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 (<u>Transcript</u>), 12 May 2017 (<u>Transcript</u>) and 16 June 2017 (<u>Transcript</u>). Updated following <u>Report</u> 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. <u>Transcript</u> PN 22. See also item 29, as per
	ADG	<u>Sub-08/05/17</u>		Proposed changes, if applied, will result in significant reductions in pay of some employees; therefore, a substantive change.	Page 1	<u>Transcript</u> 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 <u>Transcript</u> 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)	OUTSTANDING Subject to further discussion between BCCL and AEIA, see Transcript, 16/06/17 [PN72]
4	7 NW	<u>Sub-18/01/17</u>	4.2	Broadcasting and recorded	Para 3.2, pg 7	WITHDRAWN

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				entertainment industry Delete term as it is already included in the definitions.	of Att A	see <u>Transcript</u> , 16/06/17 [PN85]
5	7 NW	<u>Sub-18/01/17</u>	4.4	Coverage Should include reference to Part 6— Termination of Employment and Redundancy.	Para 3.4	RESOLVED Agreed - see <u>Transcript</u> , 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	Para 2.1	WITHDRAWN See Transcript, 16/06/17 at PN89 Provision is contained as a discrete clause in all Group 4 EDs in accordance with plain language principles [2016] FWC 2924,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	AFEI	Sub-21/12/16 Sub-18/01/17	7.2	Facilitative provision—Radio Broadcasting—meal break during shift In response to question raised by Commission 'Employees' could be read as an individual employee or group of employees. Agreement under cl 40.3 should be amended to also provide for agreement between an individual employee and an	Para 3 Para 12	OUTSTANDING Further discussions to take place between interested parties. If no agreement is reached, item will not be relisted. See <u>Transcript</u> 16/06/17 [PN102]

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				employer.		
	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	Para 3.2, pg 10	RESOLVED
				Payment of wages to be included as a	of Att A	
				facilitative provision.		Agreed - See
						<u>Transcript</u> 16/06/17[PN108]
						ED updated
9	7 NW	<u>Sub-18/01/17</u>	9.1	Full-time employment	Para 3.5	RESOLVED
				'is an employee who is' should be		Agreed - See <u>Transcript</u> , 16/06/17
	CDGII	D 1 1	_	reinserted.	D 4	[PN111]
	CPSU	Replysub-		Supports 7 NW's proposal.	Para 4	ED updated
10	7 NW	22/02/17 Sub-18/01/17	10.1	Dout time amendament	Para 3.6	RESOLVED
10	/ IN W	<u>Sub-18/01/17</u>	10.1	Part-time employment 'is an employee who' should be	Para 5.0	RESOLVED
				reinserted.		Agreed - See Transcript, 16/06/17
	CPSU	Replysub-	-	Supports 7 NW's proposal.	Para 4	[PN113]
	Croo	<u>22/02/17</u>		Supports / IVW s proposal.	1 414 4	ED updated
11	7 NW	Sub-18/01/17	10.1(a)	Part-time employment	Para 3.2, pg 12	RESOLVED
				'works' inserted at start of sentence.	of Att A	
						Agreed - See <u>Transcript</u> , 16/06/17
						[PN115] ED updated
12	7 NW	Sub-18/01/17	10.2	Part-time employment	Para 3.2, pg 12	RESOLVED
12	, 14 44	<u>540-10/01/17</u>	10.2	'is entitled to' inserted just after	of Att A	TOSOL VED
				'employee' and just before 'receive'.	01711171	Agreed - See Transcript, 16/06/17
				improjee and just before receive.		[PN117]
						ED updated
13	7 NW	<u>Sub-18/01/17</u>	12.3(h)	Cadet training requirements and	Para 4.1	RESOLVED

