

# Domino's Compliance Activity Report

September 2018

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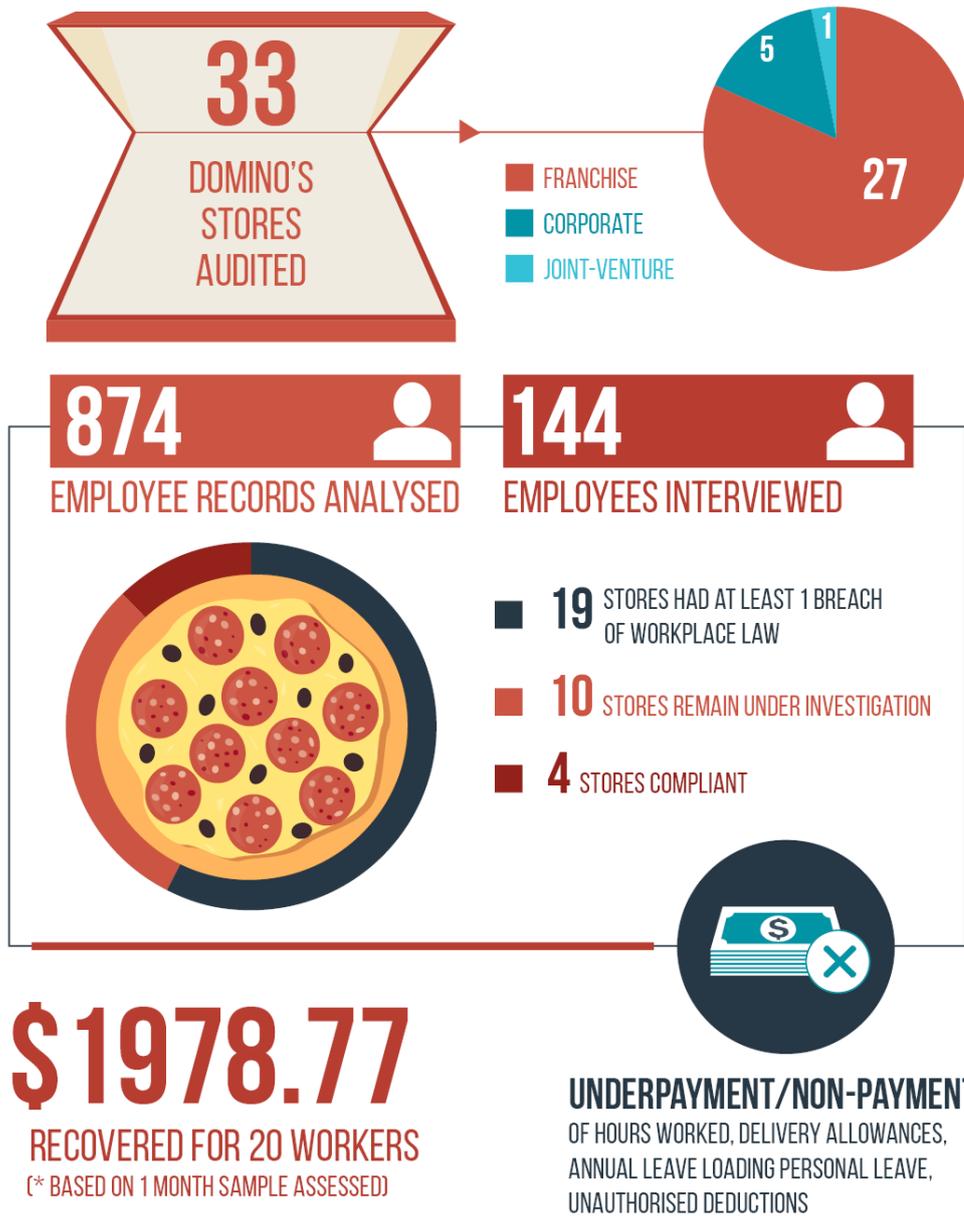
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# Infographic



# Executive Summary

Domino's Pizza Enterprises Limited [ACN 010 489 326] (**Domino's**) is the master franchisor of Domino's Pizza, Australia's largest pizza chain.

