Services and Retail Award are met more appropriately through more Retail Industry awards.

### **CLASSIFICATIONS IN THE NEW METAL INDUSTRY AWARD**

26. AFEI would not support the inclusion in the proposed modern Metal Industry Award of occupational groups which are not currently covered by Metal Industry Awards, such as:
- Clerical and Administrative Occupations;
  - Cleaners, Security employees, and Gardeners;
  - Transport employees;
  - Plumbers.
27. The abovementioned occupational groups, in our view, have little in common with the labour markets, career progression, licencing, and competency and training frameworks for metal industry employees. Clerical and administrative employees typically perform distinct operational functions. The principal unions with award coverage for Clerical employees, Transport employees and Plumbers are not currently party to the MEAIA. We refer you to our submissions in the Modern Clerical Award matter.
28. Additionally it is noteworthy that the NSW NAPSA does not currently provide classifications covering Engine Drivers and

Firemen. These classifications are covered by a separate NAPSA, the Engine Drivers and Firemen's General Award.

29. Distinctions between current occupational groups with the MEAIA are currently the subject of separate Divisions, such as Engine Drivers and Firemen, Supervisors, and trainee Engineers and Scientists. It is our experience that the classifications structures and the interaction between the Divisions are overly complex and difficult to apply.
30. One of the objects of the Minister's Request is an Award which is 'simple to understand and easy to apply'. Potentially the current problems of the MEAIA may be compounded by the inclusion of further occupational streams which have little in common with the Metal Industry classifications contained in Part 1 of MEAIA.

#### **FURTHER EXPANSION OF THE METAL INDUSTRY AWARD**

31. AFEI reserves its position concerning the expansion of the proposed MEAIA to include other industries, other industry segments and other Awards, as the Commission has indicated it may consider during the Award modernisation process. Our concerns include but are not limited to the following:
  - Glass Industry;
  - Mechanical Opticians;
  - Farriers;
  - Jewellers and Watchmakers;
  - Engine Packing Manufacture;
  - Coachmakers, etc Road;

- Coachmakers, etc Rail;
- Sugar Workers

### **FURTHER CONSIDERATION TO RESTRICTING THE OCCUPATIONAL COVERAGE OF THE PROPOSED METAL INDUSTRY AWARD**

32. AFEI would support the restriction of the modern Metal Industry Award to the Metal Industry.
33. Occupational award coverage for other industries is best achieved through separate occupational awards, similar to the current structure of current NSW NAPSAs, where occupational coverage is provided through separate instruments including:
- Professional Engineers;
  - Draughtspersons and Planners;
  - Engine Drivers and Firemen;
  - Transport Workers;
  - Warehouse employees;
  - Electricians;
  - Other Building Tradespersons.
34. A further occupational award should be considered to cover Engineering Tradespersons and related classifications.

### **CONTENT OF THE NEW METAL INDUSTRY AWARD**

35. AFEI intends to provide further comment on proposed award content as draft clauses become available.

Tony Doyle  
Senior Workplace Relations Consultant  
Australian Federation of Employers and Industries  
1 August 2008

[tonyd@ef.org.au](mailto:tonyd@ef.org.au)