

From: Adrian Boothman [mailto:adrian@askhaba.com.au]

Sent: Friday, 10 June 2016 1:03 PM

To: AMOD

Cc: 'Vanessa Weaver'

Subject: HABA submission of evidence for AM2014/197 - Casual Employment

Importance: High

Dear Michelle,

Please find attached Hair and Beauty Australia Industry Association's final comprehensive written submissions for the common claims pertaining to matter AM2014/197 – Casual Employment.

Regards,

Adrian Boothman

Senior Industrial Relations Advisor



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20.5.2016

To Whom It May Concern

Dear Sir/Madam,

Re: FWC Submission

We are owner of Australia Skin Clinics (ASC) Browns Plains which is a small business operate under regulation of franchise system. As a new business trading less than a year we'd like to express and highlight our concerns related to following proposals which will be impacted on us significantly.

Proposal:

“The SDA also seeks to vary clause 11 of the Award to include a minimum shift of 4 hours for full-time employees. There is currently no minimum shift entitlement for full-time employees.”

Response:

Extra cost imposed on us by a minimum engagement would have a detrimental effect on us providing training for our staff.

It has been already very hard to provide and pay for training to improve our employee's skills. As our business is working on very low margin and to increase the expense of training staff would make training non-existent. A further complication would be that as the trainings are usually organized after trading hours to minimize loss of trade during training hours, we would have to pay overtime for trading with minimum 4 hours.

We have been already struggling to employ laser therapists because of low supply of qualified due to legislative requirements and the time and training required to become licensed. It already involves high cost to us to train unqualified staff.

Therefore, we as small business owner are of the opinion that this proposal would make providing this training unaffordable for us. Any further financial distress will make our business unviable. As consequence we will not able to survive for trading anymore.

Proposal:

“A casual employee, other than an irregular casual employee, who has been engaged by their employer for a sequence of periods of employment during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment.”

Response:

A casual employers are paid a loading of 25% to offset the entitlements of being a part-time or full-time which gives a lot of casual staff more money in their pocket in each pay. In addition, the flexibility of being casual employee would allow us to issue more working hours when needed by our business. This is a win for employees who need more money for their day to day living and a necessary benefit to us to pay only productive hours for the business.

We will not able to afford to employ permanent part time or full time staff as routine as it is reality that in busy periods, causal staff are essential while in quiet periods permanent staff will be a drain on probability. Where it helps us is that if an employee is unable to attend work for whatever reason we would be in a position to engage another casual to cover that position. If we are forced to pay entitlements for full-time or part-time employment in this instance, we in my view would be less likely to engage another casual to cover.

Proposal:

“Casual employees are entitled to a 25% loading to offset leave entitlements which they do not receive, including, annual, personal and compassionate leave. Currently, their casual loading on Saturdays and Sundays is fully absorbed by the weekend rates. The SDA is seeking the full casual loading for such employees at all times which incur penalty rates.”

Response:

This proposal is not acceptable at all for our business. We will again not able to survive with this proposal due to unbearable financial pressures. This increase is not sustainable as it would add extra 47% wage loading to the cost of weekend casual staff. As our business located in a large shopping centre where both the rent we pay and lease terms already reflect the shopping centre’s requirement for weekend trading. We have no doubt that this proposal will take us to closing our business and then of course our staff will lose their jobs. It seems that SDA has clearly failed to recognize the amount of financial pressure on our business.

In summary, the proposed changes by SDA will not be acceptable for our business as they will generate a financially unviable situation.

Yours Sincerely,

Adem and Saliha Can
Owner of Australian Skin Clinics (ASC) Browns Plains
Browns Plains/Queensland

Contact telephone: 0402435747
Email: adem_can@hotmail.com



20 May 2016

To Whom It May Concern:

Re: Review of Modern Award (Hair and Beauty Industry Award 2010).

As it currently stands, our salon Artistry Hair Professionals located in Stockland, Balgowlah since 2013 is in what some would call a 'prime' location with a high disposable income. Superficially, you would say it has all the hallmarks to be an outstanding and highly profitable business. However, let me paint a realistic image of what is really going on at the 'grass roots' level so you can appreciate the gravity of your proposed changes to the award.

In 2009 we started with our original salon in Warringah Mall, then acquired the Stockland, Balgowlah in 2013. With the post-GFC damage control, much of the community had tightened up their 'financial belts' in fear, cutting back on all expenditure, and in particular luxury spending. This meant clients were either delaying their colour services, taking up D.I.Y. options or just stopping altogether. This fact, with the large rental costs and compulsory 7-day trading, meant that our wages were blowing out to being unsustainable. Due to the foreseeable financial crisis we were about to face, we choose to close this business down, as our wage % was in excess of 45%. Furthermore, on the Northern Beaches of Sydney, we struggled to find sufficient and skilled staff, and apprentices to take up such career paths, meaning that we were forced to take up adult casual labor as a 'salon assistances' and worse still had to look at employing 'overseas' immigrants over Australians.

In this case alone, we believe this was a sad situation at many levels, and to reiterate:

- Closing the salon resulted on 6 positions being lost in the hairdressing industry.
- Opportunities for new apprentices were available in our salon, but no applicants on Northern Beaches.
- Due to the skill shortage, we had to resort to employee immigrants with fair, but limited skills.
- As a result of employing immigrants, we were forced to pay the unpalatable minimum rate of \$55K plus all of the other legal and processing costs for in effect 2-3 years of babysitting until their got their lottery ticket.....Australian Citizenship.
- The cost of wages for staff in a 7-day trading business become impossible due to penalty rates then!!!