In February 2011, following a number of requests for assistance that the Fair Work Ombudsman (**FWO**) received from delivery-driver employees within the Domino's Pizza franchise network, Domino's voluntarily entered into its first compliance partnership with the FWO.

The key objective of the first compliance partnership was to assist the head franchisor monitor its service network to ensure employees received their entitlements. Under this compliance partnership, Domino's and its franchisees committed to self-audit the pay of more than 22,000 adult delivery drivers at all Domino's stores for the previous two years. This auditing process recouped \$588,160 in underpaid wages for Domino's workers.

In September 2014, Domino's voluntarily entered into its second compliance partnership with the FWO. The second compliance partnership was aimed at improving franchisees' awareness of their workplace obligations and establishing centralised processes for resolving requests for assistance from workers.

In September 2016, towards the end of the second compliance partnership, the FWO began receiving information from a variety of sources (industry, ex-franchisees, ex-employees wishing to remain confidential, and the media) indicating underpayment of employees was common throughout the Domino's network.

To satisfy itself about the compliance levels across the Domino's network, the FWO commenced a compliance activity (**Activity**) involving the investigation of a sample of 33 Domino's stores. Of the sample selected for auditing, some stores were selected across the network due to reported issues (including 10 stores owned by the one franchisor); others were randomly selected to test the overall national level of compliance.

The Activity found significant non-compliance with Commonwealth workplace laws contained in the *Fair Work Act 2009* (**FW Act**) and the applicable Domino's enterprise agreements (**Enterprise Agreements**).

Of the 33 Domino's stores audited, 10 stores operated by a single franchisor remain under investigation. Of the 23 finalised investigations, 19 of those stores were found to have at least one breach of workplace law.

The Activity found breaches covering underpayments of overtime and minimum shift engagements, as well as non-payment for hours worked, delivery allowance, annual leave loading and personal leave entitlements. The Activity also disclosed unauthorised deductions.

In reviewing a month of wage payments from 6 February to 5 March 2017 at each store, the Activity disclosed underpayments for 20 workers totalling \$1978.77 (an average of \$99 per worker). If the FWO was to extrapolate the results from this sample over a longer period and across the whole of the Domino's network, it is likely that total underpayments of Domino's employees are both significant and widespread.

By focusing in-depth on 33 stores (twenty-seven (**27**) franchise, six (**6**) corporate (including a joint venture<sup>1</sup>) (collectively **the Stores**) the Activity to date has resulted in the following enforcement outcomes for a range of breaches:

- 17 Formal Cautions
- Four (4) Compliance Notices.

In addition to disclosing the findings of the Activity, this Report details the outcomes of the second compliance partnership.

While noting the steps taken by Domino's since late 2016 to address non-compliance in its network by auditing its stores, the FWO remains concerned about the levels of non-compliance as disclosed by its Activity.

The FWO recommends that Domino's immediately commence a review of compliance with workplace obligations in relation to all employees across its network, including at both franchisor and franchisee owned stores.

Given the levels of non-compliance identified in this Activity, the FWO has also recommended that Domino's set clear expectations with all its stores and provide them with comprehensive training and support to ensure understanding and compliance with the FW Act and the Modern Award including of the new Protecting Vulnerable Workers provisions that deal with the following:

- increased penalties for 'serious contraventions' of workplace laws
- making it clear that employers can't ask for 'cashback' from employees or prospective employees
- increased penalties for breaches of record-keeping and pay slip obligations

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<sup>1</sup>'Joint venture' stores are jointly owned as a partnership between corporate and a franchisee. While these are part owned by corporate, they are fully run by the franchisee

- new requirements that employers who don't meet record-keeping or pay slip obligations and can't give a reasonable excuse will need to disprove wage claims made in a court (this is also referred to as a 'reverse onus of proof')
- strengthened powers of the FWO to collect evidence in investigations
- new penalties for giving the FWO false or misleading information, or hindering or obstructing its investigations.

