

1. On Monday 17 August 2015 the solicitors for the ACTU requested access to certain documents. In less than two hours they were supplied with what were thought to be all the documents. It was indicated that the ACTU would like an opportunity to examine the documents before deciding whether or not to make a disqualification application. A consent direction was made later that day that any person who wished to make a disqualification application should indicate that desire, and file written submissions in support, by 2.00pm on Thursday 20 August. Friday 21 August was fixed as the day for the hearing of oral argument. Various persons did indicate a desire to make a disqualification application and did file written submissions as directed. On 20 August the ACTU's solicitors requested further documents. These were supplied two and a half hours later. On 21 August four groups of counsel appeared. The first group comprised senior and junior counsel for the ACTU, together with the CEPU, the HSU, the TWU, Unions NSW and the Maritime Union of Australia. The second group comprised senior and junior counsel for the CFMEU and 34 natural persons connected with that union. The third group comprised senior and junior counsel for the Australian Workers' Union. Junior counsel appeared alone for Mr Brian Parker, State Secretary of the CFMEU, Construction and General Division, New South Wales Divisional Branch.
2. At the end of oral argument on Friday 21 August, it was indicated that it was hoped to complete consideration of the matter by Tuesday 25 August. In fact that was not possible, and Friday 28 August at 10.00am was fixed as the time for stating the outcome of the applications and giving reasons for that outcome.
3. On 27 August the solicitors for the ACTU and other parties represented by them requested provision of emails or other communications referred to in a newspaper article. They also requested time to consider their position and 'make any further application or submissions which may arise once it has had the opportunity to do so.' They also said: 'If, in practical terms, this leads to a deferral of the handing down of the Commissioner's ruling, the ACTU respectfully requests that such a deferral be put into effect.' The solicitors for the AWU wrote supporting these requests.
4. The Solicitor for the Commission responded promptly and positively to these requests. He supplied the documents that day, indicating that the delivery of the decision scheduled for 10.00am on Friday 28 August would be deferred, and stipulating that any further submissions be filed by 5.00pm on Friday 28 August. He also indicated that

subject to the timetable for submissions being completed, it was contemplated that the decision would be handed down on Monday 31 August. Finally, the letter sent by the Solicitor for the Commission said that if the timetable presented any difficulty, any alternative proposal should be communicated by 6.00pm that evening. No alternative proposal was communicated.

5. By 5.00pm on Friday 28 August three sets of written submissions were received – one from the CFMEU and persons connected with it, one from the AWU and one from the ACTU and those other persons it appeared for (apart from the CEPU). The CFMEU and those associated with it also indicated their support for the submissions of the other parties.
6. In my opinion the applications must be dismissed. I publish my reasons.