Today, we only have the Stockland, Balgowlah site and the circumstances are no different. At grass roots our what would appear affluent consumers are not spending, and we are facing a similar predicament to post-GFC. With interest rate s dropping, the government is trying to stimulate spending. It is simple mathematics!!! We now have declining revenue, rental increases at 5%, a lack of young Australian apprentices, a 7-day trading week and wages that are on weeks above 50%. To run a successful salon, we need to keep our staff motivated and whilst we appreciate staff must be paid fairly, it is the extraneous benefits like 'staff training' that inspire these creative souls.



With the proposed changes by the SDA, I will guarantee the following within our business:

- No training will take place other than a very limited amount during standard business hours.
- No extra-curricular training will be offered in any capacity where we are obliged to pay by law.
- No after hours mentoring and business building opportunities will be forthcoming.
- No casual will be entertained the idea of a part-time or permanent offering on their volition because invariably we will not be able to pay them based on the proposed changes. We need to have a flexible arrangement with staff (aka: casuals) due to elastic nature of the business, and cannot commit to a fixed schedule when there is no demand. Hence, I will have to 'dismiss' them and start looking for other staff, which we cannot find anyway. This is simply a "LOSE-LOSE" situation for all.
- As the loading stands we struggle to contain our wages bill, and we absorb the business losses in the quieter months, and hopefully trying to recoup this in the busier months. With the proposed changes, our business is no longer sustainable.
- Finally, we will close the business because we run our business on a financial 'knife-edge' currently. These changes would be nothing short of 'suicide' for our business, resulting in the loss of jobs, almost \$200,000 in capital and stock losses for a non-profitable business and the emotional turmoil, including family and staff.

I think the only way the union and its members can appreciate the severity of their proposal is to genuinely put their feet in the shoes of the small business owner. Our businesses are 24/7, and we take the capital risk and leap of faith to grow ourselves, our employees and their families, and support our community through the services we offer.

The ANZAC Legend was all about the spirit of our Australian people. You know '*the tough Aussie Batter...The Digger!*' The problem we face is employers 'cannot win' this battle with these proposed changes. Business should not be a '*tough battle*' we face everyday. Sure, we accept the ups and downs of business. But our hairdressing and beauty businesses should be a WIN-WIN-WIN-WIN. A win for the employee, a win for the employer, a win for our clients, and a win for the small business where we support local jobs.

If these changes do go ahead, I will become an 'employee' because I can't just lose. Well....that is if I can find a job in a salon that can afford to pay me the proposed amendments.

Kind Regards

Alfie Arcidiacono

Alfie Arcidiacono
Salon Director



PLEASE KEEP A COPY OF THIS LETTER FOR YOUR RECORDS

To Whom it May Concern

FWC Submission

I write as the Master Franchisor of Australian Skin Clinics which is a group of 22 Aesthetic Clinics located in Queensland, Victoria and NSW. As a franchised business, each individual unit is owned by an individual franchisee and each unit is therefore an independent small business.

I am also a board member of the Hair and Beauty Association (HABA) and as such have access to a wealth of information about how the proposed changes will affect the global Hair and Beauty industry in Australia should the proposed changes to the Hair and Beauty Award be implemented.

Below I address each point in turn:

Proposal:

“The SDA seeks to vary clause 11 of the Award to include a minimum shift of 4 hours for full-time employees. There is currently no minimum shift entitlement for full-time employees.”

Response: There are several key issues around this proposal being-

1. It is already difficult for small businesses within the sector to provide and pay for training. Much of the industry training is provided in short sessions of 2-3 hours to avoid reduced availability of bookings for clients and the resultant financial impact on the business. The imposition of a 4 hour minimum shift for casual staff (and the respective wage costs for the additional time) will add a further obstacle to salon owners to provide training as the extra time poses additional cost.
2. A further complication would be that if a training session that was organised and paid for by the employer went for 2 to 3 hours after trading hours (a common occurrence to minimise loss of trade during training periods) the employer would have to pay
 - over time for the training
 - increased by a minimum engagement of 4 hours

The result would be to make provisions of training unaffordable for the business owner.

3. Legislative requirements for staff operating in the area of laser therapies in Queensland already provides significant obstacles including:
 - a. Low supply of qualified staff due to the licensing requirements and the time and training required to become licensed.
 - b. High cost to businesses to training un-qualified staff to facilitate the demands of consumers in this sector.

These legislative and licensing requirements are currently being considered at a national level. Training is already a high cost and impacts small businesses considerably. Increasing the minimum engagement to four hours only serves to increase the costs in this sector. This

is causing businesses considerable financial distress and threatens to make the industry financially unviable without significantly increasing the cost of services to the end consumers.

4. Many employees in the industry choose this nature of work because it provides them with the opportunity to be flexible around family commitments.

The majority of businesses are now opening extended hours both in evenings and weekends which in turn provide greater job opportunities for precisely those staff that desire to work these hours because their partners and/or other support network can help out in these periods thus reducing their child care costs. It is therefore unfair to penalise employers by enforcing minimum 4 hours shifts while at the same time the result of this would be to reduce availability of staff in the industry.

Proposal:

“A casual employee, other than an irregular casual employee, who has been engaged by their employer for a sequence of periods of employment during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment.”

Response:

Casual employees are paid a loading of 25% to offset the entitlements of being a part-time or full-time. This provides these employees with significantly more money in their pocket in each pay. In addition, the flexibility of being a casual employee would allow the employer the flexibility to offer more working hours when needed by the business. This is a win for employees who need more money for their day to day living and a necessary benefit to the employer of paying only productive hours for the clinic.

