



Submission to the Fair Work Commission

AM2014/305

Penalty Rates Case

About this submission

1. The Busselton Chamber of Commerce and Industry (BCCI) represents some three hundred businesses that operate in the Busselton area, which is located approximately 220 kilometres south of Perth and is the principal WA tourist destination outside of Perth.
2. This submission is provided in support of the earlier employer submissions lodged as part of these proceedings, which advocate for the reduction of Sunday and public holiday penalty rates.
3. The submission is supplemented by the views expressed by a number of BCCI members. This material is not intended as evidence, but is reflective of the general views of many of our members on the on the impact of weekend and public holiday penalty rates on local businesses, employees and the broader community.

Importance of the tourism industry

4. The Busselton region has a population of approximately 35,500 people¹, with annual visitor numbers currently exceeding 600,000.² In the broader South West region (including Busselton) the population currently stands at approximately 178,000 people and accommodates in excess of 1.9 million visitors per year.³
5. The value of gross regional product (GRP) in the South West region is just over \$17 billion per annum, comprising predominately of mining, building, port trade, viticulture, timber, agriculture, retail and tourism.⁴

¹ Australian Bureau of Statistics (2014) [Regional Population Growth, Australia, 2013-14](#) Cat # 3218.0

² City of Busselton

<http://www.busselton.wa.gov.au/Developing-Busselton/Why-Busselton/Live>

³ [South West Development Commission Area. Overnight visitor fact sheet year ending December 2014](#), p3.

⁴ South West Development Commission:

<http://www.swdc.wa.gov.au/information-centre/statistics/gross-regional-product.aspx>

6. Tourism comprises a significant proportion of GRP, contributing approximately \$1.5 billion per year to the local economy.⁵, with retail trade adding a further \$1.96 billion.⁶ Taken together, tourism and retail accounts for over 17 per cent of GRP in this region.
7. Given the significance of the tourism industry to the local economy it is important to ensure that the region remains an attractive tourist destination.
8. Of the 1.9 million visitors who visited the South West in 2014, 89% of these were intrastate visitors who spent on average 3 nights in the area.⁷ This demographic consists of West Australians who predominately visit the area around weekends, public holidays and school holidays. For these visitors it is important that the range of activities that they wish to engage in are available on weekends and public holidays.
9. When visiting the region, dining at restaurants and cafes is one of the top activities for 92 per cent of international visitors, 74 per cent of interstate visitors and 58 per cent of intrastate visitors. Other highly rated leisure activities for visitors include visiting wineries (for 38 per cent of interstate and 23 per cent of intrastate visitors) and shopping for pleasure (for 80 per cent of international visitors).⁸ These statistics highlight the significant role that the hospitality and retail industries have in meeting the expectations of visitors to the region.
10. The tourism industry is a substantial factor in generating local employment opportunities, underpinning many retail and hospitality businesses within the region. As a result, the retail industry employs 11.3 per cent of the local labour force, followed closely by the hospitality industry which accounts for 7.1 per cent.⁹
11. The jobs created by these sectors are particularly attractive to students and those with caring responsibilities, whose commitments limit their ability to work within a 'standard' Monday to Friday environment. Without the range of working hours available within the tourism, hospitality and retail industries many of these workers would not be able to participate within the labour market.
12. Busselton is a growing regional city with a consistently high population growth exceeding 4 per cent per annum, and within the next seven years is forecast to be the largest regional city in Western Australia. The development of the tourism, hospitality and retail industry is a key factor in facilitating the ongoing growth of the region.

The impact of penalty rates on the tourism industry

13. BCCI supports the comments made by the Chamber of Commerce and Industry of WA (CCIWA) in their submission, regarding the impact of the current weekend and public holiday penalty rates on regional tourism.¹⁰

⁵ [Australia's South West, Overnight visitor fact sheet year ending December 2014](#), p2.

⁶ South West Development Commission

<http://www.swdc.wa.gov.au/information-centre/statistics/retail.aspx>

⁷ [South West Development Commission Area, Overnight visitor fact sheet year ending December 2014](#), p3.

⁸ [Australia's South West, Overnight visitor fact sheet year ending December 2014](#), p7.

⁹ [Department of Regional Development: South West: a region in profile](#), p3.