As a profitable and well-resourced lead firm, and as a 'responsible franchisor' for its network's compliance within the meaning of the new franchisor liability laws, the FWO also calls upon Domino's to actively monitor its own and its franchisees' compliance with its workplace obligations. The FWO calls upon Domino's to publish the findings of its audit activities so that consumers can be confident Domino's is complying with the law.

The FWO will continue to closely monitor Domino's across its service network (comprising both franchisor and franchisee owned stores), including responding to requests for assistance from employees and assessing any intelligence received.

In addition, within twelve months of the publication of this report, the FWO will commence a further compliance activity. This activity will involve unannounced site visits to franchisor and franchisee owned stores to determine whether Domino's has taken reasonable steps to discharge its obligations as required under the new Protecting Vulnerable Workers provisions in preventing, detecting and addressing non-compliance within its network.

# Background – The entities and market setting

## Domino's Pizza Enterprises Limited - The Legal Entities

Domino's Pizza Enterprises Limited [ACN 010 489 326], a publicly listed company, is the ultimate holding company of its subsidiaries. The principal activities of Domino's are the operation of retail food stores and franchise services. In 2017, Domino's generated a total revenue of \$1.073 billion including sales and other revenue.<sup>2</sup>

Domino's is the largest pizza chain in Australia in terms of both network store numbers and network sales. It is also the largest franchisee for the Domino's Pizza brand in the world outside the USA. Domino's holds the master franchise rights for the Domino's brand and network in Australia, New Zealand, Belgium, France, the Netherlands, Japan and Germany. The Domino's brand is owned by Domino's Pizza, Inc, a listed US company.

In 2017, during the time of the FWO's audit, Domino's reported to the FWO that it operated in 662 locations in Australia, with 66 (or about 10 per cent) of those being Domino's owned stores, and the remaining 596 being franchise operated.

The majority of the franchisees are small businesses.

## Market settings

The Australian Pizza Restaurants and Takeaway industry encompasses over 4,200 businesses that generate \$3.3 billion in revenue<sup>3</sup>.

Domino's has a market share of 5.1% of the Fast Food and Takeaway Food Services industry and a market share of 29.8% of the Pizza Restaurants and Takeaway Industry.

Competition in the fast food industry has escalated over the past five years, as traditional operators have fought for market share and new establishments offering healthier options have provided alternatives to customers<sup>4</sup>.

To improve their sales, Domino's has expanded the number of its stores and adopted new digital ordering methods and improvements to delivery service including 'GPS driver tracking technology,

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<sup>2</sup> [http://dominosinvestors.com.au/files/DPE\\_AR17\\_Fins\\_WEB.pdf](http://dominosinvestors.com.au/files/DPE_AR17_Fins_WEB.pdf)

<sup>3</sup> Vuong, B. (June 2018). IBISWorld Report: Pizza Restaurants and Takeaway in Australia. Retrieved July 10, 2018 from IBISWorld database

<sup>4</sup> Vuong, B. (2017). IBISWorld Industry Report H4512. Fast Food and Takeaway Food Services in Australia. Retrieved July 10, 2018 from IBISWorld database

SMS ordering systems, online ordering services compatibility with the Apple Smart Watch and a 20-minute delivery guarantee<sup>5</sup>.

Developments in technology have enabled more personalised customer ordering experiences, with an increase in the use of direct and third party online ordering systems over the past five years. Most orders for Domino's Pizza are now received online<sup>6</sup>.

The rise of industry competition has seen larger chains such as Domino's and Pizza Hut compete aggressively on price, both with each other and with other delivery-based fast food services. This trend, coupled with increased capital requirements, has reduced profit margins over the past five years, particularly for operators like Domino's that have been early adopters of new technology and communication platforms, and whose business model relies on a high turnover of products at the lower end of the market<sup>7</sup>.

