



8 May 2013

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Ms Bonnie Allan  
Acting Secretary  
Senate Standing Committee on Education, Employment  
And Workplace Relations  
PO Box 6100 Parliament House  
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Dear Ms Allan

**Re. Inquiry into the *Fair Work Amendment Bill 2013***

I refer to your email of 6 May 2013, in which you advised of a further question on notice from Senator Back. The question relates to the comments made by the SDA at the public hearing about the Deloitte Report which analysed the impact of the *Fast Food Industry Award 2010* on the fast food industry.

Ai Group rejects the views expressed by the SDA. The SDA's comments did not convey an accurate description of the Deloitte Report or the evidence before the Full Bench.

When provided to the Fair Work Commission as part of the *Fast Food Penalty Rates Case*, the Deloitte Report was supported by evidence from an expert in market research and two professional economists, including Professor Ian Harper.

The Full Bench did not reject the Deloitte Report as asserted by the SDA. Whilst it made some criticisms of the Report in the context of the specific legal question before it, the Full Bench held that the Deloitte Report did "contain some objective evidence which is relevant for present purposes" (paragraph 138 of the Decision).

The Full Bench also did not support the SDA's alleged "debunking" of the Deloitte Report. The Full Bench held that the SDA's "commentary on the Deloitte Report reflected a different conceptual approach to the assessment of survey material" (paragraph 140). In other words, the critique provided by the SDA had no impact on the Full Bench's view of the Deloitte Report.

Further, Ai Group disputes that the SDA provided a "more methodologically accurate study" than the Deloitte Report. The SDA did not provide the Full Bench with any study of its members' views in the fast food industry.

In the *Fast Food Penalty Rates* case, the SDA provided four reports from social science academics in the nature of:

- Two literature reviews; and
- Two summary reports (one summarising qualitative research and the other quantitative research, neither commissioned by the SDA and neither targeting SDA members)

Unlike the Deloitte Report, those reports did not provide any information about the effect of the Award or penalty rates on the fast food industry.

In fact, the Full Bench relied on these reports for no more than "relevant material concerning the impact of employees of working at different times" (paragraph 139).

For these reasons, the comments by Ms Fox at pages 39 to 40 are very misleading.

We would be happy to provide any further information that the Committee may require.

Yours sincerely

**Stephen Smith**  
DIRECTOR – NATIONAL WORKPLACE RELATIONS