Small businesses cannot afford to employ permanent part time or full time staff as routine especially in an industry where the work is scheduled erratically and not by formal contracts as may be in the case of a B2B industry. This means that in busy periods, casual staff are essential while in quiet periods permanent staff will be a drain on profitability.

The effect of this clause would simply be that employees would terminate casual staff prior to the 6 month period to avoid being put in a position where they would be forced to offer permanent work that they could not afford to fund.

Proposal:

“Casual employees are entitled to a 25% loading to offset leave entitlements which they do not receive, including, annual, personal and compassionate leave. Currently, their casual loading on Saturdays and Sundays is fully absorbed by the weekend rates.

The SDA is seeking the full casual loading for such employees at all times which incur penalty rates.”

Response:

The SDA has clearly failed to recognise the financial pressure that businesses would suffer as a result of this proposal. The end result would be loss of businesses, reduction in numbers of employers and loss of jobs for staff in the industry.

This increases is not sustainable as

- The increase would add an extra 47% wage loading to the cost of weekend casual staff
- Aesthetic/Beauty businesses are located in shopping centres where both the rent and lease terms reflect the shopping centre's requirement for weekend trading. Employers will be faced with choosing between landlord fines for not opening on weekends or potential bankruptcy through additional staffing costs

- The Aesthetic/Beauty industry operates in a highly competitive environment where margins are already lean and cannot sustain these increases.

It is the view of our organisation that the SDA has lost focus of the key issues at play.

Increased costs to businesses are likely to impact businesses in the marketplace. Competition in the marketplace is already fierce and has had a negative impact on profitability and financial viability. We anticipate that such changes will likely cause small businesses to lose the ability to compete with larger resource rich businesses. Growth of jobs and continuing staff employment are both reliant on business growth. The SDA's proposals serve only to thwart and suffocate businesses. Ultimately reduction in businesses equals reduction in jobs – it is clear that the SDA has not recognised this key relationship.

The Australian Government has recently completed an extensive review of Competition Policy in Australia. Competition policy plays an important role in improving government performance by promoting user choice and encouraging a diversity of providers. As a result of the Policy, the Review Panel recommended that legislation or government policy should not restrict competition unless the benefits of the restriction to the community as a whole outweigh the costs.¹ Importantly, the review recommended changes to prevent:

- a. The imposition of excessive restrictions on the market which may result in the misuse of market power; and
- b. Unilateral conduct that substantially harms competition.²

It is our position that changes to this Award will serve to impact competition in the marketplace and contravene the Competition Policy.

Yours sincerely

Deb Farnworth-Wood
Managing Director Australian Skin Clinics
Board Member of Hair and Beauty Association (HABA)

¹ Competition Review Final Report, 31 March 2015 pg 97

² Competition Review Final Report, 31 March 2015 pg 10

19th May 2016.

To Whom It May Concern.

Fair Work Commission Submission:

My name is Graham Thatcher, I am a director of our family company Comboyuro Pty Ltd and we are multi-site franchisees in the Ella Bache network. We have owned as many as five Ella Bache Beauty Salons, but after selling one and closing one over the past year, we currently own and run three.

We currently employ 25 staff across the three remaining locations, with a split of 9 x full time, 3 x part time and 13 x casuals. Two of our salons are open 7 days per week, and one opens six days per week. All of our salons are metro based and are located in shopping centres. Under the terms of our leases we are obliged to open seven days at one location, and six days in the other two locations, with Sundays being optional. Our revenue is generated by an approximate mix of 70% salon treatments and 30% product sales.

We are a service based industry, requiring a therapist per client per salon treatment. This means wages as a percentage of revenue will normally be higher other retail industries.

I also currently hold the positions of Director of Hair and Beauty Australia, and the Chairman of the Ella Bache Franchise Advisory Council.

My responses to the SDA's proposals for amendments to the Hair and Beauty Industry Award 2010 are as follows:

"Casual employees are entitled to a 25% loading to offset leave entitlements which they do not receive, including, annual, personal and compassionate leave. Currently, their casual loading on Saturdays and Sundays is fully absorbed by the weekend rates.

The SDA is seeking the full casual loading for such employees at all times which incur penalty rates."

Response:

These are actual examples from one of our salons for two recent weekend's trading:

Saturday 7th May:

- 7 staff rostered for 8.5 hours of trade. 3 x permanent, 4 x casual.
 - Total revenue \$4,986.
 - Total wages & super \$1,861 (Saturday penalty rates).
 - Gross rent \$730 per day.
 - COG's (estimate) \$1,300.
 - Total costs \$3,891.
- This makes no allowance for other business costs including GST, phones & Internet, merchant and bank fees,

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- marketing, interest & debt payments, insurance, accounting, repairs & maintenance, uniforms, directors.
- Daily surplus \$1,095 less other business costs.
- Proposed increase to casual penalty rates would add an additional \$395 to wages for this day and reduce further this daily surplus.

Sunday 8th May:

- 7 staff rostered for 6 hours of trade. 2 x permanent, 5 x casual.
- Total revenue \$3,167.
- Total wages & super \$1,958 (Sunday penalty rates).
- Gross rent \$730 per day.
- COG's (estimate) \$450.
- Total costs \$3,138.
 - This makes no allowance for other business costs including GST, phones & Internet, merchant and bank fees, marketing, interest & debt payments, insurance, accounting, repairs & maintenance, uniforms, directors.
- Daily surplus \$29 plus other business costs.
- Proposed increase to casual penalty rates would add an additional \$173 to wages for this day and increase the trading loss for the day.

