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3 March 2017

The Hon IJK Ross AO
President
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

Dear Justice Ross,

Re. AM2014/190 – Four yearly review of modern awards – Transitional provisions – Accident pay – Black Coal Mining Industry Award 2010

We refer to the above matter and to the amended directions issued by the Fair Work Commission on 30 January 2017 regarding the filing of submissions and evidence in this matter.

We have read the submissions and evidence filed by the Coal Mining Industry Employer Group (**CMIEG**) on 24 February 2017 and 28 February 2017 respectively.

We support the CMIEG's proposed amendments and concur with their submissions.

In addition to the points made in the CMIEG's submissions, we submit that the Commission has recognised that in determining whether an award represents a "fair and relevant minimum safety net of terms and conditions" (s.134(1) of the *Fair Work Act 2009*), the provisions of the award need to be fair to both employees and employers. The Commission has decided that various excessively generous provisions in awards are not fair to employers. See: *4 yearly review of modern awards – Annual leave common issues* [2015] FWCFB 3177 at [109]; *Re Shop, Distributive and Allied Employees' Association* (2003) 135 IR 1 at [11]; *4 Yearly review of modern awards – Payment of wages common issues* [2016] FWCFB 8463 at [93], [181] and [182]; and *4 Yearly review of modern awards – Penalty Rates* [2017] FWCFB 1001 at [117] and [118]. We submit that the CMIEG's proposed amendments represent a "fair and relevant minimum safety net of terms and conditions" and the existing accident pay provisions do not.

Yours sincerely,

Stephen Smith
Head of National Workplace Relations Policy