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				related matters In response to question raised by Commission Yes, the requirements are up to date.		Agreed - See <u>Transcript</u> , 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 <u>Transcript</u> , 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 <u>Transcript</u> , 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)-
	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	(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).
16	BCCL	Sub-18/01/17	13.4	Employees in cinemas 'This loading is payable for all purposes' be deleted.	Paras 13-16, 17, 18(1)	RESOLVED Agreed - as per Birch Carroll &
	AEIA	ReplySub- 22/02/17		'All purposes' has been included in ED. Supports retaining of current award provision instead.	Para 3(a)	Coyle Limited and others

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	AFEI	Replysub- 22/02/17		Agrees with submissions of BCCL.	Para 12	
	CIE	Correspondenc e-05/09/17		Believes this matter has been resolved	Page 1	
	MEAA	Correspondenc e-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	Correspondenc e-11/09/17		Confirms that CIE agree that there is no outstanding issue with respect to this matter as: 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 <u>Transcript</u> 16/06/17 [PN128] ED updated
18	7 NW	Sub-18/01/17	13.7	Classifications—cadets Word 'weekly' should be included between 'minimum wage'.	Para 3.7	RESOLVED Agreed - See <u>Transcript</u> 16/06/17 [PN130] ED updated

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19	AFEI	Sub-18/01/17	13.11	Musicians (other than session singers) In response to question raised by Commission Rates are not hourly rates but are payable per engagement.	Para 13	RESOLVED Agreed - See <u>Transcript</u> 16/06/17 [PN132] ED updated
20	7 NW	Sub-18/01/17 Replysub-	14.2	First-aid allowance Amend clause to clarify different application of allowance to full-time employees and part-time/casual employees. Provides drafting. Supports 7 NW's proposal.	Para 3.8, pg 22 of Att A	RESOLVED Agreed - See <u>Transcript</u> 16/06/17 [PN134] ED updated
21	7 NW	22/02/17 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 <u>Transcript</u> 16/06/17 [PN137] ED updated
22	MEAA	Sub-21/12/16 Sub-21/12/16	14.3(d)	Telephone rental allowance In response to question raised by Commission Agrees to update for mobile phone costs. Does not object to clause being modernised to clarify it applies to mobile	Para 10 Para 4	RESOLVED Agreed - see <u>Transcript</u> , 16/06/17 [PN154]. agree to include 'mobile' or
	7 NW	Sub-18/01/17		phones as well. 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	Para 4.2	'fixed line' in definition; MEAA does not seek clause to be updated to include reference to mobile telephone costs

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				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 <u>Transcript</u> 16/06/17 [PN166]
	CPSU	Replysub- 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 <u>Transcript</u> 16/06/17 [PN170]
	CPSU	Replysub- 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
	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	<u>Transcript</u> , 16/06/17 [PN181].
	CPSU	Replysub- 22/02/17		Supports 7 NW's proposal to change referencing to exclude cl.32.1(d)	Para 7	
	AFEI	Replysub- 22/02/17		Agrees with CRA.	Para 14	
	ABI & NSWBC	Replysub- 22/02/17		Supports submissions of CRA and 7 NW.	Para 3.1	
26	7 NW	Sub-18/01/17	29.3(b)	Ordinary hours of work and rostering Replace all 'ordinary' terms with 'minimum'.	Para 3.2, pg 34 of Att A	OUTSTANDING See <u>Transcript</u> 16/06/17 [PN188]

