

# MinterEllison

19 October 2016

Associate to President Ross  
Fair Work Commission  
Terrace Tower  
80 William Street  
EAST SYDNEY NSW 2000

Dear Associate

## **AM2014/300: Four Yearly Review of Modern Awards – Award Flexibility**

We write on behalf of Seven Network (Operations) Limited, Nine Network Pty Limited and Network Ten Pty Ltd in relation to the four yearly review of the *Broadcasting and Recorded Entertainment Award 2010 (BREA)*.

We refer to the draft determination published by the Fair Work Commission (**Commission**) proposing variations to the time off in lieu of overtime (**TOIL**) arrangements in the BREA.

As previously advised, our clients have an interest in the Television Broadcasting and Journalists streams of the BREA.

We are instructed that our clients are not opposed to the draft determination with the exception of draft Order 6.

In relation to draft Order 6, we are instructed to request the following amendments shown in mark up:

- "6. *By deleting the words "in excess of one hour" appearing in clause 52.3(b), by changing the words 'first hour' with 'first two hours' and renumbering clause 52.3(b) as clause 52.3(a)*

The proposed amendment to draft Order 6 is necessary to preserve the existing arrangements for the payment of daily overtime for Journalists in the BREA.

In this regard, clause 52.3(b) provides

*Overtime **in excess of one hour** will be paid for at the rate of time and a half for the **first hour** and double time after that.*

The combination of *'in excess of one hour'* and *'for the first hour'* mean that double time only applies after two hours – not one.

Without the changes we seek, the proposed changes to clause 52.3(b) (as it currently is) would have the effect of making daily overtime payable at time and half for the first **one hour** and double time thereafter.

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In other words, the deletion of '*in excess of one hour*' would have the unintended effect of meaning that double time would be payable after the first hour, instead of after the first two hours as is currently the case.

Please let us know if you have any queries or would like to discuss.

Yours faithfully

**MinterEllison**



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