

REVISED SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of submissions on technical and drafting issues lodged for this award. The summary includes submissions received before 13 September 2017. The summary has been revised to include feedback from the conferences on 20 April 2017 ([Transcript](#)), 12 May 2017 ([Transcript](#)) and 16 June 2017 ([Transcript](#)). Updated following [Report](#) of 14 September 2017.

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’ so defined are inconsistent with current award provisions and would result in significant reduction in pay. 7 NW	Paras 12-15	OUTSTANDING Seek. Further discussions to take place between interested parties before 12 May. Transcript PN 22.
	ADG	Sub-08/05/17		Proposed changes, if applied, will result in significant reductions in pay of some employees; therefore, a substantive change.	Page 1	<i>See also item 29, as per</i> Transcript 16/06/17 [PN31]
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	RESOLVED Agreed - see Transcript 20/04/17 [PN38] ED updated
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)	RESOLVED Subject to further discussion between BCCL and AEIA, see Transcript , 16/06/17 [PN72]

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						Position of Cinema Industry Employers and the LPA clarified in correspondence of 30 June 2017
4	7 NW	Sub-18/01/17	4.2	Broadcasting and recorded entertainment industry Delete term as it is already included in the definitions.	Para 3.2, pg 7 of Att A	WITHDRAWN see Transcript , 16/06/17 [PN85]
5	7 NW	Sub-18/01/17	4.4	Coverage Should include reference to Part 6—Termination of Employment and Redundancy.	Para 3.4	RESOLVED Agreed - see Transcript , 16/06/17 at PN87 ED updated
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	Para 2.1	WITHDRAWN See Transcript , 16/06/17 at PN89 Provision is contained as a discrete clause in all Group 4 EDs in accordance with plain language principles [2016] FWC 2924 ,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	Para 3	OUTSTANDING Further discussions to take place between interested parties. If no agreement is

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				individual employee or group of employees.		reached, item will not be relisted.
	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	See Transcript 16/06/17 [PN102]
	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	RESOLVED Agreed - See Transcript 16/06/17 [PN108] ED updated
9	7 NW	Sub-18/01/17	9.1	Full-time employment 'is an employee who is' should be reinserted.	Para 3.5	RESOLVED Agreed - See Transcript , 16/06/17 [PN111] ED updated
	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	RESOLVED Agreed - See Transcript , 16/06/17 [PN113] ED updated
	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	RESOLVED Agreed - See Transcript , 16/06/17 [PN115] ED updated
12	7 NW	Sub-18/01/17	10.2	Part-time employment	Para 3.2, pg 12	RESOLVED

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				'is entitled to' inserted just after 'employee' and just before 'receive'.	of Att A	Agreed - See Transcript , 16/06/17 [PN117] ED updated
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	RESOLVED Agreed - See Transcript , 16/06/17 [PN119] ED updated
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	RESOLVED Agreed - See Transcript , 16/06/17 [PN121] ED updated
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	OUTSTANDING Further discussions to take place between interested parties Transcript , 16/06/17 [PN123]
	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	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), 80.4(a)-(c).
	7 NW	Replysub-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'	Paras 13-16, 17, 18(1)	RESOLVED

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				be deleted.		Agreed - as per Birch Carroll & Coyle Limited and others Position of Cinema Industry Employers and the LPA clarified in correspondence of 30 June 2017
	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	
	CIE	Correspondence-05/09/17		Believes this matter has been resolved	Page 1	
	MEAA	Correspondence-08/09/17		Discussed matter with cinema owner/operator representatives. Believes parties agree that the 8% loading applies to each hour worked by cinema employees on each day work is performed.	Page 1	
	CIE	Correspondence-11/09/17		Confirms that CIE agree that there is no outstanding issue with respect to this matter as: <ol style="list-style-type: none"> 1. ED accurately reflects the status quo under the current award and the agreed position; and 2. the loading of 8% on the minimum rates of pay applies to each hour worked. 	Page 1	
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	RESOLVED Agreed - See Transcript 16/06/17 [PN128] ED updated
18	7 NW	Sub-18/01/17	13.7	Classifications—cadets	Para 3.7	RESOLVED

