

From: Seamus Burke [<mailto:seamus@lbclawyers.com.au>]
Sent: Tuesday, 22 August 2017 5:04 PM
To: Matthew Chesher; Chambers - Kovacic DP
Subject: RE: AM2014/300 - Broadcasting and Recorded Entertainment Award - TOIL

Dear Associate,

Thank you for your email dated 22 August 2017.

CRA does not require (or request) a further hearing in relation to the TOIL issue as its position remains unchanged from my email dated 15 March 2017 in which I confirmed my instructions that CRA is content for this issue to be determined by the FWC and it neither opposes nor supports the position adopted by the MEAA.

I also note Mr Chesher's email. As such, it appears that this issue is resolved.

I also appreciate his Honour following up this matter.

Kind regards,

Seamus Burke



Seamus Burke | Partner
Laycock Burke Castaldi Lawyers
Ph: 02 4040 1000 | **Fax:** 02 4929 6548
Email: seamus@lbclawyers.com.au |
Website: www.lbclawyers.com.au

From: Matthew Chesher [<mailto:matthew.chesher@meaa.org>]
Sent: Tuesday, 22 August 2017 4:48 PM
To: Chambers - Kovacic DP <Chambers.Kovacic.DP@fwc.gov.au>
Cc: Seamus Burke <seamus@lbclawyers.com.au>
Subject: Re: AM2014/300 - Broadcasting and Recorded Entertainment Award - TOIL

Dear Ms Robinson,

From MEAA's perspective, the matter is resolved.

On reflection, the draft determination dealt with MEAA's concern at proposed clause 23.4(a). That is to say that the status quo of TOIL being equal to the amount of overtime (instead of hour for hour) was preserved.

Thank you for checking our views.

Regards,

Matthew Chesher
Director, Legal and Policy
02 9333 0936
0422 411 772

On 22 August 2017 at 09:45, Chambers - Kovacic DP <Chambers.Kovacic.DP@fwc.gov.au> wrote:

Dear Mr Burke and Mr Chesher

Regarding the correspondence below, Deputy President Kovacic asks if a further hearing is required or if the issue is resolved.

Kind Regards

Michelle Robinson

Associate to Deputy President Kovacic

Fair Work Commission

Telephone:(02) 6152 2911

Facsimile: (02) 6247 9774

Email: chambers.kovacic.dp@fwc.gov.au

From: Seamus Burke [mailto:seamus@lbclawyers.com.au]
Sent: Wednesday, 15 March 2017 11:45 AM
To: Matthew Chesher
Cc: Chambers - Kovacic DP
Subject: RE: Broadcasting and Recorded Entertainment Award - TOIL

Matthew and Deputy President Kovacic,

In response to your email below, I am instructed that Commercial Radio is content for this issue to be determined by the FWC and it neither opposes nor supports the position adopted by the MEAA.

If Commercial Radio's position is required to be explained in more detail, please let me know.

Kind regards,

Seamus Burke

Seamus Burke | Partner

Laycock Burke Castaldi Lawyers

Ph: 02 4040 1000 | Fax: 02 4929 6548

Email: seamus@lbclawyers.com.au | Website: www.lbclawyers.com.au

From: Matthew Chesher [mailto:matthew.chesher@meaa.org]
Sent: Friday, 3 March 2017 1:27 PM
To: Seamus Burke <seamus@lbclawyers.com.au>

Cc: Chambers - Kovacic DP <chambers.kovacic.dp@fwc.gov.au>

Subject: Broadcasting and Recorded Entertainment Award - TOIL

Hi Seamus,

A FWC conference has been notified for 10am on 16 March regarding TOIL provisions in the Broadcasting and Recorded Entertainment Award (BREA). The conference will be before Deputy President Kovacic. The listing is here: <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/nol-160317-300.pdf>

In a 22 February 2017 conference before DP Kovacic on the broad question of TOIL in BREA, I raised the impact of the FWC's proposed variations to BREA, as set out in the FWC's draft determination issued in September 2016 - see: <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/ma000091-flex-draft-det.pdf>

The issue of concern to MEAA that intersects with your client's interests is part 4 of the draft determination, which concerns penalty rates for *technical employees* at radio broadcasters. Part 4 recommended deleting clause 40.4 of the BREA.

Clause 40.4(b) of the BREA provided TOIL at overtime rates. The current clause states:

(a) If an employee takes time off instead of payment for overtime then the amount of time off is to be equivalent to the pay the employee would have otherwise received for working the overtime.

The effect of the FWC's determination - if confirmed - would be to reduce the TOIL entitlement from time off being linked to overtime rates to TOIL being made available on a hour for hour basis.

In the conference before DP Kovacic, His Honour requested that MEAA make contact with the legal representatives of commercial radio in Australia to seek the CRA's view on MEAA's position.

I would therefore be grateful if you could seek the views of your client on the above issue and advise me and DP Kovacic's chambers of any instructions that arise from that consultation.

I would of course be happy to discuss this matter over the phone.

Regards,

Matthew Chesher

Director, Legal and Policy

02 9333 0936

0422 411 772