

Fair Work Act 2009

FAIR WORK COMMISSION

IN THE MATTER OF: 4 yearly review of modern Awards – Common Issues

Additional Common Issues

Outline of Submissions of the Australian Entertainment Industry Association (trading as Live Performance Australia)

10 November 2014

Live Performance Australia

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1. This outline of Submissions is filed in response to the Statement and Directions of the President on issued on 1 October 2014 [2014] FWC 6904.

Proposal by The Association for Payroll Specialists (TAPS)

2. Live Performance Australia ('LPA') submits that the proposal by TAPS should not be considered as a common issue as it is not an issue pertaining to the employment relationship but rather an administrative process for processing certain payments.

Proposal by the Australian Council of Trade Unions (ACTU) for a family friendly work clause that supplements National Employment Standards (NES) rights

3. LPA submits that this proposal should not be considered as a common issue as the NES already provide a significant safety net for the issues outlined in the ACTU's claim.
4. In accordance with the provisions of s.65(5) of the *Fair Work Act 2009* (the Act), the only ground an employer can refuse a request for flexible working arrangements is reasonable business grounds. It is submitted that "reasonable" in this context relates to its usual ordinary meaning, i.e. sound of judgement, sensible and not expecting too much. Therefore, the ability for employees who qualify to access the provisions of s.65 of the Act, to be granted a request for flexible working arrangements is significant, having regard to the low threshold employers face in refusing such a request.
5. The ACTU's claim would increase the already significant safety net afforded to employees with regard to this issue and therefore, LPA submits this claim is excessive and should not be considered as a common issue, and may have a detrimental effect on the productivity, employment costs and the regulatory burden on business (s.134(f) of the Act – The Modern Awards Objective).

Proposal by the ACTU for family violence provisions

6. LPA submits that there are adequate provisions in the NES to accommodate this proposal.
7. Family violence is a serious issue and cannot be tackled through Award provisions. The NES provides appropriate conditions of employment to support employees faced with instances of family violence.
8. The ACTU's claim would increase the already significant safety net afforded to employees with regard to this issue and therefore, LPA submits this claim is excessive and should not be considered as a common issue, and may have a detrimental effect on the productivity, employment costs and the regulatory burden on business (s.134(f) of the Act – The Modern Awards Objective).