The Pharmacy Guild of Australia

SENATE STANDING COMMITTEE ON EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

INQUIRY INTO THE FAIR WORK AMENDMENT (SMALL BUSINESS – PENALTY RATES EXEMPTION) BILL 2012

SUBMISSION OF THE PHARMACY GUILD OF AUSTRALIA

INTRODUCTION

1. The Pharmacy Guild of Australia (PGA) was established in 1928, bringing together several small retail pharmacy organisations then operating in various States. The PGA is registered under the Fair Work (Registered Organisations) Act 2009 as an employers' organisation. Its members are owners of some 4,000 community pharmacies throughout Australia.

2. Community pharmacies are typically small business enterprises. They comprise a substantial part of the small business sector in Australia with combined annual turnover of more than $12 