



AUSTRALIAN HOTELS ASSOCIATION

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OPINION PIECE FROM MARTIN FERGUSON Chair, Tourism Accommodation Australia (a division of AHA)

Martin Ferguson: “Time for unions to stop politicking and let FWC reform 1950s hospitality work conditions for benefit of workers and business”

21 April 2016: It’s time for the unions to stop politicking and allow the Fair Work Commission (FWC) to do its job in reforming the Hospitality Industry (General) Award for the benefit of workers and business.

The FWC has concluded hearings into the review of the Hospitality award and is scheduled to make a decision in the middle of the year, but already the unions are indicating that they will not accept the umpire’s decision if the Commission agrees to reform penalty rates and working conditions, which were established in the 1950s and are no longer relevant to today’s work environment.

Specifically, the Australian Hotels Associations (AHA) – on behalf of the overall hospitality and accommodation sector – has called on the FWC to follow the lead of the Productivity Commission, which recommended that Sunday penalty rates should be amended to rates provided on Saturdays. We have also advocated for the reduction of penalty rates on public holidays, because of their negative impact on business and employment.

Another important reform that we have recommended is greater flexibility in part-time work conditions to enable more workers to be employed under part-time contracts, rather than casual arrangements, to allow workers greater certainty of employment and enable businesses to better meet the needs of customers.

As a major component of a future work conditions environment, we have formally recommended the FWC change the terminology from ‘penalty rate’ to ‘additional remuneration’, because the term ‘penalty rate’ or ‘penalty’ implies punishment, when in fact they are loadings on standard rates.

It has been evident for many years that current awards do not reflect the modern working environment. The idea that Sundays and public holidays are sacrosanct and need to attract punitive penalty rates simply doesn’t stack up, when a large number of workers do not see much difference between working on a Saturday or a Sunday, or even on a public holiday.

We support workers being remunerated extra for working on weekends and public holidays, but the compensation needs to be sensible, otherwise businesses just close or reduce hours. The unions need to explain how a worker not earning anything is better off than a worker earning a reasonable wage with a realistic loading?

If the unions are serious about benefiting their members, they need to make an unequivocal commitment to accepting the judgements of the Fair Work Commission.

All sides were able to make full submissions and present witnesses before the Commission, so it is disappointing that the unions are already trying to politicise the process when in fact the Fair Work Commission is a fully independent authority that does not take instructions from the Government of the day.

It has to be remembered that this award review process has been undertaken in accordance with legislation enacted when Julia Gillard was the Minister for Workplace Relations. It was then strengthened by Bill Shorten as Minister for Workplace Relations, when he amended the Fair Work Act and the modern awards objectives. These changes were to ensure that the Fair Work Commission takes into account the need to provide additional remuneration for employees working outside normal hours, such as employees working overtime or on weekends.

At the time of the Legislation being enacted Bill Shorten said: “This Bill reflects the Government’s priorities. We believe in modest, balanced and pragmatic enhancements to the Fair Work Act to encourage productive, collaborative and clever workplaces.”

The current review process was undertaken by reference to the conditions Julia Gillard and Bill Shorten included in the Fair Work Act, and these conditions were strongly endorsed by the trade union movement and United Voice. The Abbott and Turnbull Governments have not changed Labor’s Fair Work Act.

Throughout this review process the Fair Work Commission emphasised the fact that arguments needed to be based on evidence, rather than based on emotive positions. The FWC has considered the facts, evidence and matters of law as they were required to under the Fair Work Act. These were the rules established by Labor and strongly supported by the trade union movement.

If the umpire's decision doesn't go the way of the trade union movement, will they admit that it was their preferred rules that delivered the outcome, or will they use it to run a political campaign underpinned by falsehoods?

The unions need to accept that work conditions and attitudes have changed since the 1950s. The most recent research into weekend work attitudes – by Spot Jobs and Fairfax Media – asked whether people who receive penalty rates for Sunday shifts would still work on Sunday without the existing penalties. A majority of respondents -710 out of 1117 - said they would work on Sundays and public holidays if they were paid the same as working on a Saturday.

The hotel and tourism sector offers unparalleled opportunities for growth, but the current award conditions work against both hospitality businesses and workers.

We have made strong submissions to the Commission over the past year about the potential for employment growth and improved working conditions for part-time workers if the Award was reformed. We believe that it is time the unions stopped using workers as political pawns and let the Fair Work Commission make their judgements on the reform process without threats of retaliation if the decisions don't go their way.

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