¹⁰ AM2014/305 – [Submission of the Chamber of Commerce and Industry of Western Australia](#), paragraphs 59-63

14. As identified above, an overwhelming 89 per cent of our tourists are intrastate visitors. Typically these visitors are from Perth, for whom the 2.5 hour drive to Busselton makes it an easy destination for a weekend or long weekend getaway.
15. They are drawn to the Busselton region for the range of attractions and activities on offer, including easy access to the Margaret River wine region, beaches and natural attractions, extensive dining options and entertainment venues, adventure activities, locally grown and sold produce, and a wide range of accommodation options.
16. As a primary tourist destination it is imperative that we cater for the tourist market, as well as the changing expectations of our own community, which ultimately requires our tourism, hospitality and retail sector businesses, many of which are small businesses, to be open.
17. Unfortunately all too often this is not the case. In many instances the significant costs associated with engaging staff on Sundays and public holidays makes it unviable for local businesses to operate on these days. In this situation the business simply closes. Not only does this negatively impact on the revenue for the business concerned, but it also translates to reduced employment opportunities for the local community.
18. It also impacts on the viability of the local tourism industry. "Why aren't you open" is an all too frequent comment from visitors to the region who are faced with closed signs instead of the vibrant and bustling attractions that they imagined.
19. This negatively impacts upon the region's reputation as a premium tourist destination and restricts growth of the local communities. For the many small towns surrounding Busselton, no value is generated through tourism unless visitors get out of their cars and spend money within the local businesses. This can't happen if they are unable to open.
20. The same impact is felt where businesses are forced to respond to the high costs of employing staff on weekends by reducing the number of staff that they engage and/or engaging cheaper junior staff members who are generally less experienced. This often results in lower standards of customer service and longer waits.
21. Weekend and public holiday penalty rates currently act as a brake on the development of the local tourism industry, and in doing so limits employment opportunities for the local community.
22. The Busselton community has been working hard to develop our tourism industry in order to provide greater job opportunities. The Busselton Jetty has recently been redeveloped to allow for cruise ships and commercial boats to dock. This has allowed us to successfully attract domestic and international cruises to stop at Busselton, generating additional visitors to the city and its surrounds.
23. However, the reputation for businesses being closed on weekends and public holidays is impacting on this opportunity. This was recently highlighted when a cruise ship docking at Busselton over the Easter weekend warned its passengers that "it is Easter Sunday, so don't expect anything to be open." This perception discourages cruise ship operators from including Busselton and other regional towns in their itineraries.
24. The direct impact of the current Sunday and public holiday penalty rates on local businesses is best shown through the following comments by BCCI members.

Four Star Resort

25. The general manager of a local four star resort, currently employing approximately 60 staff members, identified that the penalty rates which applied over the Easter long weekend meant that:
- “This Easter I am open on the Friday and Saturday for dinner. I am closing for dinner on Sunday to all external guests and will have a skeleton team on to provide room service for in-house guests, and on Monday I will be closed entirely for dinner to both external and house guests. We will stay open for breakfast each day and not open for any lunches. Increasing menu pricing options by 15% does not cover the extra cost in payroll”.*
26. Operating on a skeleton crew negatively impacts upon the general manager, who is also an employee, in that *“I will need to be at work as I cannot afford to have too many staff on so that means I will need to cover.”* These additional hours sit on top of the already significant hours worked by most managers and salaried employees.
27. The impact on the business is not limited to public holidays, with the general manager also stating that *“I intend to close on Sunday’s over winter as the demand does not warrant the cost, if the cost was not so high I would consider opening for Sunday night dinners on a more regular basis”.*
28. Consequently the current penalty rate structure is limiting the hours of work available to its approximately 60 employees. This is despite the general manager’s view that *“my personal feeling is that in hospitality a Sunday is just like a Monday. Anybody who has worked in hospitality for any length of time understands that and accepts it”.*
29. As a local resident, the general manager commented that:
- “It is embarrassing that a 4 star resort is closing its doors. I am actually going against our company brand standards, however, the Company will not accept making a loss so I can justify my actions and I am happy to take whatever guest complaints are made. It is also embarrassing that visitors both local and international come to our region and see the township closed up at night time or operating with even more inflated prices than normal...our region already has a bad name for being overpriced.”*

Restaurant and Tavern

30. The owner of a multi-functional destination offering tavern, restaurant/café dining, and function facilities, employing the equivalent of 50 full time employees, identified that the current penalty rate structure has a significant impact on profitability with:
- “Weekend trading days being our main source of income. In our case the period Monday to Thursday we are unable to achieve sufficient turnover to cover the minimum staffing levels required to open the doors so are unable to afford the penalty costs of employing labour on the weekends. This causes food & beverage costs to be higher than what the average customer can afford & wants to pay.”*
31. In this case, the low level of patronage during Mondays to Thursdays means that there is not sufficient revenue generated at this time to absorb the additional cost of employing staff over the busier weekend period.

