

AM2014/300 – Four Yearly Review of Modern Awards - Award flexibility

Submissions on behalf of the MEAA

RE JOURNALISTS PUBLISHED MEDIA AWARD 2010

1. The submission of the Companies is a simple one. It is that the Journalists Published Media Award 2010 [the Award] meets the modern awards objective in s 134 of the *Fair Work Act 2009* (Cth) [the Act] and that there is no warrant to amend the current provision.
2. That submission does not properly describe the statutory test.

The statutory test

3. It is almost invariably useful when interpreting a statute to start with its text. Section 154 provides for the four year review. Section 134 requires the Commission to ensure that modern awards ... together with the National Employment Standards, “provide a fair and relevant minimum safety net of terms and conditions” taking into account, amongst other things, the specific criterion in s 134(1).
4. As the Full Bench held¹:

No particular primacy is attached to any of the s 134 considerations and not all of the matters identified will necessarily be relevant in the context of a particular proposal to vary a modern award. There is a degree of tension between some of the s 134(1) considerations. The Commission’s task is to balance the various s 134(1) considerations and ensure that modern awards provide a fair and relevant minimum safety net of terms and conditions.

5. The relevant criterion in section 134 appear to be
 - (1) (a) the needs of the low paid; and...
 - (da) the need to provide additional remuneration for:
 - (i) employees working overtime; or
 - (ii) employees working unsocial, irregular or unpredictable hours; or
 - (iii) employees working on weekends or public holidays; or
 - (iv) employees working shifts; and...
 - (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards...

¹*Re 4 Yearly Review of Modern Awards — Preliminary Jurisdictional Issues* [2014] FWCFB 1788, (2014) 241 IR 189 at [32], [33].

The needs of the low paid

6. The phrase *low paid* is inherently ambiguous. As the Full Bench stated in the 2009 Annual Wage Review:

There is no consensus among the parties and other commentators with respect to a definition of the low paid. Because there is a continuous distribution of wages, there is no wage threshold just below which people are clearly low paid and just above which people are clearly not low paid. Rather, the lower the wage, the more “low paid” is the employee. People earning above or near median earnings are clearly not low paid in an absolute sense²:

7. A similarly relativistic view was taken earlier in the *Safety Net Review*³:

Neither “needs” nor “low paid” is a term with a precise meaning... Although there was some diversity of opinion about the identity of the low paid, we think that there was a reasonable consensus that they at present have the following characteristics:

- * their wages are not prescribed in workplace or enterprise agreements;
- * their award classifications are toward the lower end of the award structure; and
- * they receive no, or only small, over award payments.

8. This requirement seems directly relevant to the task before the Commission. There seems little analysis of its meaning. The *Explanatory Memorandum to the Fair Work Amendment Bill 2013* states, rather unhelpfully, that

[i]tem 1 of Schedule 2 to the Bill amends the modern awards objective to include a new requirement for the FWC to consider, in addition to the existing factors set out in subsection 134(1) of the FW Act, the need to provide additional remuneration for:

- employees working overtime;
- employees working unsocial, irregular or unpredictable hours;
- employees working on weekends or public holidays; or
- employees working shifts.

This amendment promotes the right to fair wages and in particular recognises the need to fairly compensate employees who work long, irregular, unsocial hours, or hours that could reasonably be expected to impact their work/life balance and enjoyment of life outside of work.

The need to provide additional remuneration

9. The Companies are correct to say that 134(1)(da) should not be read so as to predominate over the other criterion. It should, however, not be set at naught. The

²*Annual Wage Review 2009-10* [2010] FWA FB 4000 (3 June 2010), (2010) 193 IR 380 at [237]

³ (1997) 71 IR 1 at 51

Commission needs to take account of it; that is to "pay attention to in the course of an intellectual process" or "take into consideration"⁴.

The Company's submissions

10. The submissions in essence are that:

- The existing Award is a modern award and that any person seeking to change the Award must advance a merit case [the merit case argument];
- Time off in lieu at the initiative of the employer is consistent with the nature of journalism [the nature of journalism];
- Time off in lieu at the initiative of the employer is consistent with the history of the Award [the history of the award].

11. The first argument is incorrect but not an impediment in any event. The second argument is fatuous. The third is not a sufficient reason to prevent the introduction of a model clause.

The merit case argument

12. At base, this is a question about who has to make their case. There are two aspects to that; the first is the legal onus which never shifts. The second is the evidentiary onus which will shift depending on who has to prove their particular assertion⁵.

13. It is doubtful how far the notion of legal onus of proof is relevant at all to Commission proceedings. Where a matter commences on the Commission's own motion, which is essentially the case here, no party bears any direct onus but the Commission must be satisfied that a proper basis for exercise of power in the matter is established⁶.

14. As the Full Bench held in the Four yearly review⁷:

Our provisional view is that the variation of modern awards to incorporate the model term is necessary to ensure that each modern award provides a fair and relevant minimum safety net, taking into account the s 134

⁴ *Roads Corporation v Dacakis* [1995] 2 VR 508

⁵ *Teterin and others v Resource Pacific Pty Limited* [2014] FWCFB 4125 (2 July 2014) at [24] - [27]

⁶ *Royal District Nursing Service Ltd v Health Services Union* [2012] FWAFB 1489; (2012) 218 IR 276 at [20]

⁷ [2015] FWCFB 4466, (2015) 252 IR 256 at [279] – [280]

considerations (insofar as they are relevant) and would also be consistent with the object of the Acts. This is so because of the various safeguards provided within the term itself and because it facilitates the making of mutually beneficial arrangements between an employer and employee.

As mentioned earlier, we accept that flexible working arrangements, such as TOIL, may encourage greater workforce participation, particularly by workers with caring responsibilities. We also accept that increasing interest workforce participation can result in increased economic output productivity...

15. The Companies submit that that a party seeking a proposed change to an Award in these circumstances bears the risk of failure if they cannot satisfy the Commission that there is no proper basis for the exercise of the power. That is true, but not really to the point.

16. That test works differently if the case involves the introduction of a model clause. In those circumstances, it is necessary to take into account the need to create a simple, easy to understand, stable and sustainable modern award system. An easy to understandable and stable modern award system requires the use of standard clauses across industries. In those circumstances, where a party is seeking to vary, or oppose, a model Award clause; the person seeking to prevent the variation must advance a merit argument in support of the proposed variation. The extent of the merit argument required will depend on the variation sought⁸.

17. In any event, the MEAA has adduced such evidence.

18. Further, the model clause needs to be examined⁹. It states relevantly that:

A.1 Time off instead of payment for overtime

(a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.

19. As the FWC Full Bench stated in July 2015:

- a. The model term facilitates agreements between an employee and their employer to take TOIL instead of payment for overtime at a time or times agreed, subject to appropriate safeguards.¹⁰

⁸Re 4 Yearly Review of Modern Awards — Common Issue — Award Flexibility [2015] FWCFB 4466, (2015) 252 IR 256 at [14].

