

Fair Work Ombudsman report reveals widespread worker exploitation at United Petroleum outlets

6 April 2017

A Fair Work Ombudsman Activity Report (www.fairwork.gov.au/reports/united-petroleum-retail-fuel-outlets-compliance-activity-outcomes) has identified instances of non-compliance at United Petroleum retail fuel sites with more than 40 per cent of audited outlets found to be underpaying employees.

19 employees were underpaid \$12 105.09 during the Activity period. Many of the underpaid employees were migrant workers who had minimal knowledge of their rights and entitlements.

The Fair Work Ombudsman commenced compliance activity at United Petroleum fuel retail sites in September 2015 after media reports alleged that some console operators were being underpaid.

The twelve sites reviewed included eleven that were owned by franchisees or commission agents and one site that was staffed by Keycomp Pty Ltd employees. Keycomp is an associated entity of United Petroleum. It engaged employees to work in United Petroleum outlets where ownership of a particular site was in a period of transition.

Fair Work Inspectors audited the pay records of 80 console operators who were employed at United Petroleum by franchisees, commission agents or Keycomp.

Of the twelve outlets included in the activity:

- Five outlets (representing more than 40 per cent of the 11 outlets with employees) were non-compliant with Fair Work Laws and the relevant award, the Vehicle Manufacturing, Repair, Services and Retail Award 2010.
- 41 of the employees engaged by franchisees, commission agents and Keycomp were visa-holders, including 31 student visa holders.
- Many of the franchisees and commission agents operating United Petroleum outlets were from non-English speaking backgrounds with minimal knowledge or experience of Australia's workplace laws.
- United Petroleum did not have any process or system in place to test whether its franchisees or commission agents were paying employees correctly or applying the modern award correctly.

At the request of the Fair Work Ombudsman, United Petroleum then conducted an audit of all Keycomp console operators. This audit found that a further 27 employees were owed \$8,445.74 in underpayments.

All of the underpayments identified during the audits resulted from franchisees, commission agents and Keycomp Pty Ltd applying flat rates of pay for all hours worked and incorrectly applying modern award penalty rates, in particular weekend and overtime rates.

Acting Fair Work Ombudsman Michael Campbell says the findings are concerning, especially given that many of the contraventions relate to vulnerable migrant workers.

"During our Activity we found that a significant number of the contraventions identified involved migrant workers. We know that migrant workers, especially student visa holders, can be vulnerable if they are not fully aware of their workplace rights and they are often reluctant to complain," Mr Campbell said.

"In one instance, a franchisee was found to have paid five casual student visa holders just \$18.70 per hour when, under the relevant award, they should have received at least \$25.05 per hour."

To date, the Fair Work Ombudsman has responded to the Activity findings by:

- Entering into two Enforceable Undertakings with two outlet operators (see Enforceable Undertakings resulting from the Fair Work Ombudsman's Activity Report on United Petroleum outlets):
 - Aar Dee Traders Pty Ltd EU (DOCX 146.7KB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-aar-dee-traders-redacted.docx.aspx) (PDF 1.2MB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-aar-dee-traders-redacted.pdf.aspx)
 - Tannous and Tannous EU (DOCX 146.3KB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-tannous-and-tannous-redacted.docx.aspx) (PDF 615.5KB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-tannous-and-tannous-redacted.pdf.aspx)

- Issuing two Compliance Notices and two Letters of Caution to a franchisee and a commission agent for underpaying casual employees.
- Issuing a further Letter of Caution to a second commission agent for underpaying part-time employees their minimum entitlements.

United Petroleum has advised the Fair Work Ombudsman that Keycomp Pty Ltd no longer employs any console operators at any of its fuel outlets. However the Fair Work Ombudsman is still considering expanding its investigation into the compliance history of Keycomp Pty Ltd. This would include the potential involvement of its Directors in contraventions of workplace laws.

United Petroleum's new Chief Executive Officer has commenced discussions with the Fair Work Ombudsman canvassing systems and processes that can be implemented to ensure future compliance with workplace laws at its outlets.

The Fair Work Ombudsman confirmed that in addition to any new Requests for Assistance it may receive which require an investigation as to allegations of serious non-compliance, it will also be conducting a follow up compliance activity to ensure the United Petroleum network is complying with the law.

Tools to assist employers to comply with workplace laws are available at www.fairwork.gov.au.

Resources include a [Pay and Conditions Tool \(https://calculate.fairwork.gov.au/\)](https://calculate.fairwork.gov.au/) (PACT) that employers can use to determine the pay rates applicable to their employees, including base pay rates, allowances, overtime and penalty rates.

Intelligence can be provided confidentially (www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-us-keep-workplaces-fair) at www.fairwork.gov.au/tipoff.

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Read the [United Petroleum Activity Report \(www.fairwork.gov.au/reports/united-petroleum-retail-fuel-outlets-compliance-activity-outcomes\)](http://www.fairwork.gov.au/reports/united-petroleum-retail-fuel-outlets-compliance-activity-outcomes) .

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