

Fair Work Act 2009

FAIR WORK COMMISSION

IN THE MATTER OF: 4 Yearly Review of Modern Awards – Common Issues
Casual employment AM2014/197

Submission of Birch Carroll and Coyle Limited and other cinema industry employers

4 August 2016

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4 Yearly Review of Modern Awards – Common Issues

Submission of Birch Carroll Coyle Limited and Other Cinema Industry Employers

Introduction

1 This submission is made on behalf of:

- (1) Birch Carroll and Coyle Limited
- (2) The Hoyts Corporation Pty Limited
- (3) The Greater Union Organisation Pty Ltd
- (4) Village Cinemas Limited

and Independent Cinemas Association of Australia and its employer members.

2 The Employers named at paragraph 1 (the **Employers**) together comprise the overwhelming majority of employers in the cinema exhibition industry and employ virtually all the employees in the cinema exhibition industry.

3 This submission is made to the Casual and Part Time Employment Full Bench in respect of the Broadcasting and Recorded Entertainment Award 2010 (**BRE Award**). The Commission's review of the BRE Award is matter AM 2014/259 and that matter is in sub-group 4D. The Employers have made submissions in that proceeding in relation to a number of issues affecting cinemas covered by the BRE Award.

4 The Employers have previously participated in these proceedings before the Casual and Part Time Employment Full Bench by filing a Submission dated 22 March 2016. The Employers note the various Directions relating to variations to the modern awards, including the BRE Award.

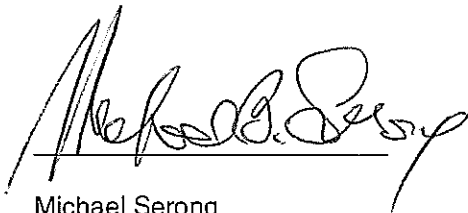
Summary

5 The Employers do not seek any variations to the BRE Award in respect of any common issues before the Casual and Part Time Employment Full Bench. The Australian Council of Trade Unions (**ACTU**) proposes insertion into the BRE Award of a casual conversion clause. The Employers oppose this claim.

6 The Employers submit that the BRE Award already complies with the modern awards objective and that the casual employment provision sought by the ACTU is a proposal for a significant change which does not meet the requirement of the Full Bench in AM2014/1 that it be supported by a submission which addresses the relevant legislative provisions and that it be accompanied by probative evidence properly directed to demonstrating facts supporting the proposed variation. (Full Bench Decision on Preliminary Jurisdictional Issues – 17 March 2014 [2014 FWCFB1788] paragraph 60).

Background and Submission

- 7 The ACTU has filed submissions in these proceedings which are dated 19 October 2015 (the **ACTU Submissions**). The claim in the ACTU Submissions (paragraph 14) seeks variations relating to conversion from casual to full time or part time employment in 108 modern awards, including the BRE Award. This submission is made in response to the ACTU Submissions.
- 8 The Employers' Submission dated 22 March 2016 as filed in this matter drew attention to the unique characteristics of the cinema exhibition industry workforce, and in particular the special situation of casuals (who are a high proportion of labour in cinema exhibition). The Submission also emphasised the need for a highly flexible workforce in cinema exhibition and the potential disruption to the current well established and effectively operating regulation should the ACTU claim be applied to the BRE Award.
- 9 There is nothing in the ACTU Submissions or evidence which deals with cinema exhibition issues or responds to the concerns of the cinema exhibition industry. In particular, the Employers' issues raised in their Submission dated 22 March 2016 have not been addressed or refuted. In all the circumstances there is nothing for the Employers to respond to and consequently the Employers rely on their earlier Submission dated 22 March 2016.



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