

FAIR WORK COMMISSION

FWC MATTER NO: AM2014/270

Modern Awards Review 2014

Award: General Retail Industry Award 2010

Award Code: MA000004

STATEMENT OF JORGE-DANIEL LE ROY D'ORELI

On Monday 10 August 2015, I, Jorge-Daniel Le Roy d'Oreli, General Manager Retail, of 14-16 Yarra St South Yarra in the State of Victoria say:

My Background in the Retail Industry in Australia

1. On 13 October 2008 I commenced employment with Jeanswest in the position of New South Wales State Sales Manager, and was promoted to my current role of General Manager Retail on 21 March 2011;
2. In my role as General Manager Retail I am responsible for the effective co-ordination of all aspects of retail operations in the three pillars of Financial, Brand, Team to achieve Company targets. My retail responsibilities include:
 - (a) Sales;
 - (b) Product;
 - (c) Marketing;
 - (d) Merchandising;
 - (e) Human resources; and
 - (f) Administration.
3. Prior to holding this position, I was National Operations Manager at Katies, State Manager NSW/ACT/QLD at French Connection, District Manager QLD/NT (and other various roles) at Colorado. In all, my retail career spans fourteen years in Australia.

4. In 2001 I obtained a Bachelor of Social Science with a Psychology Major from University of New England.

Jeanswest Operations Nationally

5. Jeanswest operates 197 stores across all States and Territories of Australia, with the exception of the Northern Territory.
6. In Australia, the business employs approximately 1,300 employees. Of this number, approximately 1,154 are employed in retail store positions. Our workforce is majority female (89%), with a high level of casual (12%) and part time (57%) employment.
7. Jeanswest is experiencing a number of the competitive challenges that impacts the retail sector more broadly. In the past three years a strong Australian Dollar made international online purchases more favourable and a high unemployment rate has been met with falling consumer demand and lower consumer confidence. Additionally, international retailers, especially in the apparel and footwear category, continue to see value in the Australian market with the increasing number of new entrants and stores. This has had a clear impact on our sales performance.
8. Jeanswest Chadstone has seen more and more international brands open with Zara opening in 2012 and Uniqlo opening in 2014. Jeanswest Chadstone which traditionally has been one of our most high profile stores has struggled in recent years. In 2011, Chadstone had the 3rd highest sales in the company, compared to 2014 when they ranked 29th. From 2011 to 2014, Jeanswest has had an increase in company sales of 20%, whereas Jeanswest Chadstone has had a decrease in sales of 24%.

Industrial Regulation & Use of Labour

9. Currently, all of Jeanswest's retail employees are covered by the *General Retail Industry Award 2010* ("**GRIA**").
10. I am aware that the GRIA commenced on 1 January 2010. Prior to this the business employed the substantial majority of its retail store employees under a variety of State and Territory based awards. Those awards provided for different conditions including a variety of penalty rates. I am aware that in New South Wales and the Australian Capital Territory the penalty rate for work performed on Sundays was, prior to 2010, payment of an additional 50% of the ordinary rate of pay, and in South Australia the penalty was an additional 60% of the ordinary rate of pay.

11. We structure our use of labour on the basis that, in order for the business to remain profitable, direct labour costs (excluding superannuation and on costs) are required to be limited to 20% of retail sales in each store. Store Managers are required to operate within this labour budget, and the business manages Store Manager performance in part on this.

Sunday Trading

12. Approximately 184 of Jeanswest's 197 stores in Australia trade on Sundays. The stores that do not trade on Sundays are closed because traffic is low or sales generated are insufficient to cover wages for the day. The hours that our stores trade on Sundays varies from location to location. In a number of our stores the hours of trade on Sundays are fixed through lease agreements. There are at least 11 stores (6 in New South Wales, 1 in Victoria, 4 in Queensland) that we would otherwise close on Sunday were it not for lease agreements currently in place requiring the store to be open.
13. Sunday has over the past 5 years, become an increasingly important trading day for Jeanswest. In 2009, Sunday trading accounted for 10.5% of the week's sales compared with 12.4% in 2014. To support this, Jeanswest has rostered more skilled staff on Sundays with most Assistant Store Managers rostered to work on Sundays. The average age of employees working on Sunday has increased from 23 in 2009 to 28 in 2014.
14. Of the 13 stores that are currently closed on Sundays, I expect to re-open 3 stores (1 in Western Australia, 1 in Queensland and 1 in Victoria) on Sundays if the Sunday penalty rates was reduced from its current additional 100% to an additional 50%. Naturally this would result in additional shifts for employees working at those stores, or new opportunities for employment within the business.

Sunday Penalty Rate Challenges

15. With the increase in labour costs on Sundays, in particular in New South Wales, the Australian Capital Territory and South Australia, Jeanswest has needed to focus on maintaining labour costs at the required percentage of turnover. Given Sunday has continued to grow in importance as a trading day, in order to avoid negative impacts on customer service levels the business has actually increased the overall hours worked on Sundays, but at the same time we have sought to limit Sunday activities in terms of the work performed.