## Background - the compliance partnerships

In February 2011, following requests for assistance it received from delivery driver employees engaged within the Domino's network, the FWO entered into its first compliance partnership [**partnership**] with Domino's. This partnership operated until the end of 2013 and was underpinned by a proactive compliance deed [**PCD**]. Under the partnership, Domino's and its franchisees committed to self-audit the pay of more than 22,000 adult delivery drivers at all Domino's stores for the previous two years<sup>8</sup>. This auditing process recouped \$588,160 in underpaid wages for Domino's workers<sup>9</sup>.

In light of the outcomes of the auditing process under the first partnership, Domino's acknowledged additional investment in network-wide compliance was required and voluntarily entered into a second partnership with the FWO on 4 September 2014 for a period of two years<sup>10</sup>.

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<sup>5</sup> Vuong, B. (2017). IBISWorld Industry Report H4512. Fast Food and Takeaway Food Services in Australia. Retrieved July 10, 2018 from IBISWorld database

<sup>6</sup> Vuong, B. (June 2018). IBISWorld Report: Pizza Restaurants and Takeaway in Australia. Retrieved July 10, 2018 from IBISWorld database

<sup>7</sup> Vuong, B. (June 2018). IBISWorld Report: Pizza Restaurants and Takeaway in Australia. Retrieved July 10, 2018 from IBISWorld database

<sup>8</sup> <https://www.fairwork.gov.au/about-us/news-and-media-releases/2012-media-releases/february-2012/20120217-dominos>

<sup>9</sup> <https://www.fairwork.gov.au/about-us/news-and-media-releases/2013-media-releases/july-2013/20130731-dominos-proactive-compliance-deed-report>

<sup>10</sup> <https://www.fairwork.gov.au/about-us/news-and-media-releases/2014-media-releases/september-2014/20140916-dominos-pcd-presser>

While the first PCD addressed specific concerns and provided a framework for self-auditing, the second PCD focused on improving franchisee awareness of their workplace obligations and establishing processes for resolving requests for assistance<sup>11</sup>.

The key milestones of the second partnership are outlined below.

## Communication with franchisees

Domino's alerted all franchisees and employees to the existence of the second PCD via individual letters, in-store notices, and through its payroll system.

A copy of the PCD was made available to all Domino's employees on an ongoing basis on their online training system 'DOTTI'.

## Systems and processes to promote compliance

Under the PCD, Domino's initiated a range of self-monitoring measures including:

- undertaking individual investigations, store audits, compliance reviews and workplace relations training
- looking to establish a new Availability, Time and Attendance, Reporting and Payroll System (TANDA) to help comply with workplace laws.

## Self-resolution of workplace disputes

Both the first and second PCDs had arrangements whereby the FWO referred requests for assistance it received from workers alleging underpayments of a 'routine-low' nature to Domino's for assessment, rectification and report back within prescribed timeframes. The FWO reserved its right to investigate any matter that was in the public interest, particularly those that contained allegations or appeared to present elements of serious non-compliance.

During the term of the second PCD, the FWO received 20 requests for assistance from employees within the Domino's service network.

Of these, 10 were referred for assessment, rectification and reporting by Domino's. The issues raised in these requests for assistance included: underpayment or non-payment of wages or allowances, non-payment of entitlements on termination of employment and non-payment of superannuation.

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<sup>11</sup> Given the extensive nature of the auditing completed under the first PCD, in which the pay of more than 22,000 Domino's employees was audited (see <https://www.fairwork.gov.au/about-us/news-and-media-releases/2013-media-releases/july-2013/20130731-dominos-proactive-compliance-deed-report>), the second PCD did not prescribe ongoing audit requirements. However, please note that self-audits have since evolved into a fundamental requirement of all of FWO's compliance partnerships.

Domino's did not directly resolve one referral that related to a franchisee, as the franchisee directly engaged a legal representative to resolve the matter. The matter concerned a dispute over non-payment of notice pay and annual leave on termination. The matter was voluntarily resolved with the payment of \$1500 gross to the employee.

