

JB Hi-Fi Group Pty Ltd (JB Hi-Fi) Compliance Partnership

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Summary

JB Hi-Fi Group Pty Ltd (JB Hi-Fi) is a leading Australian retailer in home entertainment, consumer electrical, movie and music software with over 180 stores across Australia, currently employing approximately 7700 staff¹.

In 2013, the Fair Work Ombudsman (FWO) received requests for assistance relating to the engagement of part-time workers at a JB Hi-Fi store. FWO identified that JB Hi-Fi had underpaid nine employees in excess of \$42 000.

While these matters were resolved by the company without the need for further enforcement action by the FWO, JB Hi-Fi acknowledged that its systems and processes for rostering and documenting the working hours of part-time employees needed improvement.

In 2014, the company commenced discussions with the FWO with an aim to improve its compliance with Australian workplace laws and to enhance its brand as an employer of choice.

On 19 December 2014, JB Hi-Fi entered into a three-year compliance partnership with the FWO underpinned by a Proactive Compliance Deed (PCD)² that contained a number of commitments from both parties.

During the partnership, JB Hi-Fi provided the FWO with details about the systems and processes it had introduced to ensure part-time employment arrangements complied with workplace laws.

The company also enhanced its training and education for managers and staff by appointing employee liaison officers in each state and territory to ensure that employees could raise issues surrounding their employment directly with JB Hi-Fi's head office.

The company's self-audit of its stores in the first year of the partnership identified record-keeping errors that led 15 employees to be back-paid \$1397.00.

During the compliance partnership, the FWO did not receive any requests for assistance from JB Hi-Fi employees involving workplace disputes.

This report outlines the FWO's compliance partnership with JB Hi-Fi, the workplace relations framework that applies to the company's stores, and the steps the company took to improve its compliance with Australia's workplace laws.

¹ As at October 2018. https://investors.jbhifi.com.au/wp-content/uploads/2018/10/CEOs-Address_2018-AGM.pdf

² A copy of the Proactive Compliance Deed can be accessed at: <https://www.fairwork.gov.au/ArticleDocuments/762/jb-hi-fi-group-pty-ltd-proactive-compliance-deed.pdf.aspx>

Background

JB Hi-Fi Group Pty Ltd (JB Hi-Fi) [ACN 093 114 286] is an Australian public company that retails home entertainment, electronic products and home appliances. JB Hi-Fi stores primarily sell computers, tablets, televisions, cameras, Hi-Fi, speakers, car sound systems, home theatre and portable audio products. JB Hi-Fi also retails electronic games, music and DVDs, both in-store and online.

JB Hi-Fi was established in East Keilor, Victoria, Australia in 1974 by John Barbuto, originally as a single hi-fi product retail store. The business was sold in 1983 to Richard Bouris, David Robb and Peter Caserta who expanded JB Hi-Fi into a chain of ten stores in Melbourne and Sydney.

In July 2000, private equity bankers (Macquarie Bank's private equity division) and senior managers purchased the company with the aim of expanding nationally³ and it was floated on the Australian Stock Exchange (ASX) in 2003.⁴ The following year, it purchased a majority stake in the Queensland chain of Clive Anthony stores (the company now owns this chain outright), diversifying its consumer products to include whitegoods, cooking appliances and air conditioning. These stores trade under the name of JB Hi-Fi Home.⁵

The company began to retail console games in 2005 and launched a music subscription service in 2011. In the 2013-2014 financial year, immediately prior to commencing the compliance partnership with the FWO, the company had generated over \$3 billion in revenue, and was ranked in the top 10% of Australia's top 2000 companies.

In 2016, it acquired The Good Guys chain of consumer electronic, kitchen appliance and whitegoods stores, expanding the number of stores in its network by over 180 outlets. The chain continues to operate under the Good Guys name, with JB Hi-Fi as its Ultimate Holding Company, owning 100% of issued shares.

JB Hi-Fi has continued to grow, generating in excess of \$5 billion in revenue in 2017, placing it 62nd in the top 2000 Australian companies.⁶

³ JB Hi-Fi Website 'About Us' - <https://www.jbhifi.com.au/General/Corporate/Consumer-Matters/About-Us/>

⁴ Ibid

⁵ Ibid

⁶ <https://www.ibisworld.com.au/australian-company-research-reports/retail-trade/jb-hi-fi-limited-company.html>

Workplace Relations Settings

The *General Retail Industry Award 2010* (the Award) applies to employees across the JB Hi-Fi network.

The Award applies to employers in the general retail industry engaged in the sale or hire of goods or services to consumers for personal, household or business consumption.

The Award provides for the engagement of full-time, part-time and casual employees. As of 1 July 2018, the ordinary hourly rate of pay for a permanent part-time or full-time adult employee is \$20.79 per hour (Level 1).

Juniors (20 years of age or under) receive a percentage of the applicable adult rate, depending on the age of the individual. Some examples include:

- \$10.39 per hour (Level 1) for a 16-year-old (50% of adult rate)
- \$16.63 (Level 1) for a 19-year-old (80% of adult rate).

The following penalty rates apply for full-time and part-time employees:

- Saturday penalty loading of 25%⁷, depending on the hours worked
- Sunday penalty loading of 80%.

Casual employees received are entitled to a 25% casual loading on top of the base rates of pay for a full-time employee. Penalty rates for casual employees are:

- Saturday penalty loading of 35% for casual employees, inclusive of the casual loading
- Sunday penalty loading of 85%, inclusive of the casual loading.

In July 2017, JB Hi-Fi announced⁸ that they would be maintaining penalty rates that were in operation for all employees engaged before 1 July 2017 in the JB Hi-Fi and The Good Guys businesses.

Overtime rates of between 150% and 250% apply for all employees depending on the time and number of hours an employee works.⁹

⁷ A penalty payment of an additional 25% will apply for ordinary hours worked on a Saturday for full-time and part-time employees. A casual employee must be paid an additional 10% for work performed on a Saturday between 7.00 am and 6.00 pm.

⁸ [JB Hi-Fi to pay penalty rates](#)

⁹

Communication of the PCD

Upon execution, JB Hi-Fi informed its workforce that it had entered into a compliance partnership with the FWO in accordance with clauses 1-2 of the PCD.

The company communicated the existence of the PCD to its managers and staff throughout its network and placed the information on a noticeboard at each store. The information conveyed included:

- the announcement of the compliance partnership
- the commitments contained in the PCD
- the process for employee enquiries
- the contact details for the nominated employee liaison person in each state.

The FWO posted a notice on its intranet informing FWO staff of the commencement of the partnership and advised staff to refer all requests for assistance related to JB Hi-Fi to the FWO team managing the partnership.

The FWO also issued a media release¹⁰ on 9 April 2015, publicly announcing the compliance partnership between the FWO and JB Hi-Fi.

Workplace Relations Training

JB Hi-Fi provided the FWO with details of the training program it designed and implemented for managers and staff in accordance with clauses 27-34 of the PCD. This also ensured that training covered aspects surrounding the approval and documentation of part-time work.

The training covered the obligations and entitlements provided for under the *Fair Work Act 2009* (the Act) and the Award, including:

- National Employment Standards
- general information on conditions in the Award
- classifications under the Award and JB Hi-Fi positions
- types of employment, including documentation and approval processes for part time work
- resolving workplace issues.

The company also provided information on:

- policies and procedures relating to hours of work

¹⁰ <https://www.fairwork.gov.au/about-us/news-and-media-releases/2015-media-releases/april-2015/20150409-jb-hi-fi-media-release>

- policies and procedures relating to variation of hours of work for part-time employees
- procedures for employees seeking to lodge a query or complaint about their employment.

Systems and processes

JB Hi-Fi provided the FWO with information on the systems and processes it had in place (or would implement) in accordance with clauses 3-5 of the PCD.

Effective systems and processes help businesses monitor their compliance with workplace relations obligations, ensuring that all employees receive their correct entitlements. Businesses that have effective dispute resolution processes in place are also often able to resolve employment-related concerns without the need for third party involvement.

The FWO was satisfied with the details of enhancements JB Hi-Fi had made to its systems and processes, including changes to its part-time employment documentation.

JB Hi-Fi also implemented a new online time and attendance system (Time2Work), automating the communication, acceptance and recording of attendance in May 2017.

The FWO determined the changes JB Hi-Fi made to its systems and processes throughout the life of the partnership have promoted compliance with Australian workplace laws throughout its network, and that the company has met the requirements of clauses 3-5 of the PCD.

Self-resolution of Workplace Disputes

Clauses 6-12 of the PCD required FWO to refer routine requests for assistance it received from JB Hi-Fi employees back to the company for resolution. The company undertook to investigate any matters referred to it and provide a report on the outcomes with details of any identified and rectified breaches.

During the operation of the partnership, the FWO received only one enquiry from an employee seeking a copy of their tax payment summary. The FWO referred the employee to JB Hi-Fi to resolve the matter.

This low referral number suggests the company's internal dispute resolution systems were effective in addressing any employee enquiries or concerns that arose during the compliance partnership.

Self-Audits

JB Hi-Fi undertook to audit 20% of employees of three JB Hi-Fi stores in each state and territory in Australia within 12 months of signing the PCD (clause 13 of the PCD). The self-audit examined the time and wages records of a total of 337 employees from across 22 stores, including:

- a cross section of employees engaged at different Award classifications
- a mix of full-time, part-time and casual staff
- employees engaged at a supervisory level.

The self-audit examined compliance with the following Award conditions:

- ordinary hourly rates
- loadings
- allowances
- penalties.

The self-audit identified minor instances of non-compliance affecting 15 employees. The underpayments amounted to \$1397.00 and ranged from \$2.36 to \$367.90. The company reported to FWO that these errors arose from incomplete time sheets, where changes to the hours of work performed were undocumented and the record was unsigned. The company calculated outstanding entitlements in these cases by treating the variance as overtime.

The company did not identify underpayments of the ordinary hourly rates of pay, penalty rates or loadings.

Reports

JB Hi-Fi provided an annual report to the FWO at the end of each year of the partnership in accordance with clauses 19-26 of the PCD. In these reports, JB Hi-Fi provided information on:

- actions undertaken to address the requirements of the PCD
- numbers of requests for assistance referred
- number of requests for assistance resolved
- average time taken to resolve requests for assistance
- the average amount of any underpayments.

Conclusion

JB Hi-Fi has demonstrated during the compliance partnership a commitment to improving compliance with Commonwealth workplace laws throughout its national network.

Prior to the commencement of the partnership, JB Hi-Fi acknowledged the need to improve record-keeping practices in relation to work undertaken by part-time staff. Underpayments had occurred due to a variance in the hours of work as documented in part-time agreements. JB Hi-Fi had identified that a failure to promptly update rosters and times sheets at a store level made errors difficult to identify and resolve.

In response, JB Hi-Fi implemented measures to update its systems so that variations to agreed hours were efficiently documented and workers duly compensated. The FWO is satisfied that these measures have lessened the risk of future non-compliance with workplace relations laws.

The company has provided education and training to managers and staff to promote further awareness of workplace rights and obligations throughout its network of stores. It also appointed liaison officers to answer enquiries from its staff or ex-employees about their entitlements.

During the partnership, the company's audit found and rectified minor underpayments that arose as a result of record-keeping errors.

Throughout the life of the PCD JB Hi-Fi demonstrated its willingness to work with the FWO to foster compliance throughout its network. The company readily identified deficiencies in its systems and processes and reported steps taken to address these issues to the FWO. The absence of any requests for assistance to the FWO involving a workplace dispute from JB Hi-Fi over the course of the partnership, has confirmed the FWO's view that the PCD has been effective in assisting JB Hi-Fi promote and improve compliance across its outlets with Australian workplace laws.

About the Fair Work Ombudsman

The FWO is an independent agency created by the *Fair Work Act 2009* on 1 July 2009. Our main role is to promote harmonious, productive and cooperative workplace relations.

The FWO employs a number of strategies to achieve compliance with national workplace laws. This includes entering into Compliance Partnerships with employers. A Compliance Partnership is an opportunity for lead businesses to work with the FWO in a positive and constructive manner and achieve sustainable monitoring arrangements.

Employers may seek to enter into a Compliance Partnership with the FWO for a variety of reasons. Some of these reasons include:

- ensuring its obligations under the Act are being met
- a method of identifying and minimising business risks with respect to its employees
- to demonstrate that it is a fair Australian workplace and potentially an employer of choice
- to address potential areas of non-compliance with the Act.

A range of activities can be utilised to assist lead firms meet the intended outcomes of the partnership, for example, self-auditing of wages and record keeping, initiatives to engage with employees to improve compliance, and mutually beneficial improvements to employment and business outcomes by focussing on supply chain, brand and franchise relationships.

A business that enters into a partnership with the FWO is assigned a dedicated Fair Work Officer who provides support and assistance to the business to ensure they are able to meet the outcomes of the partnership.

A publicly available report is published at the conclusion of each partnership.

For further information and media enquiries, please contact FWO media (media@fwo.gov.au).

If you would like further information about compliance partnerships please contact Steven Ronson, Executive Director – Communications (steven.ronson@fwo.gov.au).