Saturday 14th May:

- 7 staff rostered for 8.5 hours of trade. 3 x permanent, 4 x casual.
- Total revenue \$4,735.
- Total wages & super \$1,861 (Saturday penalty rates).
- Gross rent \$730 per day.
- COG's (estimate) \$1200.
- Total costs \$3,791.
 - This makes no allowance for other business costs including GST, phones & Internet, merchant and bank fees, marketing, interest & debt payments, insurance, accounting, repairs & maintenance, uniforms, director's wages.
- Daily surplus \$944 less other business costs.
- Proposed increase to casual penalty rates would add an additional \$395 to wages for this day and reduce further this daily surplus.

Sunday 15th May:

- 6 staff rostered for 6 hours of trade. 2 x permanent, 4 x casual.
- Total revenue \$3,337.
- Total wages & super \$1,671 (Sunday penalty rates).
- Gross rent \$730 per day.
- COG's (estimate) \$550.
- Total costs \$2,951.
 - This makes no allowance for other business costs including GST, phones & Internet, merchant and bank fees, marketing, interest & debt payments, insurance, accounting, repairs & maintenance, uniforms, director's wages.
- Daily surplus \$386 less other business costs.

- Proposed increase to casual penalty rates would add an additional \$136 to wages for this day and increase the trading loss for the day.

Summary:

- We currently lose money on every Sunday that we trade.
- We are unable to close on Sundays due to the requirements of our lease.
- Proposed increase to casual Sunday penalty rate would be between 8% and 9% to Sunday wages.
- This represents around \$8,000 in additional wages per annum.
- Proposed increase to Saturday penalty rate would be around 21% to Saturday wages.
- This represents around \$20,540 in additional wages per annum.
- This would be equivalent to a full year increase of 4.8% of total wages. (Based on FY 15.)

As the Chair of the Ella Bache Franchise Advisory Council, I have the opportunity to communicate with many Ella Bache Franchisees on a regular basis. The feedback I constantly receive is that the introduction of weekend penalty rates to the Beauty Salon industry has resulted in the closure of many salons on Sundays, because it is no longer viable to open.

The result of this is that while the Union movement are able to claim that employees are better off because of weekend penalty rates the reality in this industry is that, due to weekend penalty rates, the hours available for employment are declining, so employees are actually worse off.

Across the beauty salons that we have had in our group, we have stopped trading on Sundays in two of those salons and we are about to stop in a third. The only salon that will remain open on Sundays will be due to the requirements of the lease.

This means three to four employees, per salon, losing six rostered hours each of employment per week.

"A casual employee, other than an irregular casual employee, who has been engaged by their employer for a sequence of periods of employment during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment."

Response:

While I acknowledge the benefits to employees of permanent employment over casual, the employment of casual employees is critical to the Beauty Salon industry because of the need for flexibility of hours.

There are multiple reasons why flexibility is needed such as:

- Unexpected increases/decreases in bookings.
- Unplanned leave.
- Planned leave.
- Illness.
- Training requirements.
- Seasonal changes to business.

Because of following the restrictions of permanent full time and permanent part time employment, it makes the mandatory conversion from casual employment, totally unviable for employers in the Beauty Salon industry:

- Changes to rosters can only occur with seven days written notice and only if both parties agree.
- While the award provides 48 hours' notice for emergencies, this is still unviable due to the nature of emergencies usually requiring immediate responses.
- Overtime penalty rates being paid for every hour in excess of the agreed hours for a part time employee, despite not having worked a full 38 hour week.

If these restrictions to flexibility were removed then there may be a case for employers to agree to the mandatory offering of conversion to permanent employment.

"The SDA also seeks to vary clause 11 of the Award to include a minimum shift of 4 hours for full-time employees. There is currently no minimum shift entitlement for full-time employees."

Response:

The issue again for us, as employers in the Beauty Salon Industry is one of flexibility. We often have shifts of three hours to cover increases in workloads over busy times of the day. This would mean that with a four minimum we are paying an employee for an hour with potentially no return.

The award currently makes provision for minimum shifts of three hours for casual and part time employees and that usually works for our industry. Why then does the Union movement say that full time employees require four hours? We would be happy to agree to three hours which brings full time into line with casual and part time, which is the way we currently operate anyway.

It is my view that these proposals by the SDA take into no account the fact that the great majority of businesses in this industry are small businesses owned by small family run companies and partnerships. Since the introduction of the Hair and Beauty Industry Award 2010, as part of the new Modern Awards, the margins in our industry have become almost unsustainable.

This has come about not just because of the increase in employments costs, brought on by the introduction of this Modern Award, but also the growth in rents and costs generally, increased competition and the general downturn in the economy over recent years. However, it is my opinion that if these proposals by the SDA are approved, it will be the tipping point for a large number of these small businesses in our industry to become unviable with the inevitable result of closures and bankruptcies.



Graham Thatcher – Director.
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MARK GARDNER

16.05.2016

Proposed changes to Modern Award Hair and Beauty 2010

To whom it may concern,

I am strongly opposed to the proposed changes that have been brought to my attention by the Hairdressing and Beauty Association.

I can assure you that these changes will cause irreparable damage to this already struggling Industry.

In relation to Clause 11 this would mean that some employees would have to be exempt from training programs as we simply could not sustain a four hour pay for a 1-2 hour training session. It is impossible to find a time when all staff are roster to work on the same day so some employees are asked to attend training on their roster day off and they are usually willing to earn the extra money and have training rather than miss out.