Of the remaining nine referrals:

- six (6) matters were voluntarily resolved with \$30 769.26 gross in wages and leave entitlements paid to employees. A further \$4381.24 was paid into the employees' superannuation funds
- two (2) matters were not sustained
- one (1) matter was unable to be resolved as the franchisee was no longer in the Domino's network and was unable to be contacted.

The average time for resolution of the finalised requests for assistance was 34 days.

The FWO decided against referring 10 other requests for assistance from Domino's workers. The main reasons for this were:

- under the FWO's assessment, there was no further action required from Domino's
- one matter was resolved by FWO mediation
- three employees subsequently decided to withdraw their request for assistance.

While the FWO did not receive any requests for assistance during the term of the second partnership that was considered to be of a serious nature, the FWO did take particular interest in one matter where a worker alleged underpayment while working at a Domino's store in Adelaide. The FWO referred the matter to Domino's. In response, Domino's reported that the worker who had lodged the request had been underpaid and had since endeavoured to obtain a Domino's franchise of his own in Adelaide. When this same worker operated his own store, he also failed to pay his workers their full entitlements and Domino's took action to remove him from its network. The owner of the store where he initially worked also left the Domino's network and Domino's used the proceeds from the sale of his franchise to back pay all affected employees.

## Self-Audits

Given the extensive nature of the self-audit activities undertaken by Domino's during the first PCD<sup>12</sup>, there was no specific obligation under the second PCD to undertake self-audits to be certified by an agreed third party.

Nonetheless, in October 2016, Domino's reported that it had implemented store audits and compliance reviews across its network over the prior two years as part of its systems and process improvements. Domino's advised that its compliance reviews consisted of conducting random two-week reviews of stores to monitor and ensure compliance with Commonwealth workplace laws. If the review found any evidence of non-compliance, the store may have been required to undergo a store audit. In addition, Domino's could undertake store audits due to non-compliance found in a compliance review or via an employee complaint. The process during a store audit involved a review of the store's time and wages records by an independent external auditor over a 12-month period.

During the compliance partnership, Domino's disclosed to the FWO the problem areas identified in its store audits and the work it was doing to ensure compliance. No formal reports on these store audits were required under the second PCD and none were provided, however the FWO was informed by Domino's that the audits were being conducted by independent external audit specialists. On 14 February 2017, five months after the conclusion of the second PCD, Domino's reported the findings of its self-audit program to the ASX, disclosing that over the past three years it had completed 102 store audits conducted by a third party, recovering \$4.2 million in underpaid wages and superannuation from franchisees.

## Intelligence

In September 2016, towards the end of the second compliance partnership, the FWO began receiving information from a variety of sources (industry, ex-franchisees, ex-employees who wished to remain confidential, and the media) indicating underpayment of employees was common throughout the Domino's network.

In response to queries from the FWO, Domino's advised it was aware of concerns and had begun addressing them, including giving assurances that it had exited at least two problem franchisees in 2016.

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<sup>12</sup> Under the first deed, the pay of more than 22,000 Domino's employees was audited (see: <https://www.fairwork.gov.au/about-us/news-and-media-releases/2013-media-releases/july-2013/20130731-dominos-proactive-compliance-deed-report>)

However, given the serious nature of the allegations, the FWO decided to conduct its own independent compliance activity in order to determine the compliance levels across the Domino's network.

## The Compliance Activity

The FWO commenced a compliance activity [**Activity**] into 33 Domino's stores in December 2016. The Activity started after the conclusion of the second partnership and was in response to intelligence the FWO had received indicating non-compliance with Commonwealth workplace laws in Domino's stores.

The allegations suggested systemic exploitation of vulnerable workers occurring through:

- non-payment and underpayment for time worked
- unlawful altering of time and wage records, and
- franchisees selling visa sponsorships<sup>13</sup>.

The aim of the Activity was to test the allegations and understand the nature and extent of any non-compliance found throughout the Domino's stores to recover minimum entitlements owed to employees and, in appropriate cases, ensure businesses and persons involved in significant non-compliance were managed through the courts.

