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Mr John Carter
Committee Secretary
Senate Education and Employment Workplace Relations Committee
Department of the Senate
PO Box 6100
Canberra ACT 2600

Dear Mr Carter

Inquiry into the Fair Work Bill 2008 – Award Modernisation and Default Superannuation Funds

1. Introduction

As the largest superannuation provider in Australia, AMP welcomes the opportunity to present its submission to the Senate Education, Employment and Workplace Relations Committee. AMP is specifically interested in the provisions of the Fair Work Bill that address modern awards and which relate to default superannuation funds.

As the Committee may be aware, the final modern awards for primary industries released by the Australian Industrial Relations Commission (**AIRC**) on 19 December 2008 nominated a small number of funds from one sector of the industry as default funds for those industries. As a result of these decisions by the AIRC, there will be less flexibility, less competition, the potential for increased costs for employees and the possibility that employees' needs will not be accommodated. Each of these issues are discussed briefly below.

2. Rationale

Reducing flexibility

One of the effects of the award modernisation process has been to remove the flexibility of an employer (which presently exists in many awards) to choose a default fund from any of the complying superannuation funds available in the market place other than those named in the modern awards. This represents a significantly anti-competitive step, taking away an employer's current ability to select a default fund provider under a number of key awards.

AMP conducted a review of approximately 210 current awards. Out of these awards, 53 made no comment on the superannuation fund to be used by the employer and 17 expressly allowed an employer to nominate any complying superannuation fund. Accordingly, out of the 210 awards reviewed, 70 awards in total effectively allow an employer to nominate any complying

superannuation fund. That means that employers had the ability to choose any complying superannuation fund as a default fund under approximately 33% of the 210 awards reviewed. However, this capability has been removed by the AIRC, resulting in reduced flexibility in modern awards than previously.

A list of examples of the key awards referred to above is set out in the attached appendix.

Competition in the superannuation industry

The Federal Government has a policy of encouraging lower costs and better performance through competition and choice.

One of the effects of the decision of the AIRC in respect of superannuation in the modern awards will be to remove an employer's ability to choose a default fund from all of the complying superannuation funds available in the market place. This will reduce competition and efficiencies that would otherwise have flowed in the superannuation industry.

On many occasions, the employer puts the default fund selection process out to tender with the aim of securing lower fees and better benefits for its employees. For instance, according to a recently released report by Rice Warner Actuaries, since 2002 to 2008, there has been a downward trend in overall fees across the industry¹. The inability for an employer to be able to select an alternative complying superannuation fund (for example, if the default fund is performing poorly) introduces inefficiencies and reduces competition in the superannuation industry.

The industry funds named in the modern awards are effectively given a monopoly or an oligopoly over the default fund superannuation contributions of award employees, which may result in the least optimal outcome for employees.

For example:

- (a) REST is the sole default fund named in the modern General Retail Industry Award 2010; and
- (b) Australian Super is the sole default fund named in the Textile, Clothing, Footwear and Associated Industries Award 2010.

Being named as the sole default fund removes the incentive for the named fund to lower costs, and improve service and investment performance.

The AIRC indicated that it was inappropriate for the AIRC to conduct an independent appraisal of the investment performance of particular funds. Despite this, the AIRC selected a relatively small number of default funds to name in the modern awards. No methodology was released by the AIRC. Furthermore, the AIRC does not have the knowledge, experience or a skill set in the field of superannuation to enable them to select one fund over another.

AMP considers that, consistent with the Federal Government's policy of encouraging lower costs and better performance through competition and choice:

¹ Rice Warner Actuaries – Superannuation Fees Report 2008

- (a) a modern award should **not** provide a select few funds with a monopoly or an oligopoly over such a sizeable proportion of superannuation contributions; and
- (b) the Committee should include in its report recommendations that ensure existing competition and flexibilities continue in the future.

Appropriateness of default superannuation funds

A large proportion of the approximately \$50 billion a year that flows through the compulsory superannuation system is likely to flow through to default funds as only 10-15% of employees exercise choice of funds.

In selecting a default fund, employers look for key features and additional services that a fund provides which can include, insurance, the range of investment options, financial education and access to financial advice. Prescribing specific default funds in modern awards removes the ability of the employer to review the appropriateness of a fund to ensure it meets the needs of its employees.

3. Summary

In summary, AMP considers that the Committee should recommend to government that an amendment be made to the Fair Work Bill to ensure that modern awards allow full choice of default funds.

AMP considers that a provision should be included in the Bill that mandates that “any complying superannuation fund” be included in the awards as an alternative to the funds specifically nominated by the AIRC the awards.

4. Further information

Please contact me on 02 9257 6202 if you have any queries in relation to this submission.

Yours sincerely



Craig Meller
Managing Director
AMP Financial Services

APPENDIX

Key Awards

The following list of awards either contain an express right of the employer to nominate any complying fund or make no mention of the right of the employer to nominate a superannuation fund.