⁹ 4 yearly review of modern awards—Award flexibility [2016] FWCFB 6178 at Attachment A

¹⁰ Re 4 Yearly Review of Modern Awards — Common Issue — Award Flexibility [2015] FWCFB 4466, (2015) 252 IR 256 at at [268]

20. The model provision does not mandate an outcome. The provision states that an employer and employee 'may agree in writing' to taking TOIL instead of receiving overtime payments. The model provision's principal functions are to ensure that work beyond normal weekly hours be acknowledged and compensated. There is an election to be made by employers and employees about the form of compensation with respect to TOIL. The model provision does not mandate overtime *or* TOIL as an outcome.
21. That course is consistent with flexibility arrangements that devolve decision making on such matters down to the employer and employee subject to appropriate safeguards.
22. It is presumably for such reasons that the Commission has thus far approved the variation of 72 modern awards to include the model TOIL provision.¹¹ Those awards set out a variety of ways of calculating and taking TOIL.

The evidence

23. The Companies' submissions are not constrained by any reference to any contemporary evidence. That is unfortunate. The Commission is given no evidentiary basis to contradict the desirability of inserting the proposed clause.
24. On the other hand, there is evidence supporting the introduction of the proposed clause.
25. The decision leading to the making of that Award¹² explains the reason for the TOIL provisions. In reflecting upon the 'exacting and tiring' craft of journalism, Commissioner Blackburn stated at 718 that:

"it is better that some of the overtime should therefore be used for extra rest than merely paid for, provided that there is a reasonable opportunity for such rest."
[writer's underlining]

26. That reasoning is becoming less relevant to the modern workplace. The move to a 24 hour news cycle and the reduction of journalistic staff which is referred to in detail in the statement of Mark Skulley, has meant that there is a decreasing capacity to take time off work. That has meant in practice that journalists paid according to the modern award work unpaid overtime. In addition there is an understandable reluctance in print media organisations for employees to draw attention to the performance of additional (and excess) working hours for the purposes of its acknowledgement and the provision of TOIL and/or overtime.

¹¹ FWCFB Decision 31 August 2016 [2016] FWCFB 6178 at [6]

¹² *The Australian Journalists Association v Associated Newspapers Ltd & Ors* (1955) 81 CAR 699 at 703

27. The model clause will not abolish time in lieu. It will however give employees on a base award wage the option of taking overtime payments instead of TOIL that they know that they can not realistically take advantage of. As set out in the statement of Ms McInerney; the majority of those MEAA members surveyed who preferred to receive payment cited the reason as being that the additional payment would boost their low income and would help them become more financially secure in an uncertain industry.
28. MEAA's concern is that without the model TOIL provision, the prospect of orderly recording of excess hours worked and the means by which these hours are compensated will fall into further disrepair and disuse.
29. On the other hand, the model provision is in no way inimical to the functions and needs of contemporary newsrooms and news-making environments. It is unlikely that a journalist will stop work on a half-complete story. It is unlikely that a journalist will curb their present commitments to factual and timely reporting. It is likely that practices will be maintained, even in the post-internet 'hothouse' news media environment.

The nature of journalism

30. The nature of journalism is described in terms of an ever humming machine staffed by a unique occupation and greased by the flexibility of time in lieu. In that narrative, journalists are unable to transfer their highly personalised work to anyone else. They work late until the story is finished and then take the time off at some later stage.
31. There are some difficulties with that narrative.

Unique characteristics?

32. The first is that each industry has unique characteristics and that each job within these industries has unique characteristics. There can be no doubt that the historical record reflects important qualities (and combinations of qualities) that are attributed to journalists. They record the esteem attached to the craft of journalism and the critical role that journalists played in providing accurate and often critical information and analysis to the Australian community.
33. These historical reflections do not require that journalists be uniquely disentitled to the payment of overtime for additional hours of work. Journalists have never been uniquely regulated in all aspects of working conditions. Many of the clauses in the Journalists

award are clauses that are standard across awards generally¹³. Further the NES apply to all employees regardless of Award coverage. While journalists have special aspects to their work; they are not so unique that they should be isolated from standard award provisions.

34. There are many jobs that involve work that is not easily able to be transferred to another in the way for example the process worker was able to transfer their work to a worker in the next shift. Those jobs are generally ones where is a necessity for personal involvement in the work and where the workload itself is dictated by external factors. Many white collar professional and semiprofessional jobs fall into this category. There is nothing about the nature of that work that makes the payment of overtime any less desirable.

A history of payment for overtime

35. Second, overtime payments have almost always been part of the Award regulation of journalists, at least at the time of termination or at times of excessive time in lieu. Journalists have experienced a mix of overtime and TOIL provisions in Awards and enterprise agreements. A good example is the Journalists (Metropolitan Award Daily Newspapers) Award referred to in some detail at paragraph 17 and 18 of the submissions of the Companies. The Companies say of that Award that it allows the employer *subject to certain conditions*, to give time off in lieu of paying the employee for certain over time. Those conditions are of course the payment of overtime¹⁴.
36. There has been no 'standard' or single form of compensation over many decades. This is made clear in the summary of pre modern award provisions as to TOIL and overtime. It is also the case that the current modern award provision provides for both TOIL and overtime. The current award does no more than rank the order in which compensation for additional hours should be made.

The history of the award

¹³ Award flexibility – see clause 7; Dispute resolution and consultation provisions – see clause 9; Termination and redundancy – see clauses 11 and 12

¹⁴ Clause 28(c) dealt with 'daily overtime', which was all work exceeding 11 hours in one working day. It provided that the first additional hour may be allowed off duty and if permission was not granted, the hours of work would be paid at time-and-a-half. Overtime beyond one hour and up to three hours was also to be paid at time-and-a-half. All following hours were to be paid at double-time.

37. The references to the history of the award show a narrative of late working journalists given time off at a later and quieter time. That history is fascinating but the notion that it should forever guide the future is counter intuitive. On that basis, test cases could never succeed and the modern award system would never have been introduced.

38. The history is in any event somewhat different to that suggested. MEAA's 13 March 2009 proposal substantially differed to that proffered by the Companies. The MEAA sought the following clause to be incorporated into the award:

27. Overtime

27.1 Any amount paid to an employee in excess of the minimum award rate of pay for the employee's grade shall not be regarded as a set-off against overtime worked.

27.2 The hourly rate for overtime purposes shall be calculated by dividing the minimum award rate of pay for the employee's grade by 38.

27.3 All overtime payments due to an employee shall be made within eighteen days of the end of the week or fortnight, as the case may be, in which the overtime was worked.

27.4 **Daily overtime** represents all time worked outside an employee's rostered hours of duty, except for time worked on a rostered day off. Daily overtime shall be compensated for in the following manner:

(a) Up to and including the first hour of overtime shall either be given off as time in lieu at the rate of time and a half within the following fortnight or paid for at the rate of time and a half at the discretion of the employer.

(b) Overtime in excess of one hour shall be paid for at the rate of time and a half for the first hour and double time thereafter.

(c) An employee may, by mutual agreement with his or her employer, opt to take time off in lieu at the rate of single time within the next twelve months. Such agreement shall be recorded in writing.

27.5 Any time allowed off duty in lieu of overtime shall be deemed to be ordinary rostered hours for the day or days on which the time off in lieu is taken.

39. MEAA's submissions of that time did not reflect acceptance of a provision that favoured TOIL ahead of the payment of overtime. Quite the opposite was proposed. The presentation of a consolidated party draft award to the then AIRC that preferred TOIL ahead of overtime payments, as stated in paragraphs 48 and 49 of the Companies' submissions, ought not be interpreted as MEAA's acceptance of such a formulation in 2009 or since.

Conclusion

40. The recent TOIL provisions are no longer an adequate way of dealing with extra time worked. The opportunity to gain time off for rest is diminishing. The provisions provide no adequate compensation for the time worked. There is nothing so special about journalism that journalists should be excluded from provisions now standard in most industries.
41. In conclusion, the Full Bench should vary the Award to include the model provision.

A handwritten signature in blue ink, appearing to read 'Ian Latham', with a stylized flourish at the end.

Ian Latham

16 November 2015

Statement of Katelin McInerney

I, Katelin McInerney, Director of the Media Section of the Media, Entertainment and Arts Alliance (MEAA) make the following statement.

I conducted a survey of journalists from May to August 2016. 209 responses were received. Attached is a copy of the survey. The survey was directed at gaining insights into modern journalist work environments and was issued to journalists working at digital and print/digital workplaces.

Survey respondents worked at print publications, digital/online publications and in broadcast journalism (who have been removed for clarity).

We asked a range of questions regarding type of work, frequency, employment status, previous work history, whether they regularly worked overtime, public holidays or unsociable hours, whether they were compensated for that work, whether they would prefer payment for overtime and penalty shifts and whether they had considered leaving the industry due to lack of recognition for long hours and unpaid overtime.

Key findings:

- 164 reported regularly working overtime -
- 144 of those reported they were permanent full-time workers (not freelance, casual or other)
- Of those:
 - 20 reported working 10+ hours overtime every week
 - 28 reported working 5-8 hours overtime every week
 - 46 reported working 3-4 hours overtime
 - 31 reported doing 1-2 hours
 - 19 reported they did no overtime
- 65% of full-time workers regularly did more than 4 hours overtime a week.
- Only 11 of the 113 permanent full-time respondents who answered the question “would they prefer to be compensated for overtime and other shift penalties (if they weren’t already receiving them) said they were happy with the current TOIL arrangements and felt TOIL was an adequate compensation
- The majority of those who preferred to receive payment cited the reason as being the additional payment would boost their low income and would help them be more financially secure in an uncertain industry.

- Other reasons included:
 - They were not currently receiving all, or in some cases, any time off in lieu or recognition from their employer for their overtime worked
 - They wanted adequate financial compensation for missing out on social time with their families – many comments referred to TOIL not being adhered to in the workplace and so was further exacerbating that problem.
 - That payment would serve as a better deterrent to their employer to work them overtime.

Summary

The overwhelming majority of participants would prefer to be compensated for overtime through direct payment at overtime rates. The majority of workers felt that more fairly recognised the considerable overtime they work, and would greatly assist to bump up what they consider to be very low wages. In all four cases where yearly wages were disclosed, all four were under the National average.

Many also said they felt their employer was more likely to deal with excessive overtime if they were made to pay for it – and would better serve both the disincentive motivation of paid overtime and more adequately recognise the work MEAA members are putting in to get their respective publications out to their audiences.

15 November 2016

Let's Make our Award Relevant

The media industry is transforming as digital media rapidly replaces print – but working conditions for many journalists are locked in the analogue age.

The main industry award for journalists (the Journalists' Published Media Award 2010) provides online-only journalists fewer working protections than those in print media.

We have an opportunity to change that with a new review of the Award by the Fair Work Commission to take place this year.

MEAA will be seeking to modernise the Award to i. extend hours of work; ii. overtime; iii. shift penalty payments and other key conditions to employees engaged by online publications.

To do so, we need to provide evidence to the Commission about digital journalists' working arrangements.

By taking part in this confidential survey, you can help build a picture of what life is really like for the modern digital journalist so we can improve conditions for everyone.

ABOUT YOU

Name:

Mobile:

Email:

Gender: M / F / unidentified

Union member: Y / N

(please indicate whether you want your personal details to remain confidential)

MEAA wants everyone's feedback, but you ought to know that the Award only covers employees, *not independent contractors / freelancers.*

- x. How long have you worked in the media/publishing industry?
- x. Which news organisations/publishers/mastheads do you mainly work for?
- x. What is your current role? e.g. journalist, reporter, social media editor, columnist etc.
- x. Which applies to you? [Drop down]

Full time

Part time

Casual

Other [Please specify]

- x. How many ordinary (contracted) hours do you work per week? (eg. 38 for full-time, 3 days per week for part-time)
- x. Do you regularly work overtime above your usual hours?
- x. If yes, how many hours per week? Drop box
 - 1-2
 - 3-4
 - 5-8
 - 10+
- x. Are you compensated for working overtime (time off, payment, flexible hours, etc.) If yes, how?
- x. Do you regularly work early mornings, evenings or on the weekend?
- x. Are you compensated for unsociable hours, including through Time-off-in-lieu or other arrangement?
- x. Do you feel that your rate of pay is adequate compensation for the hours that you work? Yes/no/don't know
- x. Are you regularly required to work on public holidays?
- x. Are you compensated for working public holidays (eg. additional annual leave, time off in lieu, penalty payment)? [Open question]
- x. What impact would receiving overtime compensation, weekend rates and shift penalties have on you? [Open question]
- x. Has the lack of overtime, shift penalty payments and other conditions led you to consider leaving the industry? [Open question]
- x. Do you know how your working conditions are determined? [Drop down – Award/enterprise agreement, individual contract, don't know]
- x. Can we contact you to seek further information? Y / N
- x. Would you be prepared to tell your work story to the Fair Work Commission? Y / N / Tell me more

SUMMARY OF PRE-MODERN AWARD EXTRACTS ON TOIL AND OVERTIME

Introduction

The following extracts are from twelve (12) prominent awards and agreements spanning twenty years. Many were in force up to the period in which the JPMA was being drafted (in 2009).

The text below sets out the provisions that applied as compensation for overtime. The underlining of the Award clauses is by MEAA. The comments set out are those of MEAA.

AP805243 - Journalists (John Fairfax Group) Award 2001

AIRC consolidated award incorporates all amendments up to and including 15 July 2005

19. OVERTIME

19.1 Any amount paid to a member in excess of the minimum award rate of pay for the member's grade shall not be regarded as a set-off against overtime worked, except as provided for in **clause 5.4** of this award.

19.2 The hourly rate for overtime purposes shall be calculated by dividing the minimum award rate of pay for the member's grade by 38.

19.3 All overtime payments due to a member shall be made within eighteen days of the end of the week or fortnight, as the case may be, in which the overtime was worked.

19.4 Daily overtime represents all time worked outside a member's rostered hours of duty, except for time worked on a rostered day off. Daily overtime shall be compensated for in the following manner:

19.4.1 Up to and including the first hour of overtime shall either be given off as time in lieu at the rate of time and a half within the following fortnight or paid for at the rate of time and a half at the discretion of the employer.

19.4.2 Overtime in excess of one hour shall be paid for at the rate of time and a half for the first hour and double time thereafter.

19.4.3 A member may, by mutual agreement with his or her employer, opt to take time off in lieu at the rate of single time within the next twelve months. Such agreement shall be recorded in writing.

19.5 Any time allowed off duty in lieu of overtime shall be deemed to be ordinary rostered hours for the day or days on which the time off in lieu is taken.

19.11 Where an employer requires a member to perform work which is additional to that member's ordinary hours of duty for the week or fortnight, that work shall be treated as overtime.

19.11.1 Provided that members employed on a publication (the employing publication) may volunteer to work outside their ordinary hours of duty on another publication owned by the same Employer (but not including a publication associated with the employing publication) under the following conditions:

19.11.1(a) Members shall be paid at the daily rate applicable to their grade, provided that no Member shall be paid at less than the rate applicable to a Grade 3; and

19.11.1(b) all other conditions of the Award shall apply as though they were working ordinary time. This shall include, but not be limited to, shift and weekend penalty rates, overtime (if worked) and pro rata annual leave pay.

Comment: Overtime payment was the default position. It could be varied where an employee opted to take TOIL and a mutual written agreement was reached to take TOIL in the following 12 months.

AP785898CR - Journalists (Specialist Publications) Award 1999

FWA consolidated award incorporates all amendments up to and including 22 July 2005

17.2 Overtime

Where an employee, other than a Casual Employee, is required to work in excess of 38 hours in any week, the employee shall be entitled to time off for a period which is the same as the period of overtime worked to be taken within six weeks of the end of the week in which the overtime was worked. The period in which time off can be taken in that six week period is to be agreed between the employer and the employee, or if no agreement is reached, at a time determined by the employer. If, for any reason, such time off in lieu has not been so given and taken the employee shall be paid for such overtime at the rate of time and one half for the first eight hours overtime in any week and at the rate of double time for all overtime in excess of eight hours in any week.

Comment: Overtime was compensated by TOIL, such TOIL to be agreed and taken within six weeks following the end of the week the overtime was worked. If no agreement as to timing of TOIL, the employer could direct timing of TOIL. If for any reason the TOIL was not taken, the employee received overtime payments.

AP785612 - Journalists (Murdoch Magazines) Enterprise Award 2000

AIR consolidated award incorporates all amendments up to and including 22 July 2005

17. OVERTIME

17.1 Work in excess of the daily spread of ordinary hours of work determined in accordance with clause 16 - Hours of Work, is not usually required but, when necessary, shall be worked at the request of the company and time in lieu or payment will be granted as agreed between the company and the member.

17.2 Payment for overtime shall be at the rate of time and one half for the first two hours and double time thereafter.

17.3 Members classified at grade 9 shall be excluded from payment for overtime as set out in this clause.

Comment: Overtime could only be worked and recognised at the request of the company. TOIL or overtime payments were to be granted as agreed by the company and the employee.

AP785597 - Journalists (ACP) Award 1999

AIR consolidated award incorporates all amendments up to and including 26 July 2005

18.1 Any amount paid to a member in excess of the minimum rate to which the member is entitled shall not be regarded as a set off against overtime worked, except as provided for in 5.3.2. The hourly rate for overtime purposes shall be calculated by dividing the number of ordinary weekly hours of employment into the minimum weekly award rate of pay for the member's grade.

18.2 Daily overtime represents all time worked after the expiration of eleven hours from entering upon duty in any day and shall be dealt with as specified in 18.10 provided that where under that sub-clause payment is made for such overtime, the first two hours of that overtime shall be paid at the rate of time and a half and hours thereafter at the rate of double time.

18.4 Weekly overtime represents all time worked in excess of the ordinary hours of work per week fixed in accordance with 18.2 and 18.3, or the reduced total hours occasioned by giving time off in lieu of overtime, but excludes time already adjusted pursuant to 18.2 and 18.3. Weekly overtime shall be dealt with as specified in 18.10 provided that where under that sub-clause payment is made for such overtime:

18.4.1 The first eight hours shall be paid for at the rate of time and one half.

18.4.2 Overtime beyond eight hours shall be paid for at the rate of double time.

18.5 Time off

18.5.1 When overtime is liquidated by giving time off amounts to four hours or less, it shall be given off in one block of four hours.

18.5.2 Where such overtime exceeds four hours and is less than eight hours, it will be given off in not more than two units each of four hours.

18.5.3 When such overtime is eight hours or more, it shall be given off in not more than two units, one of which shall be eight hours and the other of which are not less than four hours.

18.6 Any time allowed off duty in lieu of overtime shall correspondingly reduce the ordinary weekly hours of work for that week. All time worked in excess of the reduced total hours for that week shall be reckoned as overtime and dealt with in accordance with 18.4.

18.7 When a member is not given days off duty as provided in 17.3, the member shall be paid at the rate of double time for all work done on any such day or days with the minimum payment of four hours. When such time is paid for it shall not be included in the ordinary hours of work.

18.8 In no circumstances shall overtime involving any of the foregoing sub-clauses be paid for or adjusted by way of time off more than once.

18.9 Notwithstanding anything hereinbefore contained any overtime on a distant engagement shall be governed by clause 26.

18.10 Where a member notifies the employer he or she has worked overtime which any of the preceding sub-clauses require to be adjusted in accordance with this sub-clause [such

notification to be given to the employer no later than the first working day after the week in which the overtime was worked]

18.10.1 Within 14 days of the end of the week in which such overtime is worked, the employer may direct that the overtime shall be allowed off in full within 21 days from the end of the week in which the overtime was worked or be paid for in accordance with the provisions of the relevant sub-clause of this clause or the overtime may be allowed off in full at some other mutually agreed time.

18.10.2 If the employer has not exercised the option of directing time off or payment for such time in accordance with 18.10.1 and no agreement for the overtime to be allowed off in full has been made in accordance with that paragraph, the member may within 7 days after the time for the employer exercising that option has expired, elect for one of the following by notifying his employer accordingly:

- Payment at appropriate overtime rate; or
- Time off at a mutually agreed time in accordance with 18.5.

18.10.3 If a member does not exercise the option provided for in 18.10.2, all overtime shall be paid for in accordance with the provisions of this sub-clause.

Comment: Employer may direct TOIL instead of overtime payment, such TOIL to be taken within 21 days from the end of the week the overtime was worked or at a different mutually agreed time. If the employer did not issue a TOIL direction within 14 days or TOIL dates were not agreed, the employee could elect to be paid overtime or TOIL at an agreed time. Where such an election was not made, overtime was payable.

JOURNALISTS (RURAL, ETC. PUBLICATIONS) AWARD 1991

(ODN C No. 22231 of 1990) [Print J9911 [J0032]] SYDNEY, 2 JUNE 2000

18. OVERTIME

18.1 Any amount paid to a journalist or cadet in excess of the minimum rate to which he/she is entitled under this award, shall not be regarded as a set-off against overtime worked. The hourly rate for overtime purposes shall be calculated by dividing the number of weekly hours into the minimum rate for the employee's grade.

18.2 Daily overtime represents all time worked after the expiration of 11 hours from entering upon duty on any day. Daily overtime shall be adjusted by allowing time off in lieu as hereinafter provided.

18.3 Weekly overtime:

18.3.1 represents all time worked in excess of:

18.3.1(a) 38 ordinary hours per week in the case of members who work their ordinary hours per week as provided 17.2.1 and 17.2.4;

18.3.1(b) the ordinary weekly hours of work specified in 17.2.2 and 17.2.3 in the weeks comprising the work cycles provided for in those clauses; or

in excess of the ordinary hours in 18.3.1(a) and 18.3.1(b) reduced by time given off in lieu of overtime or by days given off after the week in which they are due.

18.3.2 Weekly overtime shall be dealt with as specified in 18.8 provided that where under that subclause, payment is made for such overtime:

18.3.2(a) the first 8 hours shall be paid for at the rate of time and one-half;

18.3.2(b) overtime beyond 8 hours shall be paid for at the rate of double time.

18.4 Time off in lieu of daily overtime shall be allowed within a period of 28 consecutive days from the end of the week in which such overtime occurs or within such other period as may be agreed and all time off duty in lieu of overtime shall correspondingly reduce for the week in which it is allowed off the ordinary hours of work for that week. All time worked in excess of the reduced total hours for that week shall be reckoned as overtime and shall be adjusted as provided in this subclause.

18.8 Where a member has worked weekly overtime:

18.8.1 within 7 days of the end of the week in which such overtime is worked, the employer may direct that the overtime shall be allowed off in full within 28 days from the end of the week in which the overtime was worked or will be paid for in accordance with the provisions of 18.3 or the overtime may be allowed off in full at some other mutually agreed time;

18.8.2 if the employer has not exercised the option of directing time off or payment for such time in accordance with 18.8.1 and no agreement for the overtime to be allowed off in full has been made in accordance with that paragraph, the employee may within 7 days after the time for the employer exercising that option has expired, elect for one of the following by notifying his or her employer accordingly:

- payment at the appropriate overtime rate; or
- time off at a mutually agreed time in accordance with 18.6;

18.8.3 if a member does not exercise the option provided for in 18.8.2, all overtime shall be paid for in accordance with the provisions of 18.3

Comment: Employer could direct overtime to be paid as TOIL but this was to be taken within 28 days from the end of the week in which such overtime occurs or within such other period as may be agreed. If the employer did not issue a direction within 7 days and agreement has not been reached on taking TOIL at a different time, the employee can express a preference for overtime or TOIL.

JOURNALISTS (AUSTRALIAN ASSOCIATED PRESS) AWARD 1991

(ODN C No. 22231 of 1990) [Print J8034 [J0020]] SYDNEY, 18 NOVEMBER 1999

19. OVERTIME

19.1 Any amount paid to a member in excess of the minimum award rate of pay for the member's grade shall not be regarded as a set-off against overtime worked, except as provided for in 5.4.4 of this award.

19.1.1 The hourly rate for overtime purposes shall be calculated by dividing the minimum award rate of pay for the member's grade by 38.

19.2 **Daily overtime** represents all time worked outside a member's rostered hours of duty, except for time worked on a rostered day off.

19.3 Daily overtime shall be compensated for in the following manner:

19.3.1 Up to and including the first hour of overtime shall either be given off as time in lieu at the rate of time and a half within the following fortnight or paid for at the rate of time and a half at the discretion of the employer.

19.3.2 Overtime in excess of one hour shall be paid for at the rate of time and a half for the first hour and double time thereafter.

19.3.3 A member may, by mutual agreement with his or her employer, opt to take time off in lieu at the rate of single time within the next twelve months. Such agreement shall be recorded in writing.

Comment: TOIL applied for the first hour of additional work and overtime paid within the following fortnight 'at the discretion of the employer'. Overtime in excess of one hour was to be paid as overtime. Taking TOIL in preference to overtime payments was at the employee's election and established by written agreement.

AP819806CAN - Journalists (News Limited - Metropolitan Daily Newspapers) Award 2002
FWA consolidated award incorporates all amendments up to and including 3 March 2006

18.1 Any amount paid to a member in excess of the minimum award rate of pay for the member's grade shall not be regarded as a set-off against overtime worked, except as provided for in **sub-clause 5.3**. The hourly rate for overtime purposes shall be calculated by dividing the minimum award rate of pay for the member's grade by 38.

18.2 Overtime represents all time worked outside a member's rostered hours of duty, except for time worked on a rostered day off (hereinafter called a "sixth shift").

18.3 Overtime

Overtime shall be compensated for in the following manner:

18.3.1 Overtime, other than a sixth shift, will be banked to be taken as time off in lieu at single time;

18.3.2 Time off in lieu of overtime shall be taken as mutually agreed, or by the employer rostering accrued overtime as time off in lieu, by giving at least 14 days' notice that the member is required to take such accrued time off in lieu, provided it is taken prior to sub-clauses 18.3.3 and 18.3.4 having effect;

18.3.3 On 1 January in each year, all untaken time off in lieu accrued before 1 July in the previous year shall be paid out at the overtime rates prescribed in sub-clause 18.3.6.

18.3.4 On 1 July in each year, all untaken time off in lieu accrued before 1 January in that year shall be paid out at overtime rates prescribed in sub-clause 18.3.6.

18.3.6 Where mutually agreed, overtime may be paid as it is worked at the rate of time and a half for the first two hours and double time thereafter.

18.4 Any time allowed off duty in lieu of overtime shall be deemed to be ordinary rostered hours for the day or days on which the time off in lieu is taken.

18.5 Additional Sixth Shift

When a member is not given the days off duty as provided for in sub-clause 17.3, the member shall be paid at the rate of double time based on the minimum award rate for all work done on any such day or days with a minimum payment for four hours.

Comment: Overtime banked as TOIL, but TOIL was time limited and if not taken within 6 months, overtime was to be paid. This is the provision that most closely resembles clause 22 of the Journalists Published Media Award 2010.

AP785590 - Journalists (Regional Daily Newspapers) Award 1999

FWA consolidated award incorporates all amendments up to and including 14 May 2007

6.4 OVERTIME

- 6.4.1** Payments made to a member in excess of the weekly award rate of pay for the member's grade will not be regarded as a set off against overtime worked.
- 6.4.2** The hourly rate for overtime purposes will be calculated by dividing the weekly award rate of pay for the member's grade by 38.
- 6.4.3** Overtime payments due to a member will be made within 18 days of the end of the week or fortnight in which the overtime is worked.
- 6.4.4** Daily overtime represents all time worked outside a member's rostered hours of work, except for time worked on a rostered day off.
- 6.4.5** Daily overtime will be compensated for as follows:
- 6.4.5(a)** up to an including the first hour of overtime will at the discretion of the employer, either:
 - 6.4.5(a)(i)** be given off as time in lieu at the rate of time and a half within the following fortnight, or,
 - 6.4.5(a)(ii)** paid for at the rate of time and a half.
 - 6.4.5(b)** overtime in excess of one hour will be paid for at the rate of time and a half for the first 2 hours and double time thereafter.
 - 6.4.5(c)** by agreement in writing between the employer and the member all overtime may be taken as time in lieu at the rate of single time within the next 12 months.
 - 6.4.5(d)** time allowed off duty in lieu of overtime will be counted as ordinary rostered hours for the day or days on which the time off in lieu is taken.

Comment: Default system was payment of overtime. Overtime payments were due within 18 days of the end of the week or fortnight in which the overtime is worked. TOIL could be taken in preference to overtime by written agreement between employee and employer.

AP790112 - Media Monitoring Industry Award 1999

FWA consolidated award incorporates all amendments up to and including 26 July 2005

- 16.1** Overtime means all time worked outside the ordinary hours of work described in clause 14 of this award.
- 16.2** Overtime shall be compensated for in the following manner:
- 16.2.1** Up to and including the first hour of overtime shall either be given off as time in lieu at the rate of time for time, or paid for at the rate of time and a half at the discretion of the employer.
- 16.2.2** Overtime in excess of one hour shall be paid for at the rate of time and a half for the next 2 hours, and double time thereafter.
- 16.2.3** Provided further that an employee may, by mutual agreement [in writing] take all time off in lieu of overtime, at the rate of time for time within 12 months of the overtime being worked.

Comment: The default system was the payment of overtime. TOIL was at the employee's election and required mutual agreement.

AP824025 - Journalists (Suburban Newspapers) Award 2003

FWA consolidated award incorporates all amendments up to and including 22 July 2005

21. OVERTIME

- 21.1** Any amount paid to a member in excess of the minimum award rate of pay for the member's grade shall not be regarded as a set-off against overtime worked.
- 21.2** The hourly rate for overtime purposes shall be calculated by dividing the minimum weekly award rate of pay for the member's grade by 38.
- 21.3** All overtime payments due to a member shall be made within eighteen days of the end of the week or fortnight, as the case may be, in which the overtime was worked.
- 21.4** "Daily overtime" represents all time worked outside a member's rostered hours of duty, except for time worked on a rostered day off.
- 21.5** Daily overtime shall be compensated for in the following manner:
- 21.5.1** Up to and including the first hour of overtime shall either be given off as time in lieu at the rate of time and a half within the following fortnight or paid for at the rate of time and a half at the discretion of the employer.
- 21.5.2** Overtime in excess of one hour shall be paid for at the rate of time and a half for the first two hours and double time thereafter.
- 21.5.3** A member may, by mutual agreement with his or her employer, opt to take time off in lieu at the rate of single time within the next twelve months. Such agreement shall be recorded in writing.
- 21.6** Any time allowed off duty in lieu of overtime shall be deemed to be ordinary rostered hours for the day or days on which the time off in lieu is taken.

Comment: Payment for overtime was to be made within eighteen days of the end of the week or fortnight, as the case may be, in which the overtime was worked TOIL was at the employee's election. TOIL agreement was to be in writing.

AN160187 – Journalists' (Suburban and Free Newspapers) Award, 1984

FWA consolidated award reproduces the former State award Journalists' (Suburban and Free Newspapers) Award, 1984 as at 27 March 2006.

15. - HOURS

- (1) The ordinary working fortnight shall not exceed eighty hours, excluding time actually occupied as meal time.
- (2) There shall be two clear days off in any week.
- (3) Hours in excess of eighty in any fortnight shall either be paid at overtime rates or given off at a time agreed between the employee and the employer but within the following fortnight.

17. - OVERTIME

Subject to sub-clause (2) of Clause 15. - Hours of this award overtime shall be paid at the rate of time and a half for the first eight hours worked after eighty hours in a fortnight and thereafter at double time.

Comment: Time off was required to be agreed. TOIL or overtime payments had to be honoured within two weeks of the overtime being performed.

***Journalists' (Fairfax Community Newspapers NSW and Newcastle Newspapers Pty Ltd)
Collective Agreement 2007 - 2009***

7. OVERTIME

7.1.1 Any amount paid to an Employee in excess of the minimum award rate of pay for the Employee's grade shall not be regarded as a set-off against overtime worked.

7.1.2 The hourly rate for overtime purposes shall be calculated by dividing the minimum Agreement rate of pay for the Employee's grade by 38.

7.2 All overtime payments due to an Employee shall be made within 18 days of the end of the week or fortnight, as the case may be, in which the overtime was worked.

7.3 Daily overtime represents all time worked outside an Employee's rostered hours of duty, except for time worked on a rostered day off.

7.4 Daily overtime shall be compensated for in the following manner:

7.4.1 Up to and including the first hour of overtime shall either be given off as time in lieu at the rate of time and a half within the following fortnight or paid for at the rate of time and a half at the discretion of the Company.

7.4.2 Overtime in excess of one hour shall be paid for at the rate of time and a half for the first two hours and double time thereafter.

7.4.3 An Employee may, by mutual agreement with his or her Company, opt to take time off in lieu at the rate of single time within the next twelve months. Such agreement shall be recorded in writing.

Journalists' (FCN NSW & Newcastle Newspapers) Agreement 2007 – 2009.

7.5 Any time allowed off duty in lieu of overtime shall be deemed to be ordinary rostered hours for the day or days on which the time off in lieu is taken.

7.6 An Employee entitled to be paid for a day or days off under 5.8 shall be paid at the rate of double time for all time worked on any such day or days with a minimum payment of 4 hours except when any such day is a public holidays as defined in 9.4.

Comment: Overtime payments were required within 18 days of the end of the week or fortnight in which the overtime was performed. TOIL was at the employee's election. TOIL agreement had to be in writing.

Journalism: Growing as Australian newspaper circulations shrink

Mark Skulley

Summary: This report argues that the Journalists Published Media Award 2010 does not meet the modern award objective of providing a "fair and relevant minimum safety net of terms and conditions." It contends that the modern media working environment has been reshaped over the past decade and that the Award must reflect the needs of contemporary working environments.

The JPM Award was derived from earlier awards that mostly dealt with newspapers. It is largely silent on digital journalism, even though new research indicates social media (like Facebook and YouTube) is only just behind television as Australia's main source of news. [1]

But the growth of digital media has not offset the loss of thousands of Australian journalism jobs in recent years, mostly in newspapers. Fewer journalists are doing more work in more varied formats, leading to work intensification in an expanded "24/7" news cycle.

These changes should be considered against the Modern Award objective of providing additional remuneration for: employees working overtime; working unsocial, irregular or unpredictable hours; working on weekends or public holidays; and working shifts.

The author: Is a freelance journalist, who has written for internet titles like the New Daily, Guardian Australia, the ANZ Bank's BlueNotes newsroom and Workplace Express. He was a contributor to "Journalism, Research and Investigation in a Digital World" (OUP 2013).

He previously worked at The Australian Financial Review for 18 years, covering the national IR round for a decade. Before that, he worked at The Sydney Morning Herald and various publications in Western Australia, starting out at the Esperance Express in 1978.

Global Media Disruption

Digital technology is transforming all industries, but few sectors have experienced the scale and speed of change in news media and journalism.

There has been a global fall in the commercial news media's advertising revenue, which has traditionally previously then used to subsidise the journalism. [2]

In response to falling circulation and advertising revenue, newspapers have reacted by cutting print-focused jobs and improving their digital offerings.

Social media outlets (like Facebook) and search engines (like Google) have turned from being online "hubs" into "major pillars of publishing and advertising, as well as important destinations for audiences" [3]

Since October 2015, the number of Americans working in online publishing has outnumbered those working for newspapers [4]. A similar trend is underway in Australia and the UK, but is less pronounced than the US.

New skills, new work patterns, fewer hands

A landmark 2012 report, by the Columbia Journalism School's Tow Center for Digital Journalism, said that all publishers now claimed to be "doing more with less" when explaining forced job cuts. [5]

"Post-industrial journalism assumes that the existing institutions are going to lose revenue and market share, and that if they hope to retain or even increase their relevance, they will have to take advantage of new working methods and processes afforded by digital media," the report said.

In Australia, it is estimated that around 700 journalism jobs were lost during the Global Financial Crisis between 2008-09. This was followed by the loss of about another 2,500 journalism jobs between 2012-2015. Since then, hundreds more journalism jobs have been lost. [6]

A professor of journalism at the University of Canberra, Matthew Ricketson, wrote this year that there are no signs of a slowdown in job losses in Australia's mainstream media companies, such as Fairfax Media and News Corporation.

The redundancy rounds of recent years have also coincided with the rise of the 24-hour news cycle and with social media. Journalists now file stories the moment news breaks, whether by tweeting or by live-blogging, and they are now required to file audio, video and online reports as well as stories for the next day's newspaper. The departure from newsrooms of many experienced journalists, combined with a ratcheting-up of the number of stories those remaining need to file, prompts questions about the ability of mainstream media companies to continue to provide the kind of quality journalism for which they are known. [7]

My former employer, Fairfax Media, has had a "digital first" policy in place for several years, and News Corp has a similar policy. [8]

According to the managing director of Fairfax Life Media and events, Andrew McEvoy:

"Fairfax is now a digital first, mobile first, video led, socially amplified company, publishing beyond its own platforms." [9]

News Corp Australia's chief product officer, digital, Mark Drasutis, says his company is innovating by **"recombining content, people and processes in new ways for growth."** [10]

The individual journalist is under pressure to publish news online and in multiple channels as quickly as possible, rather than holding it back to be published in a newspaper which comes out the next day. Reporters at combined print-digital operations have to file online, provide updates and then look to develop the story for the next day's paper.

This emphasis on speedy online publication is partly driven by Search Engine Optimisation (SEO), the process of maximizing the number of visitors to your website by ensuring that the site appears high on the list of results returned by Google.

The pattern for consuming online media is similar to that of household electricity usage, with peaks around breakfast and dinner times. There is a smaller spike in online media consumption after dinner, as many people use multiple devices such as watching television while browsing on a tablet or smartphone.

My own experience is that reporters often end up filing stories and updates from early in the morning until late at night, or over the weekends. Production work for online media has to be done before the morning and evening consumption peaks. ie in the early morning and at night.

Meanwhile, journalists are expected to be on social networks such as Twitter and Facebook, to promote their own work and their publication, but also to engage with readers/the audience.

It must be stressed this is a two-way street – all journalists expected to also use digital sources as a *source* of news, information and verification during every shift but particularly when covering breaking news.

This requires new skills. In many regional newsrooms, reporters are expected to take photographs and videos and - in some cases - sub-edit and then publish their own digital stories. An advertisement for a graduate cadet at the Gympie Times in Queensland said: "Full training will be provided in our online and editorial production system, use of social media, and other areas of website management." [11]

However, in bigger newsrooms, the emphasis is on working in teams - reporters, sub-editors plus digital media specialists such as designers, video journalists and editorial content producers.

Modern newsroom management structures tend to be flat, with most employees expected to be "hands on" in the production process. With fewer journalists, those who remain are expected to have multiple skills and work as a team.

The managing director of ABC news digital, Stuart Watt, says that what works on the national broadcaster's website has to be adapted for other digital platforms.

"And what works on Facebook is not tuned for the needs of the YouTube audience. And none of those necessarily work that well on Instagram. Then there is Snapchat." [12]

Watt adds:

"Gone are the days of predictable media consumption: the sit-back behaviour associated

with TV, the 'in the background companion' of radio and the daily, mostly morning, habit of newspapers. With each new device comes a new set of behaviours and that means newsrooms need to change their output to fit those behaviours."

The Tow Centre's report on "Post-Industrial Journalism" argued that the news business in the 20th century was a "fairly linear" process. But that has changed in the current century:

"The list of what a journalist can do grows daily, as the plasticity of communications technology changes both reporting capabilities and audience behaviours." [13]

"Almost every aspect of the news environment will be more variable than it is today. We're not shifting from big news organisations to small ones, or from slow reporting to fast. The dynamic range of journalism is increasing along several axes at once. The internet has unleashed demand for more narrative and more data-driven news, for a wider range of real-time sources and wider distribution of long-form pieces."

The Tow report predicted smaller newsrooms in future, but many more niche players with smaller and more narrowly tailored operations:

More techniques will be deployed in the production of news—algorithmic data analysis, information visualization, solicitation of amateur input, feedback loops with crowd reaction, automated production of data-driven stories. More generalists will be working in niche subjects; interviewers on particular topics who create, edit and distribute photos, audio or video as a newsroom of one. Narrower and deeper specialization will occur among the newsrooms that have staffs large enough to allow collaborative units to work together: By 2020, the most expert data miner, information visualizer or interactive experience designer will have a far more refined set of tools and experience than any of those people do today.

Then consider the increased scrutiny of stories and the audiences they attract. Digital media produces real-time reader metrics, which can identify the number of clicks on a story and (usually) how much time is spent looking at it.

All this is occurring as the big publishers have reduced their contributor budgets. Having large pool of freelance journalists looking for work has contributed to reductions in wordage rates.

In 2010-11, the MEAA had a recommended payment rate for freelancers of about 93 cents per word. In 2016, some traditional publishers and online-only outfits pay 60 cents per word, while others pay 40 cents or less [14]

Many of the job losses in recent years have come through voluntary redundancies, which appeals to more senior journalists who have worked with an employer for many years. The New Beats survey found the average of respondent redundant journalists was just over 49 years, who had worked in journalism for an average of almost 26 years. [15]

The changed age profile is important. The leaner newsrooms of today are mostly staffed by younger journalists who compete for a smaller pool of jobs, while Australia's university journalism courses still attract thousands of students [16]

There are ongoing problems with young people being pushed into doing unpaid work or low-paying internships to break into the industry [17].

As a veteran journalist and senior reporter on the Financial Review, I was fine with Fairfax

Media's "digital first" strategy. But if I wrote a story at 8am, did my regular work during the day and then filed an update after 8pm, I was careful to keep a record and claim it as Time Off In Lieu (TOIL) in future. The same went for unscheduled weekend work.

But it is difficult for many journalists, especially young journalists to claim TOIL, given the new dynamics (and economics) of Australian newsrooms.

The changed Australian news media landscape

A new measurement tool by Nielsen has estimated that almost 19.6 million Australians accessed digital content in February this year using computers, smartphones and tablets - about 82% of the 24 million population [18]

The tool, developed by the Interactive Advertising Bureau and Nielsen, increased the total digital audience by around 1 million people despite trying to avoid double-counting.

The Nielsen research found that:

- * almost 18 million Australians used computers to go actively online in February 2016, with more than 13 million actively browsing websites/apps on smartphones and 7.5 million people on tablets

- * Australians spent more time browsing websites/apps on their smartphones than any other device (more than 28 hours per person per month)

- * Australians still mostly use computers to access current events and global news related content, for about 2 hours and 17 minutes per person per month.

The research company Nielsen produces a list of the top 10 news websites, in which News.com.au, smh.com.au and ABC News Websites hold the top three rankings in terms of highest total unique audience.

TOTAL AUDIENCE – TOP 10 CURRENT EVENTS & GLOBAL NEWS BRANDS (WEB & APP)

ENTITY	UNIQUE AUDIENCE (000)	TIME PER PERSON (HH:MM:SS)
news.com.au	5499	01:04:11
smh.com.au	4709	00:55:10
ABC News Websites	4330	00:26:43
ninensn News Websites	3037	00:29:00
The Guardian	2944	00:27:59
Daily Mail Australia	2866	00:35:04
The Age	2665	01:04:49
Yahoo7 News Websites	2607	00:15:11
Herald Sun	2545	00:22:58
The Daily Telegraph	2433	00:17:12

Source: Nielsen Digital Ratings (Monthly) – February 2016; Computer (Ppl; 2+), Smartphone and Tablet (Ppl 18+)

Five of the top ten websites belong to News Corp and Fairfax, while three websites associated with broadcasters – the ABC plus the Seven and Nine television networks – have one entry each.

Two of the top ten websites – the Guardian Australia and the Daily Mail Australia are relatively new, internet-only operations which are offshoots of international operations.

Three other international media outfits have established internet-only operations in Australia, the youth publisher Vice Media, BuzzFeed, and the Huffington Post (in partnership with Fairfax).

However, the home-grown, internet-only publishers include Private Media (whose titles include Crikey, The Mandarin, Smart Company, Startup Smart, Women's Agenda) and The New Daily, which was established by a group of industry superannuation funds.

Other local internet-only publications include Banking Day, mUmBRELLA, New Matilda, Property Review Australia and Urban Cinefile.

A non-profit internet publisher developed by Australian universities, The Conversation, which works with the CSIRO and research institutes to publish their own experts, was started in 2011 and now has sister publications in Africa, France, the UK and the US.

Australian newspapers down but not out

The market research business, IBIS World, says that Australian newspaper circulation has decreased over the past decade as readers switched to online news content, producing lower revenue from print despite cover price increases. [19]

Newspaper publishers have sought to charge for online content, but "paywalls" can

direct users elsewhere in search of free content.

IBIS World says that Australian newspapers had 23,472 employees in 2010-11, and this is expected to shrink to 16,373 in 2016-17.

Some of the departed newspaper employees were printers, or worked in advertising and administrative roles.

Documents lodged with the Fair Work Commission show the number of journalists employed under the Fairfax Media Metropolitan Journalists Enterprise Agreement fell from 1174 to 933 between 2011 and 2014, a drop of about 20%. Fairfax has cut at least another 160 jobs, mostly in its regional and suburban newspaper operations, in 2015 and 2016. [20]

In Western Australia, WA Newspapers cut about 100 jobs in 2013 with an estimated 45 more expected to be lost through the recent takeover of the Sunday Times [21].

The annual reports of News Corp/New Limited indicate that its Australian workforce was cut from 9000 to 8000 between 2013 to 2015, including hundreds of journalism jobs. In 2014, there were media reports that one in eight jobs had been cut in 2012-13. [22]

As recently as November 2016, News Corp announced a further \$40 million in savings was required. These savings are to be secured through a freeze on new staffing hires and redundancies, among other measures. [23]

The job cuts have flowed through to the accounts of both companies. News Corp incurred \$821 million in restructuring costs in its newspaper businesses from 2009 to 2016, mostly in the UK and Australia. Fairfax has incurred redundancy costs \$455.56 million between 2007-2016 [24]

The "Australian Entertainment & Media 2015-2019 Outlook" by PricewaterhouseCoopers forecasts that Australian newspaper revenues will fall by about 6.3% from about \$3.1 billion in 2015 to about \$2.4 billion in 2019. [25]

However, PwC is more upbeat than IBISWorld, arguing that reports of the newspaper industry's death have been greatly exaggerated.

"While print sales continue to decline, the aggregate consumption of print and digital news is increasing," PwC said.

But the report added that the number of online-only providers offering free digital content is rising, while content aggregators was adding to the pressure on traditional mastheads.

"All these recent entrants are providing online-only content, which has much lower overheads than print and offers greater agility, including the ability to break news live and stream video content."

"This increased competition is driving traditional publishers to innovate. They are developing new offerings and models centred on their core competency: the creation and curation of professional quality content."

Australia's biggest newspaper publishers – News Corporation and Fairfax Media - have sought to cut costs in the face of falling advertising revenue, while improving their digital offerings.

News Corp has created sub-editing "hubs" which handle stories for multiple publications rather than the subeditors working for individual titles.

Fairfax outsourced sub-editing – firstly to Pagemasters and then to Fairfax in New Zealand and now back to Pagemasters. It has laid off most of its staff photographers and has pushed ahead with significant cuts to regional and suburban publications.

In May, Fairfax Media chief executive Greg Hywood made clear at a Macquarie Australia conference in Sydney that the company was likely to end publication of the Monday-to-Friday editions of the SMH and The Age in coming years. He also hinted Fairfax will keep the weekday edition of the Australian Financial Review, but drop the weekend AFR. [26]

"It should surprise no one, and certainly not us, that the seven-day-a-week publishing model will eventually give way to weekend-only or more targeted printing for most publishers. We are already seeing this happening offshore." Hywood said.

Hywood said a new model for the three major metropolitan mastheads would "include 24/7 enhanced digital and likely changed print proposition."

"We have a profitable publishing business – and we know there is a profitable publishing future with a different mix of digital and print than is currently the case."

Conclusion

This report argues that the reality of modern newsroom practice and structures means the Fair Work Commission should focus on the work now performed and how it has impacted the working lives of journalists and other editorial employees when reviewing the Journalists Published Media Award 2010.

The JPM Award cannot be relevant, let alone modern, without reflecting a media which works on a 24/7 cycle that requires overtime or Time Off in Lieu [TOIL] arrangements.

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Note: The figure of 3,200-plus job losses combines reported job losses with estimates by the Media Entertainment and Arts Alliance. See: <http://www.newbeatsblog.com/redundancy-timeline/>

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