## The Activity's Methodology

Fair Work Inspectors audited a sample of 33 Domino's stores across Brisbane, Sydney, Melbourne and Adelaide.

Of the sample selected for auditing, some stores were selected across the network due to reported issues (including 10 stores owned by the one franchisor); others were randomly selected to test the overall national level of compliance.

The sources of intelligence reports included industry insiders, media reports, ex franchisees and ex-employees who wished to remain confidential.

The design of the Activity was to assess compliance with the FW Act, and with employee entitlements contained in the Enterprise Agreements.

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<sup>13</sup> Note: the Activity did not identify any instances of this occurring within the stores that were audited.

During the site visits, Fair Work Inspectors held one-on-one interviews with the franchisees and their employees separately. This gave employees the opportunity to discuss any concerns they had away from their employer.

The FWO reviewed and photographed employment records held on site to determine if they met the record keeping requirements under the FW Act. The FWO also formally requested records through issuing Notices to Produce Records or Documents for a one-month assessment period to assess compliance with workplace laws.

The FWO obtained records for 874 employees during the course of the Activity and interviewed 144 employees.

The Activity primarily focussed on assessing compliance with the following provisions of the FW Act:

- Section 44 – Contravening the National Employment Standards
- Section 50 – Contravening an Enterprise Agreement
- Section 535 – Employer obligations in relation to employee records
- Section 536 – Employer obligations in relation to pay slips.

## Key Findings

The results of the Activity revealed high levels of non-compliance across the 23 finalised investigations, with only four of those 23 stores compliant with the FW Act and applicable Enterprise Agreements.

### Spectrum of non-compliance

The FWO has so far identified cases of non-compliance at 19 stores, including underpayment of overtime and minimum shift engagement, and non-payment for hours worked, delivery allowance, annual leave loading and personal leave entitlements.

The levels of non-compliance ranged from lower-level breaches relating to minor underpayments, and medium-level breaches of overtime provisions and record keeping.

Of the finalised investigations, the Activity found that only one of the franchise stores (based in Sydney) was compliant, with the remaining 16 franchise stores found to be non-compliant with one or more of their workplace obligations

For those stores audited that were corporate owned, three of five were found to be non-compliant (two in Brisbane and one in Sydney). The one joint venture store audited was found to be fully compliant.

## The types of non-compliance identified

The types of non-compliance identified by the FWO throughout the Activity included:

- record keeping breaches
- underpayment of overtime and minimum shift engagement
- non-payment for hours worked, delivery allowance, annual leave loading and personal leave entitlements, and
- unauthorised deductions.

## The stores and their employees

A large number of the employees in the stores audited were from cohorts the FWO identifies as vulnerable to exploitation, including young and migrant workers. These groups are typically unaware of their minimum entitlements and are less likely to seek assistance when they do not receive those entitlements.

Of those employees whose date of birth was provided to the FWO, 546 (72%) were under the age of 25 years. A large proportion of employees whose visa data was provided to the FWO (321 employees or 48%) held a visa with work rights.

A contributing factor to the high rates of non-compliance found in the Activity was that 65 per cent of franchisees were from non-English speaking backgrounds and possessed minimal knowledge or experience of Australian workplace laws.

Appendix A contains case studies from the Activity that illustrate the types of non-compliance encountered by the FWO and the steps taken to remedy them.

## Domino's involvement in workplace breaches

The Activity involved a series of comprehensive investigations into both the targeted franchisees and the franchisor. In particular, the Activity sought to establish what Domino's knew, or should have known, regarding non-compliance in its network.

Following the extensive analysis of documentary and testimonial evidence relating to the finalised investigations, the Activity was unable to determine if Domino's was knowingly involved (as an accessory) in the breaches committed by its franchisees. With respect to Domino's as an employer itself, the Activity found three corporate owned stores had breached the conditions of the relevant Enterprise Agreement concerning personal leave entitlements and record keeping.