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				Word 'weekly' should be included between 'minimum wage'.		Agreed - See Transcript 16/06/17 [PN130] ED updated
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	RESOLVED Agreed - See Transcript 16/06/17 [PN132] ED updated
20	7 NW	Sub-18/01/17	14.2	First-aid allowance Amend clause to clarify different application of allowance to full-time employees and part-time/casual employees. Provides drafting.	Para 3.8, pg 22 of Att A	RESOLVED Agreed - See Transcript 16/06/17 [PN134] ED updated
	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	RESOLVED Agreed - See Transcript 16/06/17 [PN137] ED updated
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	RESOLVED Agreed - see Transcript , 16/06/17 [PN154]. agree to include 'mobile' or 'fixed line' in definition;
	CPSU	Sub-21/12/16		Does not object to clause being modernised to clarify it applies to mobile phones as well.	Para 4	

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	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	MEAA does not seek clause to be updated to include reference to mobile telephone costs ED updated
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	OUTSTANDING See Transcript 16/06/17 [PN166]
	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	OUTSTANDING See Transcript 16/06/17 [PN170]
	CPSU	Repliesub-22/02/17		Does not support or oppose the inclusion of additional words.	Para 6	
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	OUTSTANDING CRA not present at conference to confirm position. Further discussions to take place . See Transcript , 16/06/17 [PN181].
	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 &	Repliesub-		Supports submissions of CRA and 7 NW.	Para 3.1	

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	NSWBC	22/02/17				
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	OUTSTANDING See Transcript 16/06/17 [PN188]
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	RESOLVED Agreed - see Transcript , 16/06/17 [PN193] ED updated
	CPSU	Replysub-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	RESOLVED Agreed - see Transcript , 16/06/17 [PN200] ED updated
	CPSU	Replysub-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 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.	Para 3.15, pgs 36-37 of Att A	OUTSTANDING Further discussions to take place. See Transcript 16/06/17 [PN203].
	CPSU	Replysub-22/02/17		Opposes changes sought by 7 NW. ED drafting is appropriate.	Paras 10-11	

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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	RESOLVED Agreed - see Transcript , 16/06/17 [PN208-217]. ED updated
	CPSU	Replysub-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	RESOLVED Agreed - see Transcript , 16/06/17 [PN208,221-222] ED updated
	CPSU	Replysub-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	RESOLVED Agreed - see Transcript , 16/06/17 [PN208, 223-229] ED updated
33	7 NW	Sub-18/01/17	34.2(a)	All purpose allowances Conflict with overtime provisions. Insert ‘except where otherwise specified’ at start of clause.	Para 3.19 – 3.20, pg 40 of Att A	OUTSTANDING Further discussions to take place. See Transcript , 16/06/17 [PN203]
	CPSU	Replysub-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	RESOLVED Agreed - see Transcript , 16/06/17 [PN232]

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						ED updated
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	RESOLVED Agreed - see Transcript , 16/06/17 [PN234, 238] to extent that allowance is calculated on the basis of a director's salary, not a producer's rate. ED updated
	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	RESOLVED Agreed - see Transcript , 16/06/17 [PN240-243].
	7 NW	Sub-18/01/17		ED drafting confusing. Reinstate 'where' instead of 'because'.	Para 3.21, pg 45 Att A	Retain current wording
	CPSU	Repliesub-22/02/17		Supports 7 NW's submission.	Para 14	ED updated
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	OUTSTANDING See Transcript , 16/06/17 [PN244-255]

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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	OUTSTANDING See Transcript , 16/06/17 at PN256-268.
	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	CPSU withdrew submission, agreeing with ABI and MEAA [PN261].
	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	RESOLVED Agreed - see Transcript , 16/06/17 [PN271].
	7 NW	Repliesub-22/02/17		Shift penalties are calculated on the basis of minimum rates and this should be maintained.	Para 3.4(e)	‘midnight to dawn shift’ should be defined although the inclusion of a definition will not be pursued by MEAA. 7 NW submission included in item 39 in error. Now moved to item 40. See Transcript , 16/06/17 [PN272-174].

