

Report – Sydney Inner City Convenience Store Campaign

Executive Summary

This report provides a summary of the New South Wales Sydney Inner City Convenience Store Campaign, which was conducted by Workplace Inspectors from the Workplace Ombudsman's Sydney office during September 2008 – April 2009.

The aim of the campaign was to assess the level of compliance with the *Workplace Relations Act 1996* in the convenience store industry within the Sydney inner city metropolitan area. The campaign sought to audit the level of compliance with the targeted number of employers in relation to wages, penalties, overtime and entitlements. The campaign further sought to increase awareness of the Workplace Ombudsman within the convenience industry and educate employers about their workplace obligations, particularly focusing on record keeping and pay slip requirements.

Key outcomes of the campaign are:

- 80 businesses contacted
- 49 businesses audited
- Total of \$58,976 was recovered on behalf of 80 employees.

Background

The convenience store industry was selected as an industry where there had been some media attention. On 3CR, a community radio station in Melbourne, Anthony Main, secretary of UNITE, a new retail union, discussed that a group of 7-Eleven workers approached UNITE with reports of exploitative work conditions. Allegations included no breaks, bullying and being paid \$9 per hour. There was additional suspicion that franchisee, store and head office were altering records as payslips and bank account discrepancies have been found. Most employees were alleged to be international students, who were unlikely to make a complaint with the Workplace Ombudsman.

Campaign aim and objectives

The primary aim of the campaign was to increase awareness of the Workplace Ombudsman and monitor compliance with record keeping requirements, pay slips and basic periodic rates of pay in the convenience store industry within the Sydney inner city metropolitan area. It was recognised that there was a high concentration of convenience stores within the inner city area, which were likely to be trading 24 hours a day, 7 days a week.

The specific objectives of the campaign were to:

- Undertake 50 audits in the Sydney inner city area
- Audit the level of compliance with a targeted number of employers in relation to the minimum wages and entitlements
- Increase awareness of the Workplace Ombudsman
- Educate employers about their workplace obligations

Focus the education and compliance measures particularly upon:

- Record keeping requirements
- Pay slip requirement

Methodology

It was identified that most convenience stores within the Sydney inner city metropolitan area were franchisees and were part of a franchise. The first step involved identifying the main franchisors in order to advise them of the audit should they wish to inform the franchisees. As such, 7-Eleven and City Convenience Store Head Offices were notified. 7-Eleven head office assisted in identifying franchisees and provided a listing of relevant businesses in the targeted area.

The second stage involved compiling a list of employers in this industry. Businesses were identified through a number of means including public resources, such as the internet.

During the third stage, 80 businesses were selected for a compliance audit by Workplace Inspectors to determine the level of compliance across the industry sector. These employers were sent a letter advising them of the audit that they had been selected for an audit. The letter asked for records for the period 1 June 2008 to 14 June 2008, which would cover the Queen's Birthday public holiday on 8 June 2008 in relation to payslips, timesheets and pay rates. While the objective of the campaign was to audit 50 businesses, it was recognised that a number of the convenience stores may fall outside the jurisdiction of the Workplace Ombudsman as they were sole traders or in a partnership. It was also recognised that in many smaller convenience stores, no employees may be employed. The higher number of businesses to be contacted was to ensure that the target number of 50 businesses would be attainable.

A number of convenience stores were also selected for a night audit whereby they were visited by Workplace Inspectors unexpectedly. The aim of the night audits was for Workplace Inspectors to speak to employees directly, which was important due to the allegation that records were being altered by head office and the franchisees. A total of 24 convenience stores were visited in these night audits.

The final stage was to review and evaluate the outcomes of the campaign. It should be noted that there may be further follow up audits of a number of businesses which were not compliant during the initial audits via desk auditing.

Results

Status of audits

From the 80 employers identified as being engaged in the convenience store industry, 49 were identified as suitable for a Workplace Ombudsman compliance audit. Approximately 40% of the companies originally identified were not audited because of the following reasons:

- Not in federal jurisdiction
- No employees
- Company no longer trading

At April 2009 when the results of this campaign were compiled:

- 49 business had been audited
- 40 audits (82%) have been finalised
- 9 audits (8%) remain outstanding due to ongoing investigations

Findings of audits

As at 20 April 2009, the results of the audit campaign are:

- 15 of the 49 (31%) businesses audited were found to have monetary breaches of Commonwealth workplace laws in relation to:
 - The minimum entitlements as provided by the *Notional Agreement Preserving the Shop Employees (State) Award* and the *Australian Pay and Classification Scale as derived from the Notional Agreement Preserving the Shop Employees (State) Award*
 - Non payment of weekend and late night penalties
- 14 of the 49 (29%) businesses audited were found to have breaches in relation to record keeping and payslip requirements
 - It is expected that the amount of monetary payments would be substantially higher had adequate records been maintained by the company. The lack of records maintained by some companies hampered the investigation conducted by the Workplace Ombudsman. Businesses with inadequate record keeping may be audited in the future to assess the employee rates of pay.
- A total of \$58,976 is due to be recovered for 80 employees. Upon finalisation of the outstanding audits, it is expected that this amount will be higher, due to the extent of back payments required for rectification to occur.

Anecdotal and other results

Inspectors noted that employers for the most part were cooperative with the audit. Problems identified were generally in relation to record keeping and paying a flat hourly rate which was insufficient when the employee was working late nights or weekends. Most employers and employees were unaware of the Workplace Ombudsman, and unaware of their obligations.

Results of the night audits were:

- 24 convenience store were visited
- 20 employees were interviewed, however a number refused to answer questions without approval from the owner
- 4 follow up appointments were made with Workplace Inspectors
- 12 convenience stores were identified as having potential breaches regarding the minimum wages and penalties

Anecdotally, Workplace Inspectors reported that most employees were from a non-English speaking background. They found that the night audits were worthwhile in terms of introducing the Workplace Ombudsman to employees, with most employees happy to assist in answering questions. It also allowed the Workplace Inspector to evaluate the businesses that they were dealing with, and provide further employee information to assist with cross-checking employees names in the audit.

Conclusions

This campaign was successful in raising the awareness of employers under federal legislation and the role of the Workplace Ombudsman. It also highlighted additional employers to audit in future campaigns. The local campaign provided the Workplace Ombudsman with an opportunity to talk to employees directly that would not have come to our office to make a complaint, and raised the profile of the Workplace Ombudsman.