

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 **17 August 2017**. The summary has been revised to include feedback from the conference on 27 March 2017 ([Transcript](#)), 31 May 2017 ([Transcript](#)) and **17 August 2017** ([Transcript](#))

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	MEAA	Sub-21/12/16	3	Definitions – archival and/or reference recording <i>In response to question raised by Commission</i> It is appropriate to include this provision in the award.	Para 13	Agreed, provision should be included, see Transcript 27 March 17 [PN8-29]
	AEIA	Sub-18/01/17		Strongly supports the retention of this provision.	Para 3	Parties agreed to include seven variations to definitions: inclusion of a reference to “double time”; “local show”; “musician”; “performer”; “time and a half”; “whole time performance” and “performance”. See Transcript 17 August 17 [PN28-PN45].
2	MEAA	Sub-21/12/16	3	Definitions – archival and/or reference recording Note repetition of the word ‘is’. First sentence ends with ‘is’, and (b) begins with ‘is’.	12	AMOD: Error – ED amended Agreed, ‘is’ to be deleted, see Transcript

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						27 March 17 [PN30-41]
3	MEAA	Sub-21/12/16	7	Facilitative provisions ED incorrectly refers to cyclic rostering in clause 52.1(g) as being an agreement between employer and individual. Change 'An individual' to 'the majority of employees'.	Para 4	Agreed, change 52.1(g) to with agreement between employer and the majority of employers, see
	AEIA	Sub-18/01/17		Agrees with same proposal as MEAA.	Para 4	Transcript 27 March 17 [PN48]
4	AEIA	Sub-18/01/17	7.2	Facilitative provisions References to clauses 33.3(c)(iv), (vi), and (viii) should also be added to table.	Para 4	Agreed, include reference to 33.3(c)(vi) and (viii), see Transcript 27 March 17 [PN48-71]
5	AEIA	Sub-18/01/17	8, 9, 10, 11	Types of employment Provisions of clause 10 redundant. 'Types of employment' for each category set out in specific Parts of Award. Proposes to insert note in clause 10 to direct readers to the Parts.	Para 5	Not agreed, moved to substantive issues list, see Transcript 27 March 17 [PN157]
	AEIA	ReplySub-		Refers to previous submissions. Notes	Para 3	Issue flagged to move back to technical and drafting issues list once parties confirm successful discussion, see Transcript 17 August 17 [PN58-PN61]

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		22/02/17		position has not changed and proposed clauses 8, 9, 10 and 11 should be deleted.		
6	MEAA	Sub-21/12/16	11.3(b)	Various clauses – calculating overtime Change in wording from ‘time’ based formulas to ‘percentages’ or multiples of the ‘minimum weekly rate’ or ‘minimum hourly rate’ has the effect of reducing take home pay of employees on rates of pay higher than the award minimums. Retain ‘time’ expressions in current award and remove references to ‘minimum weekly rate’ and ‘minimum hourly rate’.	Paras 5-8	Also makes sub in respect of clauses 21.4, 21.5, 33.2(g)(ix), 33.3(e)(ii), 33.4(b)(i)-(iii), 33.4(d), 35.1(a)-(c), 35.2, 35.4(a)(v) and (vi), 35.4(b), 35.5(a)(i),(ii) and (b)(ii), 37.4(a), 38.2(f)(ii), 38.2(f)(v), 41.1, 41.2, 41.3, 41.6(a)(i) and (ii), 42.3(g) and (h), 42.4(h), 42.5, 48.1(c) and (d), 52.1(c), 53.1(c) and (d), 53.3(a) and (b), 54.1, 54.2, 54.3, 54.4.
	AEIA	ReplySub-22/02/17		Would support MEAA’s position where it could be shown employees would be disadvantaged by percentage based formulas.	Para 4	
7	MEAA	Sub-21/12/16	12	Weekly employment <i>In response to question raised by Commission</i> Weekly employees are full-time employees who accrue paid leave. They are not casual employees.	Para 14	Agreed, remove the ‘minimum hourly rate’ column and the notes, see Transcript 27 March 17 [PN212-305]
	AEIA	Sub-18/01/17		It is likely that engagements will be between 4 and 8 weeks. Weekly engagements will work a 38 hour week and attract all leave entitlements.	Para 6	
8	AEIA	Sub-18/01/17	14	Minimum wages Clause not user friendly. Suggests that matter be discussed further in conference.	Para 7	Parties agreed to cross reference cl.14, see Transcript 31 May 2017