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40	7 NW	Sub-18/01/17	48.1 45.1	Hours of work Structure of cl.45.1 in current award should remain (clauses 48.1 of ED).	Para 3.22	OUTSTANDING Transcript , 16/06/17 [PN280]. (reference to submission relates to cl 48.1). 7 NW to provide proposed amendments to cl 48.1 [PN286-288] Submission moved from item 39.
	7 NW	Replysub-22/02/17		Shift penalties are calculated on the basis of minimum rates and this should be maintained.	Para 3.4(c)	7 NW submission included in item 39 in error. See Transcript , 16/06/17 [PN272-174].
41	7 NW	Sub-18/01/17	49.1	Rostering 'if applicable' to be inserted at the end of sentence.	Para 3.23	RESOLVED Agreed - see Transcript , 16/06/17 [PN295-298]. Agreed, 'where applicable' inserted at the end of sentence. ED updated
42	MEAA	Sub-21/12/16	51.2	Shift penalties—higher penalties	Para 13	RESOLVED

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			51.3	<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).		Agreed - see Transcript , 16/06/17 [PN309]. cl 51 in ED to remain in current form.
	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)	RESOLVED Further discussions to take place.
	AFEI	Repliesub-22/02/17		Agrees with submissions of BCCL.	Para 13	See Transcript , 16/06/17 [PN310-311]. Position of Cinema Industry Employers and the LPA clarified in correspondence of 30 June 2017
44	MEAA	Sub-21/12/16	57.3(b)	Part-time employment	Para 8	WITHDRAWN

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				ED wording could cause confusion. Amend to: 'A part-time employee receives <i>no less than</i> the minimum hourly rate for ordinary hours worked'.		See Transcript , 16/06/17 [PN320].
	FWO	Corre- 02/03/15	27.3	Ordinary hours of work and rostering Unclear whether a 'rostered day off' has the same or different meaning to an 'accrued day off' as references in clauses 27.6, 39.6, 52.2 and K.1 of Schedule K	Page 13 Issue 3	
44A	BCC and ors	Sub-21/01/15	58.3(b)	Ordinary hours of work and rostering Amend second sentence to read: 'The agreement about <i>the number of</i> ordinary hours to be worked will be in writing...'	Page 3 Issue 1	RESOLVED Change as agreed incorporated in exposure draft published on 25 November 2016 Moved from substantive matters to technical and drafting summary Position of Cinema Industry Employers and the LPA clarified in correspondence of 30 June 2017
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	RESOLVED Agreed - see Transcript , 16/06/17 [PN322-325]. Method of calculation is not

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	ABI & NSWBC	Sub-18/01/17		Yes to both questions.	Para 4.4, 4.5	required to determine the overtime rate
46	MEAA	Sub-21/12/16	66.2(b)	Climate allowance Typographical error. 'At a' should be removed from line 5.	Para 9	RESOLVED Agreed 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	OUTSTANDING Further discussions to take place between MEAA and ADG to confirm whether ADG is pursuing their claim. See Transcript , 16/06/17 [PN203].
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	OUTSTANDING ABI & NSWBC to confirm whether they still oppose MEAA's proposal before Transcript , 16/06/17 at [PN335-338].
	ABI & NSWBC	Sub-18/01/17		Should refer to minimum rates in cl.13 rather than the 'gross agreed remuneration'	Para 4.6	See Paras 4, 5, 6 of submission re: minimum hourly rate.
49	7 NW	Sub-18/01/17	Sched E	Summary of hourly rates of pay – cinema workers Would like a summary of wage rates	Para 3.24	RESOLVED Schedule E deleted, no

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				provided in ED for the remaining streams.		othervariation pressed. See Transcript , 16/06/17 [PN339-348]

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
CIE	Cinema Industry Employers
CRA	Commercial Radio Australia
CPSU	Community and Public Sector Union
ED	Exposure Draft
MEAA	Media, Entertainment and Arts Alliance