Casual employees enjoy the flexibility this employment gives them. These people would leave the industry if they were forced to work 38 hours regardless of client booking fluctuations etc. I don't believe any casual is going to demand full time or permanent part time after six months however if they did it would depend on the individual performance as to whether we could keep them employed.

If the penalties went higher for casuals then it might as well be abolished for Hairdressing, as no employer would employ a casual. Then, having to employ permanent full time as a result, we would not be able to afford Apprentices as well. Also, the casuals will go back to doing hair at home with no insurance and no tax or gst being paid.

In my seven salons I would be expecting to have to terminate a minimum of 10 employees. I cannot see how I could sustain any training or continue to employ Apprentices.

This has simply gone too far and I see it as the end of the Hairdressing Industry. There will be a closing down of up to 50% of salons in the first twelve months.

In my salons we have enjoyed the return of casual employment and so have many hairdressers that would normally work from home. The Industry has taken a beating with the number of people poaching clients through social media to do they're hair at home at much lower rates.

Most Hairdressers would rather be in a salon and enjoy the social aspect of being in a team however without flexibility it is hard to keep these people. My casual





MARK GARDNER

staff run their own appointment schedule around their personal lives i.e children and family, and also around client availabilities. They will book a client before opening and then leave before normal closing time etc. This works very well for the Hairdressing Industry. And it helps us with our battle of home hairdressing, which is also ruining the Industry.

Under permanent full time there is no flexibility and hairdressers don't like to work under this system however we will be forced to only offer it if these changes are made.

MARK GARDNER



20 May 2016

Submission to FWC from Michel Zabik

Dear Commissioner,

My name is Michel Zabik. Together with my wife Jacinta, we are the owners of an Australian Skin Clinics franchise in the very average region of south east Queensland known as Logan. My submission is a very real account of the impact the proposed amendments will have on our business.

“The SDA also seeks to vary clause 11 of the Award to include a minimum shift of 4 hours for full-time employees. There is currently no minimum shift entitlement for full-time employees.”

Extra cost imposed on employers by a minimum engagement would likely have a detrimental effect on employers like me in small business providing shorter shifts for their staff and also training for their staff. With budgets so tight, an employer like me will likely decline employing someone for a 2-3 hour shift, when we will have to pay for 4 hours. This will result in less work being offered. It is already very hard to justify providing and paying for training to improve employee's skills as our profitability is so low in the current economic environment. Most of the other clinics I speak with are just like me - working on very low margins and to increase the expense of training staff would further restrict our already limited ability to provide training.

“A casual employee, other than an irregular casual employee, who has been engaged by their employer for a sequence of periods of employment during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment.”

A casual employee is paid a loading of 25% to offset the entitlements of being a part-time or full-time employee. This is already compensation for the casual nature of their employment. A major benefit to the small business employer is flexibility to tailor their staffing requirements to the needs of the business.

If a small business employer is forced to pay for full-time or part-time employment without respect for the needs of the business, the employer in my view would be less likely to engage extra employees. The net effect of this policy is likely to be direct negative effect on the growth of the small business and lower overall employment in small business as we do not have the profitability to accommodate idle employees. Eliminating the casual employee will hurt small business. This would leave the employer short staffed during busy periods, affecting the profitability and long term viability and growth of his business, simply because he could not have a casual employee available for fear of the additional cost burden when they became part time/full time. In fact you may begin to encourage employers to dismiss a casual employee before they completed 6 months employment. A more sensible approach to this issue might be to restrict the percentage of employees that are casual at any

given time to an agreed percentage, say 50%, ensuring that the majority of employees are in fact full or part time.

“Casual employees are entitled to a 25% loading to offset leave entitlements which they do not receive, including, annual, personal and compassionate leave. Currently, their casual loading on Saturdays and Sundays is fully absorbed by the weekend rates. The SDA is seeking the full casual loading for such employees at all times which incur penalty rates.”

This proposal will cause significant hardship and I am sure will send many small clinics into bankruptcy. These increases are not sustainable and will jeopardize jobs, as outlined in the examples below:

Example 1. This is an example of a casual employee, Jessica, 20 years old, who works as a casual receptionist. She studies full time and works approximately 15 – 20 hours a week. She works most Saturdays. She currently earns \$27.66 an hour and generally does 7.5 hours on a Saturday. Her daily pay is \$207.45 gross.

If the SDA proposal came in she would earn \$40.48 per hour at a total of \$303.60 gross. This is a difference of \$96.15. This works out at \$4999.80 a year.

As you can see in this example this is only one employee working on a Saturday. My clinic trades 7 days a week and has several employees working on a Saturday. We cannot reduce the number of days we trade as the penalties from the shopping centre would be over \$1000 per day if we were closed. The suggested hikes in award rates will impact the viability of our business. I believe that others, who could reduce the number of operating days, will close Saturdays and Sundays because of the cost of staffing Saturdays and Sundays. The result will be a reduction in the number of jobs and in particular jobs that would suit students and the like who are only available to work on weekends.

The next example outlines the impact these changes would make to a clinic that trades 7 days a week and has 2 casuals working on the weekend. This is a very conservative view of only two employees.

Example 2. A clinic that employs two casual employees on a Saturday and Sunday.

Currently the hourly rate for these employees is \$26.77 on a Saturday and \$40.26 on a Sunday. If one works 5 hours and the other 7 hours on a Saturday that's a total of \$321.24 for the 2 employees. Under the SDA proposed rates this becomes \$481.92, a difference of \$160.68.

If both staff work 6 hours on a Sunday under the current pay rates they would earn a total of \$483.12. Under the SDA proposed rates this becomes \$679.32 a difference of \$196.20.

