

From: Kyle Scott <Kyle.Scott@ablawyers.com.au>
Sent: Monday, November 20, 2023 8:08 PM
To: Chambers - Millhouse DP <Chambers.Millhouse.DP@fwc.gov.au>
Cc: Caitlin Vincent <Caitlin.Vincent@ablawyers.com.au>; Claudia Simmons <Claudia.Simmons@Ablawyers.com.au>
Subject: AM2023/21: Modern Awards Review 2023/24 – Arts and Culture Sector

Dear Associate

AM2023/21: Modern Awards Review 2023/24 – Arts and Culture Sector

We refer to the above matter and to the Statement issued by Deputy President Millhouse on 6 November 2023 (**Statement**).

We act on behalf of Australian Business industrial (**ABI**) and the NSW Business Chamber (**BNSW**) in this matter.

ABI and BNSW thank the Commission for the opportunity to participate in the consultation process relating to the Arts and Culture sector.

We refer to paragraph [8] of the Statement and the invitation for interested parties to comment on matters regarding the proposed consultation process. In that context, we provide the following views for consideration:

1. First, the Statement invites interested parties to file submissions in response to the Discussion Paper by 4 December 2023 (which our clients intend to do), but does not contemplate an opportunity for parties to file submissions in reply to the submissions of other parties. While that approach is consistent with the Statement issued by the Full Bench on 4 October 2023, the original Statement issued by the President on 15 September 2023 indicated at [8] that “There will also be an opportunity to lodge submissions in reply” as part of the review process. Given the potentially large number of submissions that might be filed, and the potential complexity of some of the issues that might be raised (particularly around award coverage), we are of the view that it is important to provide parties with an opportunity to respond to the submissions filed by others. At this stage it is not clear how the consultation is to be undertaken, but we anticipate that our clients will wish to be given the opportunity to comment on the submissions of others and it is hoped that the consultation process will allow for this to occur.
2. Second, the timetable set by the Commission provides only 8 days between the deadline for filing submissions (4 December) and the commencement of the consultation process (currently proposed to commence on 12 November). This timeframe is very tight, and provides limited opportunity for parties to properly consider the submissions filed by other parties prior to the consultation process. Again, we consider it important that the timetable and process allow parties a reasonable opportunity to comment on the submissions filed by others. This is particularly the case for membership-based organisations such as our clients that will likely need to consult with members throughout the process in order to meaningfully participate in the consultations.
3. Third, the consultation process appears to be envisaged to take place over up to 11 days between 12 December 2023 and 2 February 2024 (per the Statement at [7]). At this stage, it is not clear how the consultation is to occur, or whether that period of time will be sufficient (given that it is not yet clear what volume of submissions will be

filed). Depending on the number of parties participating in the review and the range/volume of issues/submissions raised, it might be necessary to provide additional days. We also note that 26 January 2024 is a public holiday in all States and Territories.

4. Fourth, In relation to conference listings between 20-22 December 2023, we do not consider that it is desirable for consultations to occur on those dates, given the range of stakeholders likely to be involved and the availability issues that will arise with leave commitments given the impending Christmas period.

In relation to paragraph [9] of the Statement, I confirm that I will be appearing on behalf of ABI and BNSW at the Mention on Thursday 23 November 2023.

Please do not hesitate to contact me should you require further information.

Yours sincerely,

Kyle Scott
Director
Australian Business Lawyers & Advisors

Suite 402, Level 4
Watt Street Commercial Centre
45 Watt Street, Newcastle NSW 2300
Dir: [02 9466 4088](tel:0294664088) | Mob: [0422 286 133](tel:0422286133)
Tel: [1300 565 846](tel:1300565846) | Web: ablawyers.com.au | [in: LinkedIn](https://www.linkedin.com/company/ablawyers)



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