## Outcomes

From its assessment of a month's payment of wages at each store, the FWO recovered \$1,978.77 in back pay for 20 workers. Averaging \$99 per worker per month, the underpayments ranged from between \$118.25 at one site to \$792.70. The underpayments were a result of these Domino's stores underpaying overtime and minimum shift engagements as well as not paying for hours worked, delivery allowance, annual leave loading and personal leave entitlements.

If the FWO was to extrapolate the results from this sample over a longer period and across the whole of the Domino's network, it is likely that total underpayments of Domino's employees are both significant and widespread.

The entitlements for these underpaid employees derived from various Enterprise Agreements, all of which had passed their nominal expiry dates, but were still lawfully operational at the time of the Activity. Domino's also had a number of informal agreements or memoranda of understanding with the Shop, Distributive and Allied Employees' Association, agreeing to wage rates and delivery allowances to drivers that were more generous than the expired Enterprise Agreements. These informal agreements are not enforceable under the FW Act.

In response to the types of non-compliance identified, the FWO issued:

- Four Compliance Notices to four franchisees relating to underpayment of minimum shift engagement and overtime, as well as non-payment for hours worked, delivery allowance and annual leave loading.
- 17 Formal Cautions for a range of breaches including record keeping, underpayment of minimum shift engagement and overtime, non-payment for hours worked, delivery allowance, annual leave loading, personal leave entitlements, and unauthorised deductions.

Of those finalised investigations that identified non-compliance, all the stores identified have since complied with the FWO's enforcement actions and rectified the underpayments to affected employees.

Fair Work Inspectors also provided education to stores about where to access resources and advice that would ensure they could understand and pay correct wages, as well as make and maintain records, issue payslips and meet all their legal obligations.

## Conclusion

The Activity has uncovered evidence of significant non-compliance with Commonwealth workplace laws throughout the Domino's stores audited. The findings of the Activity are consistent with some of the concerns raised with the FWO through intelligence sources prior to commencement of the Activity.

While Domino's took additional steps in accord with the terms of the PCDs during the period of the two compliance partnerships to improve their systems and processes, these improvements were insufficient to address or prevent ongoing non-compliance throughout the Domino's network.

The results of the FWO audit (of a month's wage payments at each store) strongly suggest broader, ongoing systemic issues within the Domino's network of stores that are likely to be contributing to promoting or enabling non-compliance throughout the network.

As the time of publication of this Report, Domino's had announced that a total of \$5.75 million had been recovered for workers from its self-audits, covering the underpayment of wages and superannuation.

The FWO has been unable to validate these internal audit findings and has raised concerns with Domino's that its audit processes may have relied upon franchisee records without employee corroboration.

The FWO recommends that Domino's review compliance with workplace obligations in relation to all employees across its network, including at both franchisor and franchisee owned stores, to ensure the network is compliant with its obligations.

The FWO also puts Domino's on notice that recent law changes mean franchisors can now be held liable for workplace breaches by businesses in their networks.

On 15 September 2017, the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017* (**PVW provisions**) took effect. It changed the FW Act to:

- increase penalties for 'serious contraventions' of workplace laws
- make it clear that employers can't ask for 'cashback' from employees or prospective employees
- increase penalties for breaches of record-keeping and pay slip obligations
- provide that employers who don't meet record-keeping or pay slip obligations and can't give a reasonable excuse will need to disprove wage claims made in a court (this is also referred to as a 'reverse onus of proof')
- strengthen our powers to collect evidence in investigations
- introduce new penalties for giving us false or misleading information, or hindering or obstructing our investigations.

The Commonwealth Parliament also changed laws relating to certain franchisors and holding companies, which can now be held responsible if their franchisees or subsidiaries do not follow workplace laws (if they knew or should have known and could have prevented it). These changes took effect from 27 October 2017. These changes are particularly relevant to Domino's and its franchise network given the high level of non-compliance identified during the Activity.

The FWO will continue to closely monitor Domino's across its service network (comprising both franchisor and franchisee owned stores), including responding to requests for assistance from employees and assessing any intelligence received. In addition, within twelve months of the publication of this report, the FWO will commence a further compliance activity. This activity will involve unannounced site visits to franchisor and franchisee owned stores to determine whether Domino's has taken reasonable steps to discharge its obligations as required under the PVW provisions in preventing, detecting and addressing non-compliance within its network.

