



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

AM2008/74

AWARD MODERNISATION

**AFEI**  
Australian Federation of  
Employers & Industries

**BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**AWARD MODERNISATION**

**MATTERS NO. AM2008/74 – GENERAL AWARD**

1. AFEI has earlier provided written and oral submissions to the Commission concerning Award Modernisation in a wide range of matters.
2. AFEI makes the following submission concerning AM 2008/74 – General Award.
3. The Minister's Request for a General Award states that the award is

'...to cover employees who are not covered by another modern award and who perform work of a similar nature to that which has historically been regulated by awards (including State awards). The Commission is to identify this award as such. This modern award is not to cover those classes of employees, such as managerial employees, who, because of the nature or seniority of their role, have not traditionally been covered by awards.'

4. Given the award modernisation process has involved the comprehensive identification and consideration of existing occupational and industry awards and NAPSAs, it is likely that there are very few employees, if any, who would be in this category.

5. At the time of making this submission the Commission has not identified any relevant awards associated with AM 2008/74.
6. AFEI does not support the making of a General Award given its clear potential for:
  - overlapping and conflicting coverage with other modern awards
  - the inclusion of workers with no history of award regulation
  - the imposition of obligations with no certainty as to its application and the consequent unintended consequences.
7. In responding to the Ministerial Request, AFEI submits that a cautious approach should be adopted if the Commission proceeds to make a General Award and advocates a minimalist approach to such an award.
8. AFEI submits that the coverage of a General Award should be limited to employees who are not covered by another modern award, but who are currently covered by an Award or NAPSA and cannot be covered by another modern award.
9. AFEI does not support the application of a General Award to employees who are currently award free. The reference in the Minister's Request to employees who perform work of a similar nature to that which has historically been regulated by awards (including State awards) is problematic. The issue of similarity would require significant and careful examination, including an examination of the factors that result in such employees being currently award free.

10. AFEI submits also that the General Award should not extend to any employees who have not been identified in award modernisation and where the impact of the award is unknown.

**24 July 2009**