

SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of submissions on technical and drafting issues lodged for this award on or before 5.00pm on 22 February 2017.

The summary has been revised to include feedback from the conference on 20 April 2017 ([Transcript](#)).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	ADG	Sub-13/02/17	Various	Calculation of overtime Proposals to change calculation of overtime to payable at the ‘minimum rate of pay for a classification’ or the ‘ordinary hourly rate’ are inconsistent with current award provisions and would result in significant reduction in pay. 7 NW	Paras 12-15	Parties believe ordinary hourly rate and minimum hourly rate may have been used incorrectly. Seek. Further discussions to take place between interested parties before 12 May. Transcript PN 22.
2	7 NW	Sub-18/01/17	2	Ordinary hourly rate Replace ‘an’ with ‘the’ directly after ‘which’ and just before ‘employee’.	Para 3.2, pg 6 of Att A	Agreed. Transcript PN 28. Exposure draft has not been updated because matter re-listed 12 May 2017.
3	AEIA	ReplySub-22/02/17	2	Loaded minimum hourly rate Notes new definition inserted in ED. Submits it will cause confusion and ambiguity and should be deleted.	Para 3(b)	
4	7 NW	Sub-18/01/17	4.2	Broadcasting and recorded entertainment industry Delete term as it is already included in the	Para 3.2, pg 7 of Att A	

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				definitions.		
5	7 NW	Sub-18/01/17	4.4	Coverage Should include reference to Part 6— Termination of Employment and Redundancy.	Para 3.4	
6	ABI & NSWBC	Sub-18/01/17	5	Effect of variations made by the Fair Work Commission This clause should be a subclause of clause 1. Title and Commencement.	Para 2.1	Provision is contained as a discrete clause in all Group 4 EDs in accordance with plain language principles [2016] FWC 2924 , see para [4].
7	CPSU	Sub-21/12/16	7.2	Facilitative provision—Radio Broadcasting—meal break during shift <i>In response to question raised by Commission</i> 'Employees' could be read as an individual employee or group of employees.	Para 3	
	AFEI	Sub-18/01/17		Agreement under cl 40.3 should be amended to also provide for agreement between an individual employee and an employer.	Para 12	
	ABI & NSWBC	Sub-18/01/17		Under cl.40.3, agreement can be reached on an individual basis.	Para 4.1	
8	7 NW	Sub-18/01/17	7.2	Facilitative provision Payment of wages to be included as a facilitative provision.	Para 3.2, pg 10 of Att A	
9	7 NW	Sub-18/01/17	9.1	Full-time employment	Para 3.5	

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				'is an employee who is' should be reinserted.		
	CPSU	Repliesub-22/02/17		Supports 7 NW's proposal.	Para 4	
10	7 NW	Sub-18/01/17	10.1	Part-time employment 'is an employee who' should be reinserted.	Para 3.6	
	CPSU	Repliesub-22/02/17		Supports 7 NW's proposal.	Para 4	
11	7 NW	Sub-18/01/17	10.1(a)	Part-time employment 'works' inserted at start of sentence.	Para 3.2, pg 12 of Att A	
12	7 NW	Sub-18/01/17	10.2	Part-time employment 'is entitled to' inserted just after 'employee' and just before 'receive'.	Para 3.2, pg 12 of Att A	
13	7 NW	Sub-18/01/17	12.3(h)	Cadet training requirements and related matters <i>In response to question raised by Commission</i> Yes, the requirements are up to date.	Para 4.1	
14	7 NW	Sub-18/01/17	12.3(h) (iii)	Cadet training requirements and related matters Reference should be '12.3(h) and (ii)'.	Para 3.2, pg 14 of Att A	
15	MEAA	Sub-21/12/16	13	Classifications and minimum wages Restore 'time' based formulas, rather than ED drafting which is 'percentage' based. Remove references to 'minimum hourly rate' that have been added to these clauses.	Paras 4-6	Also relates to clauses 16.3(c), 20.2(a)(i), 31.1, 32.2(a) & (b), 40.2, 40.5, 42.1, 42.2, 42.5, 42.6(a) & (b), 43.1(a)-(d), 44.1, 44.2, 44.4, 45.1(a)-(c), 45.3, 53.3(d)(ii), 55.1(b), 55.2, 57.3(b), 58.1, 59.3, 61.1(b), 61.2, 61.4(b) & (d), 75.1-75.3, 76.2, 78.2, 79.2(a)-(d),