16. Sunday is effectively a “service only” day. This means that the business limits the work performed on Sundays almost solely to selling as there are no stock deliveries and limited administrative tasks to be completed.
17. From FY09 to FY14, Sunday hours across all Jeanswest stores in Australia increased by 31%. Western Australia has seen the largest increase with the relaxation of Sunday trading restrictions in 2012. Sunday hours has increased by 138% from FY11 to FY14 in Western Australia with an additional 12 stores trading on Sundays.
18. On Sundays we have implemented a number of measures to attempt to reduce costs without impacting negatively on service levels, and therefore sales. These include:
 - (a) reducing trading hours – several stores trade 11.30 am to 4.00 pm on Sundays to both reduce overall trading hours, and also in an effort to avoid the need for an unpaid meal break. Such trade hours removes the requirement to roster an additional person for 3 hours to cover the meal break;
 - (b) rostering employees in such a way to avoid the need for breaks, thereby reducing their individual earning capacity. For example a 6 hour trade day is covered by two employees working 3.25 hour shifts, with one employee working the first half of the day and another working the second half. By rostering in this way neither employee requires a break and therefore no cover is required

Preferred Sunday operating structure

19. In Victoria and New South Wales alone Jeanswest provided just under 60,000 hours on Sundays in FY14. If the Sunday penalty rate was reduced from an additional 100% to an additional 50% the business would be able to offer an additional 30,000 hours per annum at ordinary rates of pay without having a negative impact on labour costs percentages. Even if all of these hours were added only to Sundays it would still mean the business could increase hours offered by 20,000 per annum.
20. As General Manager Retail I believe that all, or at least the substantial majority, of the labour cost savings brought about by a reduction in the Sunday penalty rate would be reinvested into labour hours within stores. With our customers having

broader access to online channels, and therefore greater choice, the key offering we have in bricks and mortar stores is the customer experience, a significant part of which is service. Putting more hours into our stores will improve service to our customers.

21. With a reduction in the Sunday penalty rate Jeanswest would extend the trading hours for 28 stores that currently trade on Sundays. Specifically, there are 8 stores in Western Australia, 3 in New South Wales, 2 in Victoria, 11 in Queensland, 2 in South Australia, and 2 in Tasmania whose trading hours would extend.

Accessing sufficient employees to staff Sundays

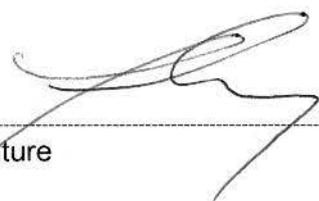
22. Jeanswest has not experienced any difficulty finding sufficient employees to work on Sundays. 69% of employees working on Sundays are aged 30 and under, 18% between 31 and 40 and 12% are over 40. With predominantly female employees, Jeanswest has seen an increase in employees in the 40+ age bracket (from 4% in FY09).

Signed by JORGE-DANIEL LE ROY D'ORELI

At 14-16 Yarra Street, South Yarra, Victoria

on 13 October 2015

Signature



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10. I am aware that the GRIA commenced on 1 January 2010. Prior to this the business employed the substantial majority of its retail store employees under a variety of State and Territory based awards. Those awards provided for different conditions including a variety of penalty rates. I am aware that in New South Wales and the Australian Capital Territory the penalty rate for work performed on Sundays was, prior to 2010, payment of an additional 50% of the ordinary rate of pay, and in South Australia the penalty was an additional 60% of the ordinary rate of pay.

11. We structure our use of labour on the basis that, in order for the business to remain profitable, direct labour costs (excluding superannuation and on costs) are required to be limited to 20% of retail sales in each store. Store Managers are required to operate within this labour budget, and the business manages Store Manager performance in part on this.

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13. Sunday has over the past 5 years, become an increasingly important trading day for Jeanswest. In 2009, Sunday trading accounted for 10.5% of the week's sales compared with 12.4% in 2014. To support this, Jeanswest has rostered more skilled staff on Sundays with most Assistant Store Managers rostered to work on Sundays. The average age of employees working on Sunday has increased from 23 in 2009 to 28 in 2014.
14. Of the 13 stores that are currently closed on Sundays, I expect to re-open 3 stores (1 in Western Australia, 1 in Queensland and 1 in Victoria) on Sundays if the Sunday penalty rates was reduced from its current additional 100% to an additional 50%. Naturally this would result in additional shifts for employees working at those stores, or new opportunities for employment within the business.

Sunday Penalty Rate Challenges

15. With the increase in labour costs on Sundays, in particular in New South Wales, the Australian Capital Territory and South Australia, Jeanswest has needed to focus on maintaining labour costs at the required percentage of turnover. Given Sunday has continued to grow in importance as a trading day, in order to avoid negative impacts on customer service levels the business has actually increased the overall hours worked on Sundays, but at the same time we have sought to limit Sunday activities in terms of the work performed.

16. Sunday is effectively a “service only” day. This means that the business limits the work performed on Sundays almost solely to selling as there are no stock deliveries and limited administrative tasks to be completed.

