

**FAIR WORK COMMISSION**

**Matter No. AM2014/305**

**FOUR YEARLY REVIEW OF MODERN AWARDS – PENALTY RATES**

**SUBMISSIONS OF UNITED VOICE REGARDING THE RESEARCH UPDATES**  
**ISSUED BY THE FAIR WORK COMMISSION ON 20 JANUARY 2017**

1. On 20 January 2017, the Fair Work Commission released updated statistical reports prepared by the Workplace and Economic Research Section, Tribunal Services Branch of the Commission, titled, relevantly:
  - (a) Changing Work Patterns; and
  - (b) Industry Profile – Accommodation and Food Services.
2. United Voice referred to and relied on a previous version of the Industry Profile report in its final submissions dated 21 March 2016.<sup>1</sup> Both the Industry Profile and the Changing Work Patterns reports were updated on 28 September 2016, and again on 6 and 21 October 2016. United Voice made submissions about the updated reports on 14 October 2016 and (in reply to the submission of Restaurant and Catering Industrial) on 28 October 2016.
3. These submissions are filed in accordance with the invitation issued by the Fair Work Commission by email on 20 January 2017 to make submissions on the updated reports by 3 February 2017.

**Changing Work Patterns**

4. The Changing Work Patterns report dated 20 January 2017 includes a new Part 3.5, in which unpublished ABS data about weekend work is published and analysed.
5. The new Table 3.24 demonstrates that the Accommodation and Food Services (AFS) sector has the highest proportion of employees working on weekends of all ANZIC-classified employees, and this has been consistent over the periods covered in the table, from 2002 to 2008 (58.6 per cent) to 2009 to 2016 (60.8 per cent). By comparison, approximately one

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<sup>1</sup> See Part IV: Demographics, and in particular pp 27–38 of the submissions of United Voice dated 21 March 2016.

quarter of all employees work on weekends over the relevant periods, being 25.9 per cent between 2002 and 2008, and 27.5 per cent between 2009 and 2016.

6. This data confirms the submissions made by United Voice in its final submissions that:
- (a) Weekend work is not the norm in Australia;<sup>2</sup> and
  - (b) When considering the impact of weekend work on employees, the relevant comparator for the purposes of measuring the disutility of weekend work is not the AFS sector, but the Australian workforce as a whole.<sup>3</sup> This is because time off work is a ‘network good’ which increases in value along with the number of people who are not working at the same time,<sup>4</sup> and the impact of weekend work cannot be offset by days off work during the week, particularly due to the effects of asynchronicity and arrhythmia.<sup>5</sup> Further, weekend workers experience greater work-life interference than their weekday-working peers.<sup>6</sup> The evidence of experts relied on by United Voice in this regard is consistent with the evidence of the lay witnesses called by United Voice during the hearing.<sup>7</sup>

### Industry Profile

7. The Industry Profile report dated 20 January 2017 includes new Parts 5.10–5.12, which set out data from the 2011 Census showing certain labour force characteristics of employees covered by the awards relevant to the AFS sector, being the *Registered and Licensed Clubs Award* (Part 5.10 and Table 5.11), the *Restaurant Industry Award* (Part 5.11 and Table 5.12) and the *Hospitality Industry (General) Award* (Part 5.12 and Table 5.13).
8. In his report dated 4 September 2015 (tendered as Exhibit UV-28), Dr Damien Oliver set out at Appendix B the labour force characteristics of the AFS sector derived from the 2011 Census, and of the constructed Hospitality sector (ie, the AFS category less Arts and Recreation, and Fast Food), in the categories of gender, full and part time status (noting the difference in the definition of ‘part time work’ between the Census and the relevant awards as recorded in the Industry Profile report), student status, and age. For those categories, the data

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<sup>2</sup> See [16(d)], [117], [311], [347] of final submissions.

<sup>3</sup> See final submissions, [312].

<sup>4</sup> Final submissions, [313]–[316].

<sup>5</sup> Final submissions, [318]–[329] (Dr Muurlink).

<sup>6</sup> Final submissions, [330]–[336] (Prof Charlesworth).

<sup>7</sup> Final submissions, [337]–[344].

in the award-specific tables is broadly comparable to the AFS-specific data in Dr Oliver's report.

9. The award-specific data in Tables 5.11 to 5.13 are compared to labour force characteristics of all industries from the same data source. This data, and the accompanying text, is consistent with the demographic profile of AFS/Hospitality group employees set out in the United Voice submissions,<sup>8</sup> which is that AFS employees are more likely to be female,<sup>9</sup> not working full-time,<sup>10</sup> more likely than not to be aged over 25,<sup>11</sup> and not studying.
10. While there are some differences between labour force characteristics of the award populations themselves, and as compared with the AFS sector as a whole, the differences are negligible and do not change the submissions made by United Voice about the relevance of the demographic profile of award-covered AFS employees.

Date: 3 February 2017

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<sup>8</sup> See final submissions [90]–[97] and [104]–[119].

<sup>9</sup> Final submissions at [118].

<sup>10</sup> Final submissions, [113]–[116].

<sup>11</sup> Final submissions, [119]