

Senate Standing Committee on Education and Employment
PO Box 6100
Parliament House
Canberra ACT 2600



By email: eec.sen@aph.gov.au

Dear Senate Standing Committee on Education and Employment

Inquiry into the exploitation of general and specialist cleaners working in retail chains for contracting or subcontracting cleaning companies

We thank the Committee for its invitation to participate in the Inquiry and this response is our submission to the Inquiry. The Retail and Fast Food Workers Union Incorporated (RAFFWU) is a trade union representing workers in the retail and fast food industry. More information about RAFFWU is available on our website www.raffwu.org.au. We note that we have made earlier submissions to the 2017 inquiries of senate committees into Corporate Avoidance of the Fair Work Act, the Pay Protection Bill and Penalty Rates.

We currently represent general and specialist cleaners employed directly by retail chains. At Coles the vast majority of cleaners are employed directly through its Coles Services arm. At Woolworths, the vast majority of cleaning staff are contracted externally. We also represent members who were previously engaged by contracting cleaning companies to retailers.

In 2016, the Fair Work Commission heard evidence of the experience of a cleaner at the Benalla Coles Supermarket. That evidence exposed, on Coles' own analysis, that the cleaner was losing \$3067 per annum – more than 16% of their wage.

The purported union for that workplace at the time, the SDA, admitted the *enterprise agreement* which had been negotiated by SDA and Coles would leave the cleaner worse off. The testimony was that the SDA knew the agreement could leave employees worse off than the minimum Award, employees weren't told, the agreement did leave the Benalla cleaner worse off and that it was not a good deal for the Benalla cleaner. With respect, it was an outrageously exploitative outcome for the Benalla cleaner. This circumstance replicated itself across Coles – and across retail where cleaners work hours outside of 7am to 6pm, Monday to Friday, and are covered by an SDA agreement.

This exploitation at the hands of massive employers and SDA was exposed by members of the Retail and Fast Food Workers Union. Despite our efforts, the Senate has refused to pass legislation which would end such exploitation (such as the *Pay Protection Bill* proposed by The Greens and rejected in favour of maintaining exploitation by Labor and the LNP.)

This has left the Retail and Fast Food Workers Union in the position of needing to work with members to systematically repair the damage inflicted by employers and SDA. At Coles, directly employed cleaning staff finally had their wages restored when a new Agreement came into operation on 30 April 2018. This saw substantial wage increases for cleaners working between 6pm and 7am on weekdays, and on weekends (because effectively minimum Award rates now apply.)

On the other hand, Woolworths continues to pay the vast majority of its staff below minimum Award wages. In fact, Woolworths holds a sub-classification specifically for cleaners. That is, if it employed cleaners it would pay them less than any other store staff (except for trolley collectors.) This helps show the value Woolworths places on workers engaged in cleaning. If this isn't concerning enough,

Woolworths prohibits even its own directly employed cleaners from cleaning toilets. One must assume such work is for another class of worker.

At this point it is worth pausing to describe the savings achieved for major employers under SDA agreements. Those agreements generally avoid all penalty or overtime rates on weekdays between 5am and 7am, and between 6pm and 12am. They generally avoid all Saturday penalty rates between 7am and 10pm, and they generally halve Sunday penalty rates. Some reduce casual loading and some reduce junior rates. Some pay a small loading notoriously unable to cover the actual wages lost – exemplified by the Benalla cleaner.

These systems employed by SDA and many major retailers make agreement based cleaning work manifestly and massively cheaper than Award based cleaning work.

However, not content to use these systems negotiated with SDA, Woolworths largely contracts out cleaning work. To any casual observer, as night follows days, it follows the systems of contracted cleaning at Woolworths must facilitate significant contractor exploitation. If Woolworths *can pay much less* than Award rates for cleaning, we expect workers cleaning Woolworths stores as employees of contractors *are paid much less* than Award rates.

While anecdote, our members have been informed by Woolworths management of the system used by Woolworths to “ensure compliance” with minimum workplace rights for contracted cleaning staff.

- *The Store Manager is expected/required to approach the contracted cleaning worker.*
- *The Store Manager is expected/required to ask the contracted cleaning worker if they are being paid at least the minimum wage.*
- *The Store Manager is satisfied by a simple “yes” response.*

This is the way a behemoth such as Woolworths applies a forensic eye to the task of ensuring lawful compliance in its cleaning contractors. It is farcical and should not be permitted to continue. We expect such an approach is common across the spectrum of retailers which are accustomed to workplace exploitation under extant SDA agreements.

One appropriate and simple path is for significant retailers – those with turnover in excess of \$50 Million – to hold the same responsibility for their contracted cleaning workforce as franchisors hold for franchisee employees under the *Protecting Vulnerable Workers* legislation. Whatever the system, retailers should be held responsible for ensuring any contractor cleaner properly applies relevant industrial instruments for the benefit of employees.

We hope this submission is of assistance to the Committee.

Kind regards

Josh Cullinan
SECRETARY

For further information relating to SDA agreements in retail see [Submission 25](#) to the Penalty Rates Inquiry of the Committee.