~~17. In New South Wales in FY09/10 Jeanswest used 31,060 hours on Sundays across 61 stores. In FY14/15 32,911 hours were used, an increase of only 6%, across 60 stores. Over this same period, wage hours across all Australian stores on Sundays increased 31%. Attached to this statement and marked “JDD1” is a true copy of the labour hours for Jeanswest in FY09/10 and FY14/15 as it is related to work performed on Sundays in NSW. The overall increase in wage hours, including on Sundays can be attributed to an increased focus on customer experience which has driven increased sales and the introduction of larger format stores which has resulted in an increase in average store size by 6% (8 Square metres) in Australia between FY09/10 and FY14/15.~~

~~18. Comparing this to Victoria, in FY09/10 Jeanswest stores used 21,811 hours across 40 stores. In FY14/15 27,086 hours were used, an increase of 24%, across 41 stores. Attached to this statement and marked “JDD2” is a true copy of the labour hours and store numbers for Jeanswest in FY09/10 and FY14/15 as it relates to work performed on Sundays in Victoria.~~

~~19. As can be seen from this data there has been a considerably smaller increase in Sunday hours used in New South Wales compared with Victoria. Furthermore, Sunday hours in Victoria has accounted for 8.1% of the week’s total hours in the FY09/10. In the FY14/15 this figure had increased to 9.9%. By comparison, Sunday hours in New South Wales steadily accounted for 9.3% of the week’s total hours between these two time periods. The gradual increase in Sunday penalties in NSW has meant we have been reluctant to increase Sundays hours in NSW in the same way we have in Victoria.~~

20-17. From FY09/10 to FY14/15, Sunday hours across all Jeanswest stores in Australia increased by 31%. Western Australia has seen the largest increase with the relaxation of Sunday trading restrictions in 2012. Sunday hours has increased by 138% from FY11/12 to FY14/15 in Western Australia with an additional 12 stores trading on Sundays.

~~24.18.~~ On Sundays we have implemented a number of measures to attempt to reduce costs without impacting negatively on service levels, and therefore sales. These include:

- (a) reducing trading hours – several stores trade 11.30 am to 4.00 pm on Sundays to both reduce overall trading hours, and also in an effort to avoid the need for an unpaid meal break. Such trade hours removes the requirement to roster an additional person for 3 hours to cover the meal break;
- (b) rostering employees in such a way to avoid the need for breaks, thereby reducing their individual earning capacity. For example a 6 hour trade day is covered by two employees working 3.25 hour shifts, with one employee working the first half of the day and another working the second half. By rostering in this way neither employee requires a break and therefore no cover is required

~~22. From FY09/10 to FY14/15 Jeanswest has had a 7% increase in national hours, an additional 81,190 hours used across the week. 31% of the additional hours are from Sunday/ from FY09/10 to FY14/15 Jeanswest has had a net decrease of 3 stores so the increase in hours is not due to greater number of stores. The marginal increase in hours from Monday to Saturday (5%) compared to the significant increase in Sunday hours (31%) suggests that additional hours have potentially been taken away from other days of the week.~~

Preferred Sunday operating structure

~~23.19. My preference with Sundays is that Jeanswest further increase the hours offered within our stores as this would improve customer service levels, which is a key driver of our sales performance. As can be seen from the information set out above, in Victoria and New South Wales alone Jeanswest provided just under 60,000 hours on Sundays in FY14/15. If the Sunday penalty rate was reduced from an additional 100% to an additional 50% the business would be able to offer an additional 30,000 hours per annum at ordinary rates of pay without having a negative impact on labour costs percentages. Even if all of these hours were added only to Sundays it would still mean the business could increase hours offered by 20,000 per annum.~~

~~24.20. As~~ General Manager Retail I believe that all, or at least the substantial majority, of the labour cost savings brought about by a reduction in the Sunday penalty rate

would be reinvested into labour hours within stores. With our customers having broader access to online channels, and therefore greater choice, the key offering we have in bricks and mortar stores is the customer experience, a significant part of which is service. Putting more hours into our stores will improve service to our customers.

25-21. With a reduction in the Sunday penalty rate Jeanswest would extend the trading hours for 28 stores that currently trade on Sundays. Specifically, there are 8 stores in Western Australia, 3 in New South Wales, 2 in Victoria, 11 in Queensland, 2 in South Australia, and 2 in Tasmania whose trading hours would extend.

Accessing sufficient employees to staff Sundays

26-22. Jeanswest has not experienced any difficulty finding sufficient employees to work on Sundays. 69% of employees working on Sundays are aged 30 and under, 18% between 31 and 40 and 12% are over 40. With predominantly female employees, Jeanswest has seen an increase in employees in the 40+ age bracket (from 4% in FY09/10), ~~suggesting there has been a shift in employees who seek employment on Sunday away from employees under the age of 21 to employees of a later age bracket who are able to benefit from the flexibility of working on Sundays.~~

Signed by JORGE-DANIEL LE ROY D'ORELI

At 14-16 Yarra Street, South Yarra, Victoria

on ~~Monday 10 August~~ 13 October 2015

Signature