



21 December 2016

Associate to Hon Justice Iain Ross AO  
Fair Work Commission  
Victoria Registry, Level 4, 11 Exhibition Street  
Melbourne Vic 3000

**By email:** [amod@fwc.gov.au](mailto:amod@fwc.gov.au)

Dear Associate,

**Re: 4 Yearly Review of Modern Awards – Journalists Published Media Award 2010 (AM2014/275) – GROUP 4D – Technical and Drafting issues - Exposure Drafts**

1. The Media, Entertainment and Arts Alliance (**MEAA**) refers to the Fair Work Commission (**the Commission**) Statement and Directions dated 26 August 2016 requesting the parties file submissions on the technical and drafting issues related to exposure drafts in Groups 4D, 4E and 4F.
2. MEAA, as the union representing employees in the broadcasting and recorded entertainment industry has an interest in the Journalists Published Media Award 2010 (**the Award**). MEAA makes the following submissions on the technical and drafting issues relating to the Exposure Draft of the Award – Journalists Published Media Award 2016.
3. MEAA has made separate submissions dated 2 March 2015, identifying the nature of proposed changes which MEAA is pressing in relation to the Award. MEAA has also, by separate correspondence to the Commission dated 14 and 21 October 2016 respectively, confirmed its intention to press for those changes to the Award and provided Draft Determinations to that effect. Accordingly, these submissions deal only with the technical and drafting issues MEAA has identified in the Exposure Draft of the Journalists Published Media Award 2016.

Changes to calculating overtime and penalties

4. MEAA is concerned about any changes to the Award which may result in a reduction in the take home pay of employees. Of concern is the change to provisions relating to overtime – from being determined by “time” based formulas to “percentage” based formulas. By prescribing penalty calculations based on percentages of the “ordinary hourly rate” (defined in draft clause 3 as the minimum hourly rate), the draft Award sanctions two sets of rules for the payment of relevant employees.
5. In circumstances where the employer and employee agree to an ordinary hourly rate of pay that exceeds the minimum rates, it is possible that penalty payments will be calculated on the *minimum* rather than *ordinary* rate (using its conventional meaning) of pay. MEAA assert that this is a material and detrimental change to the manner in which the current Award operates.

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6. MEAA submits that changing the wording from “time” based formulas to “percentages” or multiples of the “minimum weekly rate” or “minimum hourly rate” has the effect of reducing the take home pay of employees who are receiving rates of pay higher than the Award minimums. Such a change will affect the relative living standards and the needs of the low paid. It will also affect the current modern award objective to provide additional remuneration for employees working overtime or shift work, or unsocial, irregular or unpredictable hours including on weekends and public holidays.<sup>1</sup>
7. Accordingly, MEAA submits that the “time” expression clauses referred to above be restored and references to “minimum weekly rate” or “minimum hourly rate” that have been added to those relevant clauses be removed.

Responses to questions in the Exposure Drafts

8. Parties have been asked whether the new Award should maintain clause 11.8. MEAA are not opposed to the removal of this sub-clause.

MEAA welcomes the opportunity to comment on the exposure draft.

Yours sincerely,

Matthew Chesher  
Director, Legal and Policy

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<sup>1</sup> Section 134(1), Fair Work Act 2009