32. In managing the additional costs associated with Sunday and public penalty rates, the owner stated that it *“causes us as owners and our salaried management staff to work additional, and at times unreasonable hours, because we cannot afford to employ the number of staff needed to properly run the business.”*

Major Tourist Attraction

33. The manager of a local tourist attraction identified that with respect to public holidays:
“We are very busy on these days so we need maximum staff, however we have employed four juniors who we always roster on public holidays as [we] cannot afford to pay for all our adult staff to work on public holidays. We are not able to add a surcharge to our prices. We are not able to change our opening hours, but we have started to analyse our wages cost compared to our income to see if it is worth running tours on public holidays.”
34. Consequently the more expensive adult staff members are missing out on working hours due to the need to maintain wage cost in comparison to revenue. Whilst this business feels obliged to open on public holidays, being a significant attraction within the region, clearly it is reconsidering this position in light of the current penalty rates.
35. The manager sees this as a broader issue, stating that:
“There have been comments from tourists that ‘nothing is open’ on public holidays so ‘what sort of tourist town are you’.”

Café/restaurant

36. In managing penalty rates, the owner of a small café/restaurant, employing between 10-12 staff, states that:
“We employ juniors on public holidays. We do not charge a surcharge as the public have complained. If we do not think we will take enough to cover wages, we do not open (eg winter public holidays). We note that many cafes do not open on public holidays in Busselton.”
37. To further assist manage costs *“most public holidays all of the family/owners of the business are working as this avoids paying staff the higher wage. This adds to business pressure and results in small business disengagement.”*

Clothing Retailer

38. The owner of a clothing retailer operating two stores within the region stated that:
“Sunday trading is not viable for a compliant boutique store. We will close one of our stores after Easter as we don't get the critical mass for the gross margins to cover wages. We will leave the larger store open with minimal staff.”
39. The owner also commented that *“we are paying penalty time after 6pm weekdays Saturday, Sunday and Public holidays”* and *“pricing is too competitive”* to add additional loading to cover penalties, with consumers able to bypass retail stores and purchase online.
40. The owner also identified staffing as an issue as *“customers want the same service level be it Wednesday or Sunday”* and that in order to *“hold a consistent standard I just can't leave unsupported juniors. So it impacts direct on my family life. It cost us a lot more to open and a higher % of wages to turnover than a Coles or Woolworths self-serve checkout.”*

41. With respect to the impact on tourism the owner stated that *“tourists don't like closed doors”* and that as a result the *“precincts lose vibrancy”* with complementary businesses also closing their doors, creating a *“domino effect.”*
42. However the owner identified that a change in the current penalty rate structure in line with the quantum sought as part of this application would *“see our trading times expanded meaning more employment - for both adult and junior employees.”*

Tourist Caravan and Camping Resort

43. The operator of a local tourist park identified that the current penalty rate system has:
“a major impact on the number of staff we will roster on. Price setting is not always acceptable to potential bookings therefore we are inclined to close off allotments rather than sell the rooms, as the penalty rates are too high based on the sale of a room.”
44. The broader impact of having to restrict the level of accommodation due to the increased cost of servicing the facilities on Sundays and public holidays is not lost on the operator who commented that this means there is:
“Less accommodation available to stay in the area which in turn affects the overall patronage/spending and revenue for our local business. Local employees have less to spend and less working hours due to these high penalty rates.”
45. In addition to providing less employment opportunities for local employees, the operator also identified that:
“Sadly it has a huge impact on family and personal life because management (salary workers) and owners are having to cover the public holidays to try and save on very high penalty rates”.
46. However the operator concludes that a reduction in penalty rates *“would for sure allow us to employ more staff and open up our accommodation to arrivals on a 7 day regular operation.”*

Conclusion

47. The current Sunday and public holiday penalty rates are restricting opportunities for businesses to maximise their financial return while at the same time limiting employment opportunities.
48. A fair and equitable wage rates for weekend work is not disputed but payment of wages at a rate of up to two and a half times that paid during Monday to Friday is not equitable. Conversely, it can be argued that value of work during penalty periods is not equitable for those who only work during the normal working week.
49. Why is it that the value of an experienced employee working during the normal working week is deemed to be less than for an employee working at overtime and penalty rates?