This will mean for 2 casual employees working two days a week, it will cost the employer an extra \$18,557.76 per annum. In our clinic we might have 4 or more employees on a Sunday. This is unsustainable for any small business and the chance of salons going into receivership will increase dramatically. Sadly the choice not to trade on a Sunday, while an attractive proposition, is not possible for many. The fines for not opening for a day in my shopping centre are over \$1000 per day. These proposals might be a short term win for the SDA but unfortunately the long term prospect of its members gaining and maintaining employment will be diminished.

Clearly the consequence of these changes is reduced employment and reduced training. It will put immense pressure onto an industry that is already struggling. In the specific case of our clinic I can tell you we are just trading month to month. Any extra expenses will impact our viability. I cannot raise our fees to cover these costs – I am located in a very average area, already most people cannot afford our services. In addition we are increasingly under threat by the economic downturn and home-operated salons that generally don't pay tax, don't employ or train apprentices, and create an unfair playing field for clinics. In conclusion I believe these changes would play a major part in reducing the number of jobs in our sector and reducing staff training development. In the specific case of our clinic, these provisions may mean we will have no option but to cease trading. Please consider these very important factors in your final decision.

Yours sincerely,

Michel Zabik.

Franchisee,
Australian Skin Clinics Loganholme Qld
Shop 12, Logan Hyperdome
Pacific Highway and Bryants Road
Loganholme, Qld 4129
Tel 07 3050 5990

Supercuts Hairdressing has been in business for the past 45 years, in Qld, SA, and A.C.T.

We currently employ 46 Full time staff, 28 casuals and 15 apprentices in 17 salons, in QLD & the ACT. Two years ago we employed 85 apprentices, but due to the economy and costs of employing them, which is now approx. \$530.00 p/w plus holiday & sick leave entitlements. We and many other salons are now not taking on Apprentices, and we wonder where this Industry will be in 5 years time?

Varying clause 11 of the award will not help either as most of our full-time staff do not do less than the required 7.5 hrs per day, unless they attend a training course put on by the "Suppliers" usually after hours at a club or venue, where they are shouted food and drinks, and attend on their own accord, as this is not compulsory. We enjoy a high rate of attendee's, at these functions.

A casual employee would not want to work fulltime as they usually have young children, and can only commit to hours that suit child care and the partners work commitments. We are very flexible with these employees, they usually want the highest rate of pay they can earn for the hours, and that is Casual.

The current Casual loadings for weekend work is more than enough, to increase this will only deny these people the flexibility, so they can work whilst there spouses can stay home and look after children. We would choose to take on an extra senior full time to cover these hours, instead of paying the following. It would cost us approx.. \$41,600 p.a.extra for Sat. wages and \$ 13,000 for Sunday, if 20 of our casual s were to be paid these extra loadings, plus payroll tax increases. The bottom line is we would have to lay off 10 of our casuals on our busiest two days of the week, if we had to pay these outrageous proposed penalties, for Saturday & Sunday 's.

We sincerely hope that any changes to an already struggling Industry is carefully considered,

Yours sincerely,

PETER LESLIE - DIRECTOR

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Yours sincerely,

PETER LESLIE - DIRECTOR

FWC Submission by Sarkis Akle

My name is Sarkis Akle. I am an owner of Hair by Phd in Parramatta and Carlingford. I am also the Vice President of Hair and Beauty Australia. My submission is a real account of how I run my business and as Vice President of Hair and Beauty Australia some of my submission is based on the industry in general as experienced by our members.

“The SDA also seeks to vary clause 11 of the Award to include a minimum shift of 4 hours for full-time employees. There is currently no minimum shift entitlement for full-time employees.”

Response: Extra cost imposed on employers by a minimum engagement would have a detrimental effect on employers providing training for their staff. It is already very hard to encourage salon owners to provide and pay for training to improve employee’s skills and help them develop as better hairdressers or beauty therapists. Most salons are working on very low margins and to increase the expense of training staff would make training non-existent.

An example would be if a training session that was organised and paid for by the employer went for 2 to 3 hours after trading hours, the employer already would have to pay over time for this and to have a minimum engagement of 4 hours would make providing this training unaffordable for the salon owner.

“A casual employee, other than an irregular casual employee, who has been engaged by their employer for a sequence of periods of employment during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment.”

Response: A casual employee is paid a loading of 25% to offset the entitlements of being a part-time or full-time which gives a lot of casual employees more money in their pocket in each pay. Also the flexibility of being casual employee would allow the employer to issue more working hours. This is a win for employees who need more money for their day to day living.

Where it helps the employer is that if an employee is unable to attend work for whatever reason the employer would be in a position to engage another casual to cover that position. If the employer is forced to pay entitlements for full-time or part-time employment in this instance, the employer in my view would be less likely to engage another casual to cover. This leaves the employer short and less casual jobs and/or hours would be made available.

“Casual employees are entitled to a 25% loading to offset leave entitlements which they do not receive, including, annual, personal and compassionate leave. Currently, their casual loading on Saturdays and Sundays is fully absorbed by the weekend rates. The SDA is seeking the full casual loading for such employees at all times which incur penalty rates.”

Response: To have these sort of increases that the SDA is proposing is going to put the salon business under so much financial pressure that they could go to the wall. I can see what the SDA are trying to do and get increases for there members, which is great but whats the point of having the increases if it jeopardises jobs. These increase are not sustainable as are seen in the two examples below.

Example 1. This is an example of a casual employee who works for my business. Jessica is 20 years old, works as a casual receptionist who studies full time and works approximately 15 – 20 hours a week. She works most Saturdays. She currently earns \$27.66 an hour and generally does 7.5 hours on a Saturday. Her daily pay is \$207.45 gross.