1. Clerical and Administrative Employees (State) Award (NSW);
2. Clerical and Administrative Employees (Private Sector) Award (TAS);
3. Clerical and Administrative Employees Legal Industry (State) Award (NSW);
4. Off-Course Agency Employees Award 2001 (All States and Territories);
5. Group Training (Victoria) Award 1999 (VIC);
6. Retail Pharmacists' Award (WA);
7. Retail Pharmacy Award (TAS);
8. Nurses Private Sector Superannuation (State) Award (NSW);
9. Race Clubs Employees (State) Award (NSW);
10. Shop Employees (State) Award (NSW);
11. Retail Trade Industry Sector – Minimum Wage Order – Victoria 1997
12. AWU Racing NSW (State) Award (NSW);
13. Entertainment and Broadcasting Industry (Recreation Grounds etc – Victoria) Award 2000 (VIC);
14. Entertainment and Broadcasting Industry Recreation Grounds Western Australia Award 2000 (WA);
15. Theatrical Employees (Recreation Grounds Etc) South Australia Award 2000 (SA);
16. Liquor Industries – Racecourses Showgrounds etc – Casuals Award 1998 (NSW, VIC, TAS & QLD);
17. Entertainment Industry – Recreation Grounds Queensland Award 2000 (QLD);
18. Farriers (State) Award (NSW);
19. Sportsground Maintenance and Venue Presentation (Victoria) Award 2001 (VIC);
20. Cultural and Recreational Services Industry Sector Minimum Wage Order – Victoria 1997 (VIC);
21. Municipal Employees' (Sporting Grounds – Western Australia) Award 2000 (WA);

22. Race-Course Groundspersons Award (AN150124) (SA);
23. Strappers and Stable Hands (State) Award (AN 120516) (NSW);
24. Cultural and Recreational Services Industry Sector Minimum Wage Order 1997 (VIC);
25. Fast Food Outlets Award 1990 (WA);
26. Transport Workers (Mobile Food Vendors) Award 1987 (WA);
27. Hairdressers (State) Award (NSW);
28. Hairdressing and Beauty Industry (Australian Capital Territory) Award 1998 (ACT/NT);
29. Personal and Other Services Industry Sector – Minimum Wage Order –Victoria;
30. Security Industry (NSW) Award 1999 (NSW);
31. Security Industry (State) Award (NSW);
32. Security Officers’ Award (WA);
33. Security Officers’ Award (SA);
34. Education Services Industry Sector Order – Victoria 1998;
35. Higher Education Workers Victoria Award 2005 (VIC) (section of the award covering employees in part 2(A), 3(A)-3(D) and 4(A)-4(C);
36. Victorian Universities (Controlled Entities and Affiliated Organisations) Employees’ Award 2004;
37. AP818795 – Queensland Post Compulsory and Higher Education Academic Staff (Conditions of Employment) Award 2002 (QLD);
38. South Australian Post Compulsory and Higher Education Academic Staff (Conditions of Employment) Award 2002 (SA);
39. Higher Education Academic Salaries Award 2002 (all States and Territories);
40. Higher Education Academic Staff Core Conditions of Employment Award 2005 (all States and Territories);
41. Higher Education Contract of Employment Award 1998 (all States and Territories);
42. Universities and Affiliated Institutions Academic Research Salaries (Victoria and Western Australia) Award 1989 (VIC and WA);
43. Universities and Post Compulsory Academic Conditions Award 1999 (All States and Territories);
44. University of Newcastle Union Food and Beverage Staff (State) Award (NSW);

45. Education Services Industry Sector Order – Victoria 1998 (VIC);
46. Victorian Universities (Controlled Entities and Affiliated Organisations) Employees’ Award 2004 (VIC);
47. AN162083 – Salaried Staff Curtin University of Technology Award 1985 (WA);
48. Western Australia Universities General Staff Award 2002 (WA);
49. Higher Education Contract of Employment Award 1998 (All States and Territories);
50. Higher Education General and Salaried Staff (interim) Award 1989 (All States and Territories);
51. Higher Education General Staff Salaries and Classifications Award 2002 (All States and Territories);
52. Queensland Universities (General Staff) Award 2000 (All States and Territories);
53. Metal Industry (Victorian Public Hospitals) Award 2002 (VIC);
54. Metal Engineering and Associated Industries Award 1998 (Parts I-V, which apply to NSW, VIC, QLD, TAS & SA, and Part VI which applies to NSW and VIC);
55. South Australian Government Department Instrumentalities (Metal Trades) Award 1999 (SA);
56. Rubber, Plastic and Cable Making Industry –Technical and Supervisory Award 2000 (All States and Territories);
57. Metal Engineering and Associated Industries (State) Award (NSW);
58. Caterers Employees (State) Award NSW (NSW/ACT);
59. Industrial Catering Workers’ Award 1977 (WA);
60. Industrial Catering, Cleaning and Incidental Services (AWU and LHMU) Award 2000 (WA);
61. Accommodation, Cafes and Restaurants Industry Sector – Minimum Wage Order – Victoria 1997 (VIC);
62. Cafes and Restaurants (South Australia) Award (SA);
63. Hotel Employees (State) Award NSW;
64. Restaurants and Employees (State) Award NSW;
65. Bespoke Bootmakers’ and Repairers Award No. 4 of 1946 (WA);
66. AN150016 – Boot and Shoe Award 2006 (SA);
67. AN150041 – Clothing Trades Award (SA);

68. AN170018 – Clothing Industry Award (TAS);
69. AN140286 – Surgical Bootmaking, Bespoke Bootmaking and Boot Repairing Award – State 2003 (QLD); and
70. Fibre Processing Industry Award 1998 (All States and Territories);