

SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of submissions on technical and drafting issues lodged for this award on or before 5.00pm on 22 February 2017.

The summary has been revised to include feedback from the conference on 20 April 2017 ([Transcript](#)).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	AFEI	Sub-18/01/17	1.1	Title and commencement Typographical error. Should be corrected to ‘Amusement, Events and Recreation Award 2016’.	Para 2	AMOD: error, ED amended
	AWU	Sub-18/01/17		The word ‘and’ should be deleted.	Paras 3-4	
	LPA	ReplySub-22/02/17		Agrees with submissions of the AFEI and AWU.	Para 3	
	BusSA	ReplySub-22/02/17		Agrees with AFEI and AWU.	Para 1.1	
	AFEI	ReplySub-22/02/17		Agrees with AWU.	Para 2	
	ABI & NSWBC	ReplySub-22/02/17		AWU has correctly identified name is incorrect.	Para 2.1	
2	AWU	Sub-18/01/17	1.1	Clause needs to be consistent with [2014] FWCFB 9412. Must contain ‘A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation’.	Para 5	Withdrawn. Transcript 20/04 PNs 18 & 22-23.
	AFEI	ReplySub-22/02/17		Does not support AWU’s submissions.	Para 3	
	ABI & NSWBC	ReplySub-22/02/17		Provision referred to by AWU is at clause 5 ED.	Para 2.2	
3	ABI & NSWBC	Sub-18/01/17	1.2	Title and commencement ‘...as varied...’ should be deleted Previously raised in Group 3 submissions.	Para 2.2	This issue will be determined by the Award Stage–Group 3 Full Bench and applied generally.

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4	AWU	Sub-18/01/17	4.2(c)	Coverage '...clause 4.1...' should be deleted and replaced with '...this clause (clause 4)...'.	Paras 6-7	Agreed. Transcript 20/04 PN 23.
	AFEI	ReplySub-22/02/17		Does not object to AWU's submission.	Para 4	
	ABI & NSWBC	ReplySub-22/02/17		Not opposed to AWU's submission.	Para 2.3	
5	BusSA	Sub-18/01/17	4.5, 4.6	Definition of amusement, events and recreation industry Move clauses 4.5 and 4.6 to appear after clause 4.2. Clauses regarding who is covered by the award should appear together in sequence.	Para 1.1	Agreed. Transcript 20/04 PN 23.
	AFEI	ReplySub-22/02/17		Does not object to BUSSA's submission.	Para 5	
6	ABI & NSWBC	Sub-18/01/17	5	Effect of variations made by the Fair Work Commission Clause should be moved under cl.1—Title and Commencement.	Para 2.1	Provision is contained as a discrete clause in all Group 4 EDs in accordance with plain language principles [2016] FWC 2924 , see PN [4].
7	BusSA	Sub-18/01/17	7.2	Facilitative provisions Table should refer to clause 13.3 rather than 13.2, and be confined to 'the majority of employees'. Insert 13.4 as between 'an individual'.	Para 1.2	Parties agree clause 13 should be used rather than clause 13.2. Clause 19.4 should also be included. Agreement with an individual employee. Transcript 20/04 PNs 35 – 37.
	AFEI	Sub-18/01/17		Delete clause 13.2. Table should include clauses 13.3 (majority of employees), 13.4 (individual employee) and 19.4 (individual employee).	Paras 3-4	
	AWU	Sub-18/01/17		Table should refer to clause 13.3 rather than 13.2, and be confined to 'the majority of employees'. Insert 13.4 as between 'an individual'.	Para 8	
	BusSA	ReplySub-22/02/17		Agrees with AWU.	Para 1.2	

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	AFEI	ReplySub-22/02/17		Agrees with AWU and BusSA. Clause should include reference to 13.3 and 13.4.	Para 6	
	ABI & NSWBC	ReplySub-22/02/17		AWU's submission is correct and should be adopted.	Para 2.4	
8	AFEI	Sub-18/01/17	10.3	Ordinary hours of work Concern that 'regular pattern of work' only includes hours worked each day. Clause structure inconsistent with current award and other EDs. Suggests new drafting in submission.	Paras 5-7	Agreed. Transcript 20/04 PN 40.
	BusSA	ReplySub-22/02/17		Agrees with AFEI.	Para 1.3	
	AWU	ReplySub-24/02/17		Agrees with AFEI.	Paras 4-5	
9	AWU	Sub-18/01/17	13	Ordinary hours of work Clause title should be ' <i>Ordinary hours of work and rostering</i> '.	Para 9	Withdrawn. Transcript 20/04 PN 44.
	BusSA	ReplySub-22/02/17		Disagrees with AWU. Change would mislead readers.	Paras 1.4, 1.9	
	AFEI	ReplySub-22/02/17		Does not object to AWU's proposal.	Para 7	
10	AFEI	Sub-18/01/17	13.2	Ordinary hours of work Clause should better clarify maximum shift length in cl 13.2 subject to exceptions in cl 13.3. Insert ' <i>unless otherwise agreed in accordance with clauses 13.3 or 13.4</i> ' at the end of clause.	Para 8	Agreed. Transcript 20/04 PNs 45 – 46.
	BusSA	ReplySub-22/02/17		Agrees with AFEI.	Para 1.5	
11	AFEI	Sub-18/01/17	14.1, 14.3	Rostering arrangements, special provisions for exhibition employees References to ' <i>Clause 26 – Consultation about changes to rosters or hours work</i> ' are unnecessary. Remove from clauses.	Para 9	Withdrawn. Transcript 20/04 PN 53.
	AWU	ReplySub-24/02/17		Disagree with AFEI that references to clause	Para 6	