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						[PN20-33]
9	AEIA	Sub-18/01/17	14.6	School-based apprentices <i>In response to question raised by Commission</i> Should not be deleted	Para 8	Agreed, retain apprentice provisions, see Transcript 27 March 17 [PN317-318] and see Transcript 31 May 17 [PN59]
10	MEAA	Sub-21/12/16	15.3(f)(ii)	Expense related travel allowances— Eligibility <i>In response to question raised by Commission</i> The clause is required. It ensures the intention of the award is realised.	Para 15	Not agreed, moved to substantive issues list, see Transcript 27 March 17 [PN342]
	AEIA	Sub-18/01/17		MEAA is seeking changes to the travel allowances in its substantial claim so AEIA submits that the travel allowance provisions be reviewed as a whole.	Para 9	
11	MEAA	Sub-21/12/16	17.3(c)	Annual leave loading <i>In response to question raised by Commission</i> The clause does need to be reviewed and should be updated to bring the loading into line with annual leave accrual.	Para 16	Agreed, the answer to the question is ‘no’, see Transcript 27 March 17 [PN372] and see Transcript 31 May 2017 [PN64]
	AEIA	Sub-18/01/17		Clause should remain as is and the issue of annual leave should not be reviewed.	Para 10	

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12	MEAA	Sub-21/12/16	31.3	Minimum wages – Performers in school tours <i>In response to question raised by Commission</i> There is no need for the clause to refer to the Performer Category 1 Grade 1 rate. Some performers on school tours are entitled to be engaged at a higher rate.	Para 17	Agreed, the answer to the question is ‘no’, see Transcript 27 March 17 [PN384]
	AEIA	Sub-18/01/17		There should be no reference to a particular classification level	Para 11	
13	MEAA	Sub-21/12/16	31.4	Minimum wages – Weekly part-time employees (supernumeraries) <i>In response to question raised by Commission</i> This is a minimum payment.	Para 18	Agreed, this is a minimum payment, see Transcript 27 March 17 [PN384]
	AEIA	Sub-18/01/17		Agrees with proposal made by MEAA.	Para 12	
13a	MEAA AEIA		31.5	Definition-juvenile		Parties embraced the use of the term “child performer” rather than juvenile”, see Transcript 17 August 17 [PN86-PN88]
14	AEIA	ReplySub-22/02/17	31.6(b)(ii)	Minimum wages – Casuals – Rehearsals Rate has doubled. Clause should revert to current award clause.	Para 6	Agreed, 31.6(b)(i), (ii) and (d) should revert back to percentage formula, see Transcript 27 March 17 [PN425]
15	MEAA	Sub-21/12/16	33.2(f), 33.3(d)(iii)	Ordinary hours of work and rostering – Performers <i>In response to question raised by Commission</i> ‘Substantially whole time nature’ means any	Para 19	Agreed, add definition of ‘substantially whole time nature’ to clause 3,

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	AEIA	Sub-18/01/17		performance longer than one hour in duration. Agrees with MEAA. Suggests that a definition of ‘whole time performance’ be inserted into cl.3— Definitions.	Para 13	see Transcript 27 March 17 [PN451-454] Parties advance that there be definitions of ‘whole time’, ‘short performances’, ‘provided that adequate rest breaks are provided’, see Transcript 17 August 2017 [PN94]
16	AEIA	ReplySub-22/02/17	33.2(f)	Substantially whole time performances There are no provisions for payments to casuals not engaged to perform in a whole time performance. Submits issue be addressed during Review.	Para 5	Parties to discuss and report back, see Transcript 27 March 17 [PN483-513]
17	MEAA	Sub-21/12/16	33.2(g) and 36.2	Ordinary hours of work and rostering – Performers – School tours Clause 33.2(g)(iii) is in paid time. Clause 36.2 relates to musicians, who are contracted differently to performers.	Para 20	Parties to get instructions, see Transcript 27 March 17 [PN549]
	AEIA	Sub-18/01/17		No interaction between the two clauses. Breaks provided in 33.2(g)(ii) and (iii) are unpaid.	Para 14	
17A	AEIA MEAA		34	Performance of less than an hour Current provision doesn’t ensure that breaks are given to performances of less than an hour.		Parties agreed to replace current cl. 34 in ED with the proposed cl.27, see Transcript 31