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						80.4(a)-(c).
	AEIA	ReplySub-22/02/17		Would support MEAA's position where it could be shown employees would be disadvantaged by using percentage based formulas.	Para 4	
	7 NW	Repliesub-22/02/17		Opposes changes sought by MEAA. Submits they are not necessary or appropriate.	Paras 2.1-2.4, 3.1-3.4	
16	BCCL	Sub-18/01/17	13.4	Employees in cinemas 'This loading is payable for all purposes' be deleted.	Paras 13-16, 17, 18(1)	
	AEIA	ReplySub-22/02/17		'All purposes' has been included in ED. Supports retaining of current award provision instead.	Para 3(a)	
	AFEI	Repliesub-22/02/17		Agrees with submissions of BCCL.	Para 12	
17	7 NW	Sub-18/01/17	13.5(b) (iii)	Junior employees Add 'classification' to the end of sentence.	Para 3.2, pg 18 of Att A	
18	7 NW	Sub-18/01/17	13.7	Classifications—cadets Word 'weekly' should be included between 'minimum wage'.	Para 3.7	
19	AFEI	Sub-18/01/17	13.11	Musicians (other than session singers) <i>In response to question raised by Commission</i> Rates are not hourly rates but are payable per engagement.	Para 13	
20	7 NW	Sub-18/01/17	14.2	First-aid allowance Amend clause to clarify different application of allowance to full-time	Para 3.8, pg 22 of Att A	

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				employees and part-time/casual employees. Provides drafting.		
	CPSU	Repliesub-22/02/17		Supports 7 NW's proposal.	Para 5	
21	7 NW	Sub-18/01/17	14.3(c)	Uniform allowance Replace 'the' with 'an' for the first two occurrences in sentence.	Para 3.2, pg 24 of Att A	
22	MEAA	Sub-21/12/16	14.3(d)	Telephone rental allowance <i>In response to question raised by Commission</i> Agrees to update for mobile phone costs.	Para 10	
	CPSU	Sub-21/12/16		Does not object to clause being modernised to clarify it applies to mobile phones as well.	Para 4	
	7 NW	Sub-18/01/17		Allowance does not need to be updated to refer to mobile phone costs. Clause refers to telephones (which would include mobile phones) and is limited to rental costs.	Para 4.2	
23	7 NW	Sub-18/01/17	16.2	Annual leave Amend clause to more closely reflect provisions of s87(1)(b) of FW Act.	Para 3.9, pg 26 of Att A	
	CPSU	Repliesub-22/02/17		Does not support or oppose the inclusion of additional words.	Para 6	
24	7 NW	Sub-18/01/17	16.3	Annual leave Amend clause to more closely reflect provisions of s87(1)(b) of FW Act.	Para 3.9, pg 27 of Att A	
	CPSU	Repliesub-22/02/17		Does not support or oppose the inclusion of additional words.	Para 6	

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25	CRA	Sub-21/12/16	16.7(a)	Annual leave loading Clause should be deleted and replaced. New clause should also be added following 16.7(b) to provide further clarification. Provides draft wording.	Paras 2-5	
	7 NW	Sub-18/01/17		Insert reference to clause 32.1(d) after 'subject to clause'.	Para 3.10, pg 28 of Att A	
	CPSU	Repliesub- 22/02/17		Supports 7 NW's proposal to change referencing to exclude cl.32.1(d)	Para 7	
	AFEI	Repliesub- 22/02/17		Agrees with CRA.	Para 14	
	ABI & NSWBC	Repliesub- 22/02/17		Supports submissions of CRA and 7 NW.	Para 3.1	
26	7 NW	Sub-18/01/17	29.3(b)	Ordinary hours of work and rostering Replace all 'ordinary' terms with 'minimum'.	Para 3.2, pg 34 of Att A	
27	7 NW	Sub-18/01/17	29.6(d)	Rostering Words 'if applicable' to be inserted at the end of the clause.	Paras 3.11- 3.12	
	CPSU	Repliesub- 22/02/17		Should be 'where applicable' rather than 'if applicable'.	Para 8	
28	7 NW	Sub-18/01/17	30.1	Meal breaks ED drafting is ambiguous. Provides suggested amended drafting.	Paras 3.13- 3.14, pg 35 of Att A	
	CPSU	Repliesub- 22/02/17		Does not agree re potential ambiguity, but it is not opposed to the proposed changes to revert to current award wording.	Para 9	
29	7 NW	Sub-18/01/17	31	Overtime – Television Broadcasting	Para 3.15, pgs	

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				Cl 29.1 current award has been left out of ED. Reinstate provision as new cl 31.1 and renumber clauses accordingly. Insert 'notwithstanding clause 31.2 to 31.4' in front of 'An employee may elect...' Replace 'ordinary' with 'minimum' wherever it appears in sub clause.	36-37 of Att A	
	CPSU	Repliesub-22/02/17		Opposes changes sought by 7 NW. ED drafting is appropriate.	Paras 10-11	
30	7 NW	Sub-18/01/17	32.1(a)	Shift duty allowance – night shift ED drafting misleading. Remove subclause title and reinsert 'Subject to the provisions of clause 32.1(c)...' at start of clause.	Paras 3.16 – 3.18, pg 38 of Att A	
	CPSU	Repliesub-22/02/17		Supports retention of current wording, but does not support the removal of title.	Para 12	
31	7 NW	Sub-18/01/17	32.1(b)	Shift duty allowance – morning shift ED drafting misleading. Remove subclause title and reinsert 'Subject to the provisions of clause 32.1(c)...' at start of clause.	Para 3.16 – 3.18, pg 38 of Att A	
	CPSU	Repliesub-22/02/17		Supports retention of current wording, but does not support the removal of title.	Para 12	
32	7 NW	Sub-18/01/17	32.1(c)	Shift duty allowance – extra shift duty allowance Remove subclause title.	Para 3.16 – 3.18, pg 38 of Att A	
33	7 NW	Sub-18/01/17	34.2(a)	All purpose allowances Conflict with overtime provisions. Insert 'except where otherwise specified' at start	Para 3.19 – 3.20, pg 40 of Att A	

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				of clause.		
	CPSU	Repliesub-22/02/17		Does not support proposed alteration by 7 NW.	Para 13	
34	CPSU	Sub-21/12/16	34.2(h)(i)	Videotape editing allowance Final dot point should be a standalone paragraph as per current award cl.32.17(a).	Para 6	
35	CPSU	Sub-21/12/16	34.2(j)(i)	Director who works as a producer <i>In response to question raised by Commission</i> Refers to the pre-reform <i>Television Industry Award 2000</i> cl.25.6. Submits loading is based on the minimum wage for that Directors classification.	Para 5	
	7 NW	Sub-18/01/17		Allowance applies to the relevant minimum rate for the director's classification. Producers not covered by the award.	Para 4.3	
	ABI & NSWBC	Repliesub-22/02/17		Supports 7 NW's submission.	Para 3.2	
36	MEAA	Sub-21/12/16	34.3(g)(ii)	Reimbursement for insurance against death or disability outside Australia – Exposure Submits ED drafting is confusing. Retain current award cl.32.14(b)(i) wording.	Para 7	
	7 NW	Sub-18/01/17		ED drafting confusing. Reinstate 'where' instead of 'because'.	Para 3.21, pg 45 Att A	
	CPSU	Repliesub-22/02/17		Supports 7 NW's submission.	Para 14	

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37	CPSU	Sub-21/12/16	40.2	Meal breaks—technical staff Terms ‘minimum hourly rate’ in ED contrasts with cl.38.1 in current award where term ‘ordinary rate of pay’ is used. Current award terminology should remain.	Para 7	
38	MEAA	Sub-21/12/16	43.1	Overtime—Technical staff <i>In response to question raised by Commission</i> Clause needs to be considered and applied in conjunction with cl.38 ED.	Para 11	
	CPSU	Sub-21/12/16		Overtime provisions for technical staff derive from cl.31.1 in the pre-reform <i>Television Industry Award 2000</i> . ED should be amended to reflect when overtime occurs consistent with the predecessor instrument.	Paras 8-9	
	ABI & NSWBC	Sub-18/01/17		Overtime for Technical staff should be assessed with reference to cl.36-Hours of Work-Technical Staff.	Para 4.2	
39	MEAA	Sub-21/12/16	44.4	Shift penalties <i>In response to question raised by Commission</i> Agrees ‘midnight to dawn shift’ should be defined.	Para 12	
	7 NW	Replsub-22/02/17		Shift penalties are calculated on the basis of minimum rates and this should be maintained.	Para 3.4(c)	

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40	7 NW	Sub-18/01/17	45.1	Hours of work Structure of cl.45.1 in current award should remain.	Para 3.22	
41	7 NW	Sub-18/01/17	49.1	Rostering 'if applicable' to be inserted at the end of sentence.	Para 3.23	
42	MEAA	Sub-21/12/16	51.2	Shift penalties—higher penalties <i>In response to question raised by Commission</i> Where shift attracts both penalties, only the higher penalty will apply. Does not mean the hourly shift penalty rate payable must be less than or equal to the minimum hourly rate for Grade 5 (or Grade 3).	Para 13	
	7 NW	Sub-18/01/17		The highest rate on which the penalty will be calculated is Grade 5 (or Grade 3). Only concerned with the additional payment component – not the aggregate hourly rate.	Para 4.4	
	ABI & NSWBC	Sub-18/01/17		The provision caps payments under cl.51 to the amount payable for Grade 5 (or Grade 3 as the case may be).	Para 4.3	
43	BCCL	Sub-18/01/17	57.4(b)	Casual employment ED drafting is a substantive change. Delete the word 'loaded'.	Paras 9-12, 17, 18(2)	
	AFEI	Repliesub-22/02/17		Agrees with submissions of BCCL.	Para 13	
44	MEAA	Sub-21/12/16	57.3(b)	Part-time employment ED wording could cause confusion.	Para 8	

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				Amend to: 'A part-time employee receives <i>no less than</i> the minimum hourly rate for ordinary hours worked'.		
45	MEAA	Sub-21/12/16	66.2, 67, 68	Wage-related allowances, meal breaks and overtime <i>In response to question raised by Commission</i> Does not believe a method of calculation is required to determine the overtime rate.	Para 14	
	ABI & NSWBC	Sub-18/01/17		Yes to both questions.	Para 4.4, 4.5	
46	MEAA	Sub-21/12/16	66.2(b)	Climate allowance Typographical error. 'At a' should be removed from line 5.	Para 9	AMOD: error – ED amended
47	ADG	Sub-13/2/17	80.3	Motion Picture Production – Overtime Error in ED limiting prescheduled overtime to a maximum of 2 hours a day. Submits the reference to 2 hours be deleted and replaced with 2.4 hours or 2 hours and 24 minutes.	Para 17	
48	MEAA	Sub-21/12/16	81.2	Calculations of penalties and provision of rosters <i>In response to question raised by Commission</i> Clause should refer to 'gross agreed remuneration' not minimum rates in cl.12.	Para 15	See Paras 4, 5, 6 of submission re: minimum hourly rate.

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	ABI & NSWBC	Sub-18/01/17		Should refer to minimum rates in cl.13 rather than the 'gross agreed remuneration'	Para 4.6	
49	7 NW	Sub-18/01/17	Sched E	Summary of hourly rates of pay – cinema workers Would like a summary of wage rates provided in ED for the remaining streams.	Para 3.24	

List of abbreviations (in alphabetical order)

7 NW	7 Network (Operations) and others
ABI & NSWBC	Australian Business Industrial and NSW Business Chamber
ADG	Australian Directors Guild
AEIA	Australian Entertainment Industry Association
AFEI	Australian Federation of Employers and Industries
BCCL	Birch Carroll & Coyle Limited and others
CRA	Commercial Radio Australia
CPSU	Community and Public Sector Union
ED	Exposure Draft
MEAA	Media, Entertainment and Arts Alliance