



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

AM2008/64

AWARD MODERNISATION

AFEI
Australian Federation of
Employers & Industries

BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION
AWARD MODERNISATION

AM 2008/64 – INDIGENOUS ORGANISATIONS AND SERVICES

1. The Australian Federation of Employers and Industries (AFEI) make the following submissions concerning Indigenous Organisations and Services, which are included in Stage 4 of Award Modernisation.
2. AFEI appreciates the Commission's facilitation of consultation between the parties prior to the commencement of Stage 4 of the Award Modernisation process. This consultation enabled the parties to discuss the most appropriate treatment of Indigenous Organisations and Services within Award Modernisation.
3. AFEI notes that during the consultation the parties expressed diverse views, including the view of the union parties as proposed by the ACTU, that it is unnecessary to establish a stand alone Modern Award for Indigenous Organisations who will be better served by the application of occupational or industry specific Modern Awards already created.
4. AFEI strongly opposes this view and following consultation with our membership submit that a stand alone award should be created to reflect the unique nature of Indigenous Organisations and Services.
5. AFEI submits that any Modern Award established to apply to Indigenous Organisations must recognise the unique nature and purpose of these services, that is, the provision of culturally appropriate services to the Indigenous community.

6. AFEI draws to the Commission's attention the diversity of services provided by Indigenous Organisations in order to achieve this purpose. Examples of services provided by Indigenous Organisations range from employment assistance, health care, counseling services to the operation of retail establishments in remote areas.
7. The nature of the funding arrangements of a large number of Indigenous Organisations means they are often unable to allocate resources to specialist human resource positions or outside services. As such, to burden these organisations with the administration and application of numerous Modern Awards, is contrary to the stated purpose of the Award Modernisation process, that 'Modern Awards must be simple to understand and easy to apply' (Statement of Justice Giudice, President 29 April 2008).
8. AFEI submits that the Commission should establish a stand alone Modern Award to apply to Indigenous Services in a similar manner to the current federal instrument the Health Services Union of Australia (Aboriginal and Torres Strait Islander Health Services) Award 2002. AFEI submits that in using this federal award as a guide the Commission should extend the scope of a Modern Award to encompass activities outside the provision of health care.
9. AFEI further submits that despite the coverage of the aforementioned federal award presently being limited to those organisations named as respondents, within the Indigenous Services sector the award is widely applied as a guide for organisations whose range of services fall outside the scope of traditional health, nursing or community sector awards.

10. Thus AFEI argues that the recognition under the current federal award of the diverse nature of work performed should be preserved by the Commission and additionally that the efficiency of these services should be assisted through the enhancement of the scope of the award to encompass all facets of an organisations operation.
11. AFEI submits that such a Modern Award should provide coverage of all facets of these organisations, for example containing provisions relating to employees performing clerical, retail, nursing, counseling, transport and Aboriginal Health work functions.
12. AFEI further submits that by establishing a single Modern Award for this industry sector the Commission will not, as expressly asserted by union parties create a '2nd tier' industrial safety net for Indigenous Organisations, but rather be acting to address the needs of these services; their particular nature, their diversity and the limitations in their resources that establish a stand alone award as the most appropriate option for industrial regulation.

24 July 2009