



Australian Government
Attorney-General's Department

7 February 2022

Committee Secretary
Senate Select Committee on Job Security
jobsecurity.sen@aph.gov.au

Dear Secretary

Clarification to Hansard—Job Security public hearing on 3 February 2022

I am writing to you concerning evidence I gave to the Senate Select Committee on Job Security during the Attorney-General's Department appearance at the public hearing held on 3 February 2022.

I have identified the following issues requiring clarification on pages 27 and 28 of the transcript:

Page 27 of the transcript states:

Ms Sheehan: In terms of which matters the Attorney considers intervening in, we'd really look at things on a case-by-case basis. It would depend on what the issues were that were in dispute, whether it would really come down to just factual matters that the parties are really best placed to be providing information on or whether there's a broader framework issue that the Attorney-General considers that the government could provide information on. For example, in the Rossato matter the Attorney intervened on a particular point to put a position before the court on how the set off provisions should operate.

...

Ms Sheehan: The intervention in Rossato was to ensure that the court had information before it on how the set off provisions should operate; the proper interpretation of the Fair Work Act. There obviously hasn't been an intervention in the Patrick industrial matter. Generally if there were interventions in relation to those kinds of disputes they would be to put forward information before the commission on information that the government had to hand that would assist the commission in resolving those matters.

...

Ms Sheehan: I'll start by saying the intervention in the Rossato case was more of a framework issue about how the set off provisions should operate. That would be something

that we'd weigh up about 'are we actually putting forward information on how the framework operates, a legislative interpretation matter as opposed to factual information that the parties should be addressing themselves?

Page 28 of the transcript states:

Ms Sheehan: I don't think I can add much more to what I said before about what the purpose of the Rossato intervention was. As I mentioned, it was to put forward information before the court as to the proper operation of those set off provisions.

I wish to clarify intervention in Rossato was to ensure the court had information before it on how set off of casual loadings operates under the general law, rather than statute. The intervention also provided the court with information about other framework issues, particularly the interaction between the National Employment Standards and enterprise agreements, and the legal effect of regulation 2.03A of the *Fair Work Regulations 2009* (Cth).

Yours sincerely

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