



Fair Work  
OMBUDSMAN

# WA video games rental store audit program 2012-13

Final report – July 2013

# Contents

<b>Summary</b>	<b>4</b>
<b>Purpose of the audit program</b>	<b>4</b>
<b>Our industry partners</b>	<b>4</b>
<b>Why did we target this industry</b>	<b>4</b>
<b>What did we do?</b>	<b>5</b>
<b>What did we find?</b>	<b>5</b>
<b>Other findings</b>	<b>7</b>
<b>Concluding remarks</b>	<b>7</b>
<b>About the Fair Work Ombudsman</b>	<b>7</b>

## Performance snapshot

Total of

35

businesses audited by FWO

Found

46%

employers compliant

Found

54%

employers had contraventions

More than

\$39k

recovered on behalf of  
employees

Total of

72

employees back paid

## Summary

In November 2012 the Fair Work Ombudsman (FWO) commenced the WA video games rental store audit program 2012 – 2013 (the program).

The aim of the program was to inform employers who operate video and games rental stores about their workplace obligations, and to assess their compliance with *Fair Work Act 2009*, the *Fair Work Regulations 2009* and the *General Retail Industry Award 2010*, with a specific focus on the entitlements of video store assistants.

When we launched the program we sought assistance and feedback from a number of industry stakeholders. We then wrote to selected businesses to inform them about the program and we requested a sample of employment records.

During the program we assessed the records of 35 businesses and found 19 employers (54%) in contravention. To date, we have recovered \$39 666 for 72 employees.

Further information about the program can be found in the body of this report.

## Purpose of the audit program

The purpose of the program was to inform video and games rental store employers in Western Australia on their workplace obligations and to assess their compliance with the *Fair Work Act 2009*, the *Fair Work Regulations 2009* and the *General Retail Industry Award 2010*.

The objectives of this program were to:

- engage with external stakeholders to promote and encourage compliance within the industry
- provide employers with information about their obligations and access free tools and resources
- assess compliance with rates of pay, record keeping and pay slip obligations

## Our industry partners

In November 2012, we notified the following stakeholders of the audit program:

- Civic Video Australia
- The Network Group (Network Video)
- Australian Retailers Association
- National Retailers Association
- Shop and Distributive & Allied Employees Association (WA)
- Franchise Council of Australia

We invited stakeholders to provide feedback and asked for their support in promoting the audit program.

## Why did we target this industry

Prior to the implementation of modern awards in Western Australia, employees working in video rental stores were award-free. Their employment conditions were covered only by the *Workplace Relations Act and Regulations 1996* and later the *Fair Work Act 2009*.

Since the introduction of federal modern awards, the workplace entitlements of video

store employees have been covered by the *General Retail Industry Award 2010 (the Award)*

We want to ensure that employers in this industry are aware that their businesses have moved into the national workplace relations system, and that their employees are covered by the Award.

## What did we do?

In November 2012 we randomly selected a sample of employers for audit and advised them of their selection in writing. We requested the selected employers forward to us copies of employment records for video and gaming store assistants.

The records were assessed to ensure compliance with the following obligations:

- pay slips and record-keeping
- hourly rates of pay, penalty rates and loadings
- overtime entitlements

Where we identified record-keeping and pay slip contraventions we informed the employers of their responsibilities under the Act and the Regulations. We sought their written commitment to rectify any contraventions.

Where we identified potential monetary contraventions we sought further information from the employer and investigated the apparent contraventions. If we confirmed the underpayments we provided employers with a written summary of our findings and sought their voluntary compliance.

We worked with employers to ensure that all underpayments were back-paid to the affected employees.

## What did we find?

By July 2013 we had completed 35 audits in this audit program.

Of the 35 audits completed, we found:

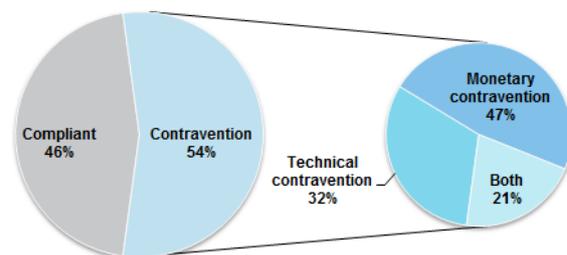
- 16 (46%) employers to be compliant
- 19 (54%) employers to be in contravention.

We recovered \$39 666 for 72 employees.

Of the 19 businesses in contravention:

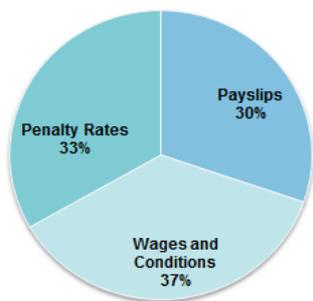
- nine employers had monetary contraventions
- six had non-monetary contraventions
- four had both.

### Audit results:



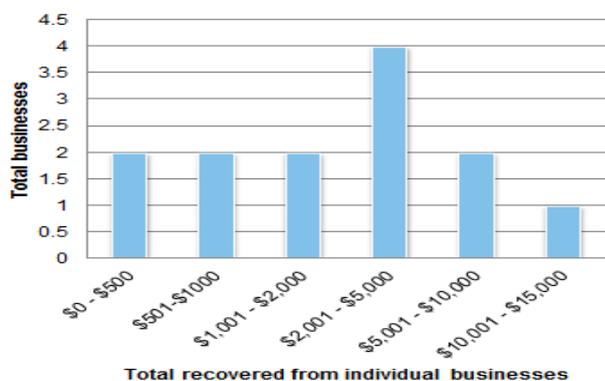
The 19 businesses found to be in contravention had a collective total of 33 individual contraventions.

### Contravention types:



The amount of money recovered ranged from \$500 to \$10 500 per business.

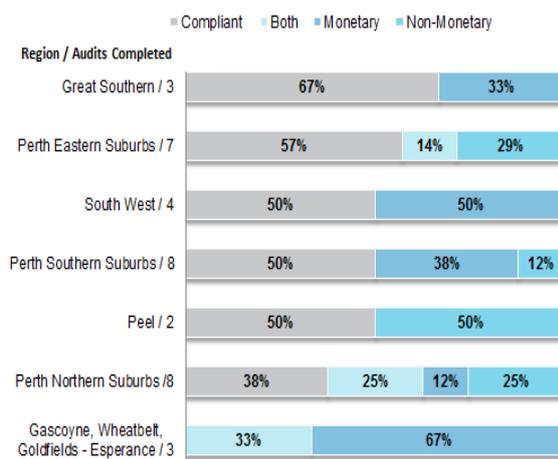
### Amounts recovered:



The most frequent pay slip contravention we identified was a failure to include the name of the superannuation fund on payslips issued to employees.

The following chart shows compliance rates by region.

### Compliance rates by region:



### Case Study

Vince\* was one of the employers whose business we audited. When we assessed the records he had provided, we identified several monetary contraventions. We advised Vince of our findings and he explained that he was unaware of his obligations under the Award and the Regulations.

Vince's business had been paying a flat hourly rate which applied in the old state-based system, under which the business had been award-free.

Vince notified us that he was in the process of closing the business. He requested that the outstanding entitlements owed to his employees be made through instalments, due to his financial difficulties.

We approved a payment plan in which Vince agreed to rectify all outstanding entitlements, which totalled \$2088.

\* Not his real name

## Other findings

Our findings revealed that many businesses have ceased trading as a result of the availability of online movies, while others have now implemented a 'kiosk' system which reduces the need for staff. Many employers informed us that the video industry is struggling, and that some of those stores still operating would also soon be closing down due to declining sales.

Additionally, our findings appear to confirm that where non-compliance has been identified it is linked with a lack of employer knowledge about the transition away from a state workplace relations system towards federal modern award coverage.

## Concluding remarks

The results demonstrate this industry benefited from our intervention, as a majority of employers were unaware of their obligations under the Act, the Regulations and the Award.

Our advice and assistance assisted employers to become aware of their obligations and ensured they rectified any underpayments owing to their staff. We were pleased that all contraventions identified were voluntarily rectified by employers.

The program demonstrates the importance of targeted compliance activities in industry sectors where economic circumstances are adversely affecting business.

## About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent agency created by the *Fair Work Act 2009* on 1 July 2009.

Our vision is fair Australian workplaces, and our mission is to work with Australians to educate, promote fairness and ensure justice in the workplace.

Our education and compliance campaigns target specific industries to assist them achieve compliance with national workplace laws. Our focus is usually industries that need assistance with compliance and employ vulnerable workers.

We like to work with relevant industry associations and unions to deliver our campaigns. We rely upon their 'real world' knowledge and communication channels to design and deliver our education activities and products.

This report covers the background, method and findings of the WA Video games rental stores audit program 2012 – 2013.

For further information and media enquiries please contact [media@fwo.gov.au](mailto:media@fwo.gov.au).

If you would like further information about the Fair Work Ombudsman's targeted campaigns please contact, Steve Ronson, Executive Director - Dispute Resolution and Compliance ([steven.ronson@fwo.gov.au](mailto:steven.ronson@fwo.gov.au)).

Commonwealth of Australia 2013

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation.

Apart from any use as permitted under the *Copyright Act 1968*, all other rights are reserved.

Requests and enquiries concerning reproduction and rights should be emailed to [communications@fwo.gov.au](mailto:communications@fwo.gov.au)

*Copyright Act 1968* (ComLaw website) 