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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,
	CPSU	Replysub- 22/02/17		Should be 'where applicable' rather than 'if applicable'.	Para 8	16/06/17 [PN193] ED updated
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 <u>Transcript</u> ,
	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	16/06/17 [PN200] ED updated
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 <u>Transcript</u> 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	<u>Sub-18/01/17</u> <u>Replysub-</u> 22/02/17	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. Supports retention of current wording, but does not support the removal of title.	Paras 3.16 – 3.18, pg 38 of Att A Para 12	RESOLVED Agreed - see <u>Transcript</u> , 16/06/17 [PN208-217]. ED updated
31	7 NW	Sub-18/01/17 Replysub-	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. Supports retention of current wording,	Para 3.16 – 3.18, pg 38 of Att A Para 12	RESOLVED Agreed - see <u>Transcript</u> , 16/06/17 [PN208,221-222] ED updated
32	7 NW	22/02/17 Sub-18/01/17	32.1(c)	but does not support the removal of title. Shift duty allowance – extra shift duty allowance Remove subclause title.	Para 3.16 – 3.18, pg 38 of Att A	RESOLVED Agreed - see <u>Transcript</u> , 16/06/17 [PN208, 223-229] ED updated
33	7 NW	<u>Sub-18/01/17</u> <u>Replysub-</u> 22/02/17	34.2(a)	All purpose allowances Conflict with overtime provisions. Insert 'except where otherwise specified' at start of clause. Does not support proposed alteration by 7 NW.	Para 3.19 – 3.20, pg 40 of Att A	OUTSTANDING Further discussions to take place. See <u>Transcript</u> , 16/06/17 [PN203]
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 <u>Transcript</u> , 16/06/17 [PN232]

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
						ED updated
35	CPSU	Sub-21/12/16	34.2(j)(i)	Director who works as a producer In response to question raised by Commission Refers to the pre-reform Television Industry Award 2000 cl.25.6. Submits loading is based on the minimum wage for that Directors classification.	Para 5	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	Replysub- 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 <u>Transcript</u> , 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	Replysub- 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 <u>Transcript</u> , 16/06/17 [PN244-255]

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
38	MEAA	Sub-21/12/16	43.1	Overtime—Technical staff In response to question raised by Commission Clause needs to be considered and applied in conjunction with cl.38 ED.	Para 11	OUTSTANDING See <u>Transcript</u> , 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 Television Industry Award 2000. 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	<u>Sub-18/01/17</u>		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 In response to question raised by Commission Agrees 'midnight to dawn shift' should be defined.	Para 12	RESOLVED Agreed - see <u>Transcript</u> , 16/06/17 [PN271].
	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)	'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 <u>Transcript</u> , 16/06/17 [PN272-174].

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40	7 NW	Sub-18/01/17	48.1 4 5.1	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].
	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)	(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 submission included in item 39 in error. See
						<u>Transcript</u> , 16/06/17 [PN272-174].
41	7 NW	Sub-18/01/17	49.1	Rostering 'if applicable' to be inserted at the end of	Para 3.23	RESOLVED
				sentence.		Agreed - see <u>Transcript</u> , 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	In response to question raised by Commission 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 <u>Transcript</u> , 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)	OUTSTANDING. Further discussions to take
	AFEI	Replysub- 22/02/17		Agrees with submissions of BCCL.	Para 13	place. See <u>Transcript</u> , 16/06/17 [PN310-311].
44	MEAA	Sub-21/12/16	57.3(b)	Part-time employment ED wording could cause confusion. Amend to: 'A part time employee receives no less than the minimum hourly rate for ordinary hours worked'.	Para 8	WITHDRAWN See <u>Transcript</u> , 16/06/17 [PN320].
	FWO	Corro-	27.3	Ordinary hours of work and rostering	Page 13	

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		02/03/15		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	Issue 3	
45	MEAA	Sub-21/12/16	66.2, 67, 68	Wage-related allowances, meal breaks and overtime In response to question raised by Commission Does not believe a method of calculation is required to determine the overtime rate.	Para 14	RESOLVED Agreed - see <u>Transcript</u> , 16/06/17 [PN322-325]. Method of calculation is not
	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 In response to question raised by Commission	Para 15	OUTSTANDING ABI & NSWBC to confirm whether they still oppose

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				Clause should refer to 'gross agreed remuneration' not minimum rates in		MEAA's proposal before
				cl.12.		<u>Transcript</u> , 16/06/17 at
	ABI &	Sub-18/01/17		Should refer to minimum rates in cl.13	Para 4.6	[PN335-338].
	NSWBC			rather than the 'gross agreed		
				remuneration'		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	Para 3.24	RESOLVED
				Would like a summary of wage rates		Schedule E deleted, no
				provided in ED for the remaining		othervariation pressed.
				streams.		
						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