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				26 are unnecessary.		
12	LPA	ReplySub-22/02/17	14.3(a), 14.3(b)	Rostering arrangements-Special provisions for exhibition employees Paragraphs (a) and (b) should be in clause 13—Ordinary hours of work and not clause 14. Paragraph (c) should remain in clause 14.	Para 4	Agreed. Transcript 20/04 PNs 57 – 62.
13	AWU	Sub-18/01/17	16.1	Minimum wages – Adult employees Preamble in table should specify that employees are to be paid the relevant minimum wage “(plus any applicable allowances)”.	Para 10	Not agreed. AFEI to seek further instructions. Transcript 20/04 PNs 72 & 75.
	AFEI	ReplySub-22/02/17		Does not support AWU’s proposed changes.	Para 8	
14	LPA	ReplySub-22/02/17	17.2(b)	Wage-related allowances Table should not contain the ‘per hour’ column.	Para 5	Further discussions to take place between the parties. Transcript 20/04 PN 92.
15	BusSA	Sub-18/01/17	17.3(b)	Expense Related Allowance - Meal Allowance <i>In response to question raised by Commission</i> Allowance should be restricted to when overtime is immediately after finishing ordinary hours.	Para 1.3	To be subject of further discussions. Transcript 20/04 PNs 93 – 95.
	AFEI	Sub-18/01/17		Meal allowance should continue to be restricted to ‘ <i>an ordinary working day</i> ’. Removal of restriction would constitute substantive change.	Para 11	
	AWU	Sub-18/01/17		Reference to ‘ <i>an ordinary working day</i> ’ should be removed.	Paras 11-13	
	BusSA	ReplySub-22/02/17		Agrees with AFEI. Disagrees with AWU.	Paras 1.6-1.7 and 1.10	
	AFEI	ReplySub-22/02/17		Supports submissions of BusSA. Does not agree with AWU’s submission.	Para 9	

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16	AFEI	Sub-18/01/17	19	Overtime Heading misleading. Should be amended to ' <i>Overtime and Penalty Rates</i> '.	Para 10	Agreed. Transcript 20/04 PNs 98 – 99.
17	AWU	Sub-18/01/17	19.1	Overtime Clause omits that overtime is paid to full time and part time employees when they work over eight ordinary hours per day, per cl 13.2.	Para 14	Propose to remove words 'the rostered' in clause 19.1 and replace with 'ordinary'.
	BusSA	ReplySub-22/02/17		Disagrees with AWU: overtime is not always payable where a full-time or part-time employee works in excess of 8 hours.	Para 1.8 and 11.1	AFEI taken proposal on notice.
	AFEI	ReplySub-22/02/17		In response to AWU's submissions, the 'omission' is appropriate, as daily ordinary hours can exceed 8 hours by agreement.	Para 10	Transcript 20/04 PNs 101 – 103.
18	BusSA	Sub-18/01/17	19.5	Sunday and public holiday work <i>In response to question raised by Commission</i> Overtime worked on Sunday should be at the rate of 150% for the first 3 hours and 200% thereafter. Supports clause referring to 'ordinary hours worked on a Sunday'.	Para 1.4	Propose to insert 'ordinary' after 'all' and before 'time' to provide clarity about interaction between clauses. AFEI taken proposal on notice.
	AWU	Sub-18/01/17		Delete reference to 'all time' and replace with 'Ordinary hours'. Sunday overtime is paid at 150% for first 3 hours and 200% thereafter.	Paras 15-18	Transcript 20/04 PNs 106 – 108.
	AFEI	ReplySub-22/02/17		In response to BusSA's and AWU's submissions, AFEI notes that proposal is inconsistent with current award at clause 23.3(a)	Para 11	

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19	BUSSA	Sub-18/01/17	Sched C	Summary of Hourly Rates of Pay – Exhibition Employees <i>In response to question raised by Commission</i> Employees may only be employed at Grades 2, 4 or 5.	Para 1.5	Further discussion to take place. Transcript 20/04 PN 111.
	LPA	ReplySub-22/02/17		Exhibition employees are employed at Grades 2, 4 or 5 only.	Para 6	
20	LPA	ReplySub-22/02/17	Sched C	Summary of Hourly Rates of Pay - Exhibition Employees Strongly disagrees with proposal to provide hourly rates of pay and no weekly rates for exhibition employees engaged by the week. Wage rates set out for exhibition employees should be weekly rates, with hourly rates only set out for casual employees.	Para 6	Further discussions to take place. Transcript 20/04 PN 132.

List of abbreviations (in alphabetical order)

ABI & NSWBC	Australian Business Industrial & NSW Business Chamber
LPA	Australian Entertainment Industry Association (trading as Live Performance Australia)
AFEI	Australian Federation of Employers & Industries
AWU	Australian Workers Union
BusSA	Business South Australia