

Radio presenters were employees - not volunteers - and must be back-paid \$60,000

19 September 2014

A Melbourne radio station which paid two of its staff just \$20 for each program they produced and presented must now back-pay the pair more than \$60,000 in outstanding wages and entitlements.

While 3CW Chinese Radio Pty Ltd initially maintained the former presenters were volunteers, the Fair Work Ombudsman has determined they were in fact employees.

Following complaints from the ex-workers, the Fair Work Ombudsman found they ought to have been paid under the Broadcasting and Recorded Entertainment Award 2010.

The Award provides for an hourly rate of \$24.50 for casuals, with a minimum engagement period of four hours.

3CW underpaid the two employees – Chinese nationals aged 55 and 33 - \$45,839 and \$14,287 for work performed between January, 2010 and June, 2013.

As well as being underpaid their minimum entitlements, the Fair Work Ombudsman found that the two employees had on several occasions waited more than three months for their wages.

The radio station also failed to keep and maintain proper employment records or issue pay-slips as required under the Fair Work Act.

Fair Work inspectors found that 3CW sole director and secretary Mr Zhao Qing Jiang had characterised the employees as volunteers and paid them a fixed sum per radio program, regardless of the number of hours worked.

As an alternative to litigation, 3CW and Mr Jiang have signed an Enforceable Undertaking with the Fair Work Ombudsman.

The terms of the undertaking required a full reimbursement to both former staff, as well as a written apology expressing sincere regret for the contraventions of workplace law.

A public notice explaining the conduct and a commitment by both 3CW and Mr Jiang to comply with workplace laws in the future was also placed in both the Chinese Melbourne Daily newspaper and on a staff noticeboard at the radio station's Southbank studios.

3CW managers with responsibility for human resources, recruitment or payroll must also undertake specialist workplace relations training and the company must engage independent auditors to review and report on the company's compliance with workplace laws for the next three years.

Mr Jiang has also given an undertaking that he will take reasonable steps to ensure that other companies he is associated with also comply with federal workplace laws.

Mr Jiang is a director of various Chinese media entities, including Sydney Chinese Radio Pty Ltd, Canberra Chinese Radio Pty Ltd, Perth Community Television Pty Ltd, The Chinese Weekly Pty Ltd, Australian Oriental Film & Television Production Pty Ltd, Ostar International Media Group Pty Ltd, FM104.9 Network Pty Ltd, ACT Radio Net Pty Ltd and AIMG Holdings Pty Ltd.

Enforceable Undertakings were introduced by legislation in 2009 and the Fair Work Ombudsman has been using them to achieve strong outcomes against companies that breach workplace laws without civil court proceedings.

"We use Enforceable Undertakings where we have formed a view that a breach of the law has occurred, but where the employer has acknowledged this and accepted responsibility and agreed to co-operate with us and fix the problem," Fair Work Ombudsman Natalie James said today.

"Many of the initiatives included in EUs help to build a greater understanding of workplace responsibilities, motivate the company to do the right thing and help them avoid the same mistakes again.

"It also means we can resolve matters more speedily than if we proceed down a path towards litigation, often achieving outcomes, such as training sessions for senior managers, which are not possible through the Courts."

Copies of all Enforceable Undertakings are available on the Fair Work Ombudsman website at www.fairwork.gov.au.

Ms James says the Fair Work Ombudsman is making compliance easier for businesses by continually building on the information

available on its website.

“Small businesses, in particular, often don’t have the benefit of in-house human resources and payroll staff, so we place a high priority on assisting them,” she said.

“Equipping people with the information they need helps to create fair and productive workplaces, as well as ensuring a level playing field for all.”

The Fair Work Ombudsman has a dedicated Helpline for small business owners who can receive priority service when seeking information.

Employers and employees seeking assistance should visit the website or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (http://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (http://www.facebook.com/fairwork.gov.au) .

Download:

- [3CW Chinese Radio Pty Ltd Enforceable Undertaking \(PDF 3.7MB\) \(www.fairwork.gov.au/ArticleDocuments/837/3cw-chinese-radio-pty-ltd.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/3cw-chinese-radio-pty-ltd.pdf.aspx) ([DOCX 130.8KB\) \(www.fairwork.gov.au/ArticleDocuments/837/3cw-chinese-radio-pty-ltd-redacted-eu.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/3cw-chinese-radio-pty-ltd-redacted-eu.docx.aspx)

Media inquiries:

Tom McPherson, Media Adviser

Mobile: 0439 835 855

tom.mcpherson@fwo.gov.au (mailto:tom.mcpherson@fwo.gov.au)

Page reference No: 5060

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.