The FWO has a range of powers to assist in making this determination including collecting evidence by way of a 'FWO Notice' if it is reasonably believed that a person or business has information or documents that will help an investigation and is capable of giving evidence. The publication of the findings contained in this Report will, if required, assist the FWO secure approval from the Administrative Appeals Tribunal to issue a 'FWO Notice'.

Further, from 24 January 2018 the Domino's Enterprise Agreements were terminated by the Fair Work Commission and stores from that date derived employee entitlements from the *Fast Food Industry Award 2010* (the **Modern Award**)<sup>14</sup>. Given the levels of non-compliance identified in this Activity, the FWO has recommended that Domino's provide significant training and support to its

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<sup>14</sup> Shop Distributive and Allied Employees Association [\[2017\] FWCA 5703](#) (1 November 2017)

stores to ensure understanding of the requirements of the Modern Award and compliance with the FW Act.

It is up to Domino's as a profitable and well-resourced lead firm, and as a 'responsible franchisor' for its network's compliance within the meaning of the new franchisor liability laws, to take reasonable steps to actively monitor its own and its franchisees' compliance with its workplace obligations in relation to Domino's Pizza employees. The FWO also calls upon Domino's to publish the findings of its audit activities so that consumers can be confident Domino's is complying with the law.

# About the Fair Work Ombudsman

The FWO is an independent statutory agency, created by the FW Act on 1 July 2009.

The FWO supports compliant, productive and inclusive Australian workplaces. The FWO ensures compliance with Australia's workplace laws by:

- offering people a single point of contact to receive accurate and timely advice and information about Australia's workplace relations system
- educating people working in Australia about their workplace rights and obligations
- monitoring compliance with, inquiring into and investigating any act or practice that may be contrary to workplace laws, awards and agreements
- enforcing workplace laws and to deter people from not complying with their workplace responsibilities.

## Further Information

The FWO has a range of resources and publications for employers and employees on our website at [www.fairwork.gov.au](http://www.fairwork.gov.au), including our [Strategic Intent](#) and [Compliance and Enforcement Policy](#) which explains how we approach fulfilling our role.

For more information about this report or our current compliance and enforcement activities, please email Lynda McAlary-Smith, Executive Director Compliance and Enforcement, at [lynda.mcalary-smith@fwo.gov.au](mailto:lynda.mcalary-smith@fwo.gov.au).

For media enquiries, email [media@fwo.gov.au](mailto:media@fwo.gov.au).

# Appendix A – Case Studies

## Formal Caution

The Activity identified 27 employees working at a Domino's franchisee owned store in Queensland had unauthorised deductions taken from their pay. These deductions related to a Domino's affiliated not-for-profit charity. The franchisee failed to seek authorisation from the employees in writing, as required under section 324 the FW Act.

Once the Fair Work Inspector educated the employer about this requirement, the employer ceased making the unauthorised deductions and sought written authorisation from the affected employees. Throughout the Activity, the employer demonstrated high levels of cooperation and a willingness to address issues. A Formal Caution was issued to the employer, which puts the employer on notice in regards to any future non-compliance.

## Compliance Notices

Two Domino's franchisees, each with a common sole director, operated two sites in Melbourne with 51 employees across both sites during the Assessment Period.

Visa data for 47 of those employees was provided to the FWO, and 38 of these 47 employees (81%) held a working visa.

Evidence obtained from the employers and employees during site visits found a number of employees had not been paid for all hours worked, applicable overtime rates or minimum shift engagement. In addition, one employee did not receive applicable annual leave loading for a period of annual leave.

The Fair Work Inspector issued each of the franchisees with a Compliance Notice, specifying the amounts to be paid to the nine affected employees across the two stores. The franchisees fully cooperated with the FWO and back paid the nine employees in accordance with the Compliance Notices.