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						May 2017 [PN79 to PN85]
17b	AEIA MEAA		35	Overtime and penalty rates Parties don't wish to progress with the percentage formulas but rather use the time based formulas because those terms will have been defined. For example, cl.35.1(a) would read "Full-time work in excess of eight hours on any one day will be paid for <u>at time and a half</u> for the first two hours of the rate, double time thereafter.		See Transcript of 17 August 2017 [PN100-PN125]
17c	AEIA MEAA		37.1 to 37.3	Minimum call rate Actual rate of minimum call rate is derived by negotiation.		Parties agreed cl.30.1 through to cl.30.3 of the paper titled Agreed Changes to the Exposure Draft will replace existing cl.37.1 to 37.3 of the Exposure Draft, see Transcript 31 May 2017 [PN52]
18	AEIA	Sub-18/01/17	38.2(f)(vi)	Wage-related allowances—Broadcast, telecast, filmed or recorded Words 'Subject to an agreement' have been deleted from beginning of second sentence in clause. Second sentence of clause should be deleted in entirety as it causes ambiguity and confusion.	Para 15	Parties to discuss and report back, see Transcript 27 March 17 [PN694-695]. Agreed to delete second sentence of archival recording clause, see, see Transcript 31 May

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						2017 [PN90]
19	AEIA	ReplySub-22/02/17	49	Types of employment Strongly objects to changes made to clause in ED. Current clause 42 should be retained.	Para 3	Agreed, retain current clause 42.2 but amend para (a) by deleting the words 'engaged by the week and', see Transcript 27 March 17 [PN839]
20	MEAA	Sub-21/12/16	49.1	Production and Support Staff – Types of employment – Full-time employees ED wording unfairly broadens the scope of the provision. Cyclic rostering per cl 52.1(g) can only be implemented by agreement between employer and the majority of employees, not an individual. Remove the words 'or an average of 38 ordinary hours'.	Para 9	Party has provisionally withdrawn claim, subject to report back, see Transcript 27 March 17 [PN868-869]

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
21	MEAA	Sub-21/12/16	49.2(a)(iii)	Production and Support Staff – Types of employment – Part-time employees ED defines a part-time employee as having ‘reasonably predictable hours of work’, which is different from the current award. Change to ‘works an agreed usual number of ordinary hours’ per cl 42.2(a) in current award.	Para 10	Agreed, revert to clause in current award, see Transcript 27 March 17 [PN870-872]
21a	AEIA MEAA		49.2	Parties agree some language from the head needs to be re-inserted back concerning reasonable predicable hours. Suggest there be some statement about the part-time employee working an agreed usual number of ordinary hours, less than 38 hours per week, arranged on a reasonable and predictable basis.		See Transcript of 17 August 2017 [PN133-PN139]
22	MEAA	Sub-21/12/16	49.2(b)	Production and Support Staff – Types of employment – Part-time employees Typographical error, ‘hours’ should not have an ‘s’.	Para 11	AMOD: Error – ED amended Agreed, revert to clause in current award, see Transcript 27 March 17 [PN870-875]
23	MEAA	Sub-21/12/16	53.1	Breaks Agree clause 53.1(c) deleted in error. If reinserted at the proposed clause, it would replicate the provision in clause 53.3(a).	Para 20	Agreed, clause should be reinserted, see Transcript 27 March 17 [PN880]

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	AEIA	Sub-18/01/17		Clause should be reinstated	Para 16	
24	AEIA	Sub-18/01/17	54.2(b)	Casual employees 'ordinary' should be inserted after 'eight'.	Para 17	MEAA to consider and report back, see Transcript 27 March 17 [PN1043-1046] Parties agreed to insert 'ordinary', see Transcript 31 May 2017 [PN94]
25	AEIA	Sub-18/01/17	Sched A.5.1	Production and Support Staff Level 5/ Production and Support Staff Level 4 (Theatre) 'Production and Support Staff Level 4 (Theatre)' should be deleted from title heading.	Para 18	Moved to substantive issues list, see Transcript 27 March 17 [PN1111-1115]
26	AEIA	Sub-18/01/17	Sched A.6.1	Production and Support Staff Level 6/ Production and Support Staff Level 5 (Theatre) 'Production and Support Staff Level 5 (Theatre)' should be deleted from title heading.	Para 19	Moved to substantive issues list, see Transcript 27 March 17 [PN1111-1115]
27	AEIA	Sub-18/01/17	Sched A.8.2	Production and Support Staff Level 7/ Production and Support Staff Level 6 (Theatre) 'Production and Support Staff Level 6 (Theatre)' should be deleted from title heading.	Para 20	Moved to substantive issues list, see Transcript 27 March 17 [PN1111-1115]
28.	AEIA		C1	Travelling allowance		Parties agreed to insert

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	MEAA					a new clause, see Transcript 31 May 2017 [PN59]

List of abbreviations (in alphabetical order)

AEIA	Australian Entertainment Industry Association
ED	Exposure draft
MEAA	Media, Entertainment and Arts Alliance