If the SDA proposal came in she would earn \$40.48 per hour at a total of \$303.60 gross. This is a difference of \$96.15. This works out at \$4999.80 a year.

As you can see in this example this is only one employee working on a Saturday. My salon only trades 5 days a week Tuesday to Saturday. We moved to a 5-day trading week over 12 months ago because of the cost of staffing 6 days. We reduced staff by two when we did this through not replacing staff that left. If these changes come in there will be a lot less jobs for potential job seekers.

In my next example I will show the impact these changes can make to a salon who trades 7 days a week and has 2 casuals working on the weekend. As the Vice President of Hair and Beauty Australia this next example is what a lot of our member's would be looking at. This is a very conservative view of only two employees.

Example 2. A hair salon that employs two casual hairdressers on a Saturday and Sunday.

Currently the hourly rate for these employees is \$26.77 on a Saturday and \$40.26 on a Sunday. If one works 5 hours and the other 7 hours on a Saturday that's a total of \$321.24 for the 2 employee's. Under the SDA proposed rates this becomes \$481.92 a difference of \$160.68.

If both hairdressers work 6 hours on a Sunday under the current pay rates they would earn a total of \$483.12. Under the SDA proposed rates this becomes \$679.32 a difference of \$196.20.

This will mean for 2 casual employees working two days a week, it will cost the employer an extra \$18557.76 per annum. This is unsustainable for any small business and the chance of salons going bust will increase dramatically. It might be a win for the SDA but unfortunately the prospect of its members gaining employment will diminish.

In conclusion as shown by my examples above these changes would reduce employment and put more pressure on an industry that is already struggling to find staff. We are under threat by home-operated salons that generally don't pay tax, don't employ or train apprentices, and create an unfair playing field for salons. Training staff should be encouraged and not made more difficult, I believe these changes would play a major part in reducing staff development and employment.

Kind regards,

Sarkis Akle

Director Hair by Phd
Vice President Hair and Beauty Australia

Stuart Owen
70/89 Lambert St
Kangaroo Point QLD 4169

19 May 2016

Dear Sir/Madam,

RE: Hair and Beauty Award Submission

I am writing in response to your request for comments on the requested changes to the Hair and Beauty Award.

I am the owner of two skin clinics in Brisbane and the Gold Coast which currently employ a total of twenty-two (22) under the Hair and Beauty Award (HABA), with a combined annual payroll of in excess of \$1.5m. These clinics are capital intensive business and the combined investment in these businesses in in excess of \$1.4m.

I am also the Chief Financial Officer of an ASX 200 listed company and as such believe I have the requisite skills and knowledge to address the impact of the proposed changes in both my business and the greater business network that operates under the HABA.

The proposed changes to the HABA has the potential to place significant additional financial pressure on my businesses, and those businesses operating under the HABA, at a time when the general economic and retail climate is quite poor and performing well below long term averages.

In response to the proposed changes:

“The SDA also seeks to vary clause 11 of the Award to include a minimum shift of 4 hours for full-time employees. There is currently no minimum shift entitlement for full-time employees.”

This proposed change significantly reduces the flexibility the employers have to manage their rosters and to provide training sessions, which by the nature of the industry are usually required to be, conducted “out of hours”. Typical training sessions run 2 to 3 hours and are often conducted after trading hours. The requirement to pay a minimum of 4 hours would effectively double the cost of providing this training. As an organisation that prides itself on upskilling its employees we provide regular training sessions, every 2 – 3 months this would have a cost impact of up to \$6,000 per annum. The only alternative to this would be to reduce the amount of training that we provide employees and this would become a real alternative should the proposed changes be adopted.

The skin clinics operate lasers for the provision of skin and hair treatments and the operation of these are governed by Legislative requirements for staff in Queensland which already provides significant obstacles including:

- a) Low supply of qualified staff due to the licensing requirements and the time and training required to become licensed.
- b) High cost to businesses training un-qualified staff to facilitate the demands of consumers in this sector.

Training is already a high cost and this would only increase under the proposed changes.

“A casual employee, other than an irregular casual employee, who has been engaged by their employer for a sequence of periods of employment during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment.”

As a small business operating in the retail sector flexibility, on employment arrangement is paramount to the success of businesses. The proposed changes will negatively impact both employees and the business in general. The flexibility of casual employees enables employers to better manage their rosters and has the effect of providing more working hours to employees

To put it simply the effect of this proposed change is that I would be reluctant to employ casual staff beyond short term appointments (less than 5 months) to avoid being put in a position where I would be forced to offer permanent employment that could put at risk the financial viability of my businesses.

“Casual employees are entitled to a 25% loading to offset leave entitlements which they do not receive, including, annual, personal and compassionate leave. Currently, their casual loading on Saturdays and Sundays is fully absorbed by the weekend rates. The SDA is seeking the full casual loading for such employees at all times which incur penalty rates.”

The financial pressure that my businesses would suffer as a result of this proposal is significant and would most likely lead to a reduction in the number of staff employed to offset this additional cost. The increases are excessive, adding 47% wage loading to the cost of weekend casual staff, and would effectively result in the reduction of casual weekend positions being offered.

Summary

These proposed changes would place significant additional cost on my business and are a further reduction in the flexibility that is required to run my business. The result of the increased cost base and reduction in flexibility is that LESS people would be employed which will cause financial hardship on employees. In order to be able to provide more employment options, ie employ more people, I need more flexible employment arrangements and less punitive penalty rates. An increase in employment flexibility and reduction in the punitive nature of penalty rates would most likely result in an increase in the amount I spend on employing staff.

Yours Sincerely



Stuart Owen

Timothy Glynn

Australian Skin Clinics
Tweed and Toowoomba Franchisee

19 May 2016

To Whom it May Concern

FWC Submission

I write as the Franchisee for Australian Skin Clinics Tweed and Toowoomba in response to the proposals recently brought to the table from SDA.

Please see below , my responses which wholly mirror those of my CEO , Deb Farnsworth-Wood.

Proposal:

“The SDA seeks to vary clause 11 of the Award to include a minimum shift of 4 hours for full-time employees. There is currently no minimum shift entitlement for full-time employees.”

Response: There are several key issues around this proposal being-

1. It is already difficult for small businesses within the sector to provide and pay for training. Much of the industry training is provided in short sessions of 2-3 hours to avoid reduced availability of bookings for clients and the resultant financial impact on the business.
The imposition of a 4 hour minimum shift for casual staff (and the respective wage costs for the additional time) will add a further obstacle to salon owners to provide training as the extra time poses additional cost.
2. A further complication would be that if a training session that was organised and paid for by the employer went for 2 to 3 hours after trading hours (a common occurrence to minimise loss of trade during training periods) the employer would have to pay
 - over time for the training
 - increased by a minimum engagement of 4 hoursThe result would be to make provisions of training

unaffordable for the business owner.

3. Legislative requirements for staff operating in the area of laser therapies in Queensland already provides significant obstacles including:
 - a. Low supply of qualified staff due to the licensing requirements and the time and training required to become licensed.
 - b. High cost to businesses to training un-qualified staff to facilitate the demands of consumers in this sector.
4. These legislative and licensing requirements are currently being considered at a national level. Training is already a high cost and impacts small businesses considerably. Increasing the minimum engagement to four hours only serves to increase the costs in this sector. This is causing businesses considerable financial distress and threatens to make the industry financially unviable without significantly increasing the cost of services to the end consumers.
5. Many employees in the industry choose this nature of work because it provides them with the opportunity to be flexible around family commitments.

The majority of businesses are now opening extended hours both in evenings and weekends which in turn provide greater job opportunities for precisely those staff that desire to work these hours because their partners and/or other support network can help out in these periods thus reducing their child care costs. It is therefore unfair to penalise employers by enforcing minimum 4 hours shifts while at the same time the result of this would be to reduce availability of staff in the industry.

Proposal:

“A casual employee, other than an irregular casual employee, who has been engaged by their employer for a sequence of periods of employment during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment.”

Response:

Casual employees are paid a loading of 25% to offset the entitlements of being a part-time or full-time. This provides these employees with significantly more money in their pocket in each pay. In addition, the flexibility of being a casual employee would allow the employer the

flexibility to offer more working hours when needed by the business. This is a win for employees who need more money for their day to day living and a necessary benefit to the employer of paying only productive hours for the clinic.

Small businesses cannot afford to employ permanent part time or full time staff as routine especially in an industry where the work is scheduled erratically and not by formal contracts as may be in the case of a B2B industry. This means that in busy periods, casual staff are essential while in quiet periods permanent staff will be a drain on profitability.

The effect of this clause would simply be that employees would terminate casual staff prior to the 6 month period to avoid being put in a position where they would be forced to offer permanent work that they could not afford to fund.

Proposal:

“Casual employees are entitled to a 25% loading to offset leave entitlements which they do not receive, including, annual, personal and compassionate leave. Currently, their casual loading on Saturdays and Sundays is fully absorbed by the weekend rates.

The SDA is seeking the full casual loading for such employees at all times which incur penalty rates.”

Response:

The SDA has clearly failed to recognise the financial pressure that businesses would suffer as a result of this proposal. The end result would be loss of businesses, reduction in numbers of employers and loss of jobs for staff in the industry.

This increase is not sustainable as

- The increase would add an extra 47% wage loading to the cost of weekend casual staff

- Aesthetic/Beauty businesses are located in shopping centres where both the rent and lease terms reflect the shopping centre's requirement for weekend trading. Employers will be faced with choosing between landlord fines for not opening on weekends or potential bankruptcy through additional staffing costs

- The Aesthetic/Beauty industry operates in a highly competitive environment where margins are already lean and cannot sustain these increases.

It is the view of our organisation that the SDA has lost focus of the key issues at play.

Increased costs to businesses are likely to impact businesses in the marketplace. Competition in the marketplace is already fierce and has had a negative impact on profitability and financial viability. We anticipate that such changes will likely cause small businesses to lose the ability to compete with larger resource rich businesses. Growth of jobs and continuing staff employment are both reliant on business growth. The SDA's proposals serve only to thwart and suffocate businesses. Ultimately reduction in businesses equals reduction in jobs – it is clear that the SDA has not recognised this key relationship.

The Australian Government has recently completed an extensive review of Competition Policy in Australia. Competition policy plays an important role in improving government performance by promoting user choice and encouraging a diversity of providers. As a result of the Policy, the Review Panel recommended that legislation or government policy should not restrict competition unless the benefits of the restriction to the community as a whole outweigh the costs.¹ Importantly, the review recommended changes to prevent:

- a. The imposition of excessive restrictions on the market which may result in the misuse of market power; and
- b. Unilateral conduct that substantially harms competition.²

It is our position that changes to this Award will serve to impact competition in the marketplace and contravene the Competition Policy.

Yours sincerely

Timothy Glynn

Franchisee for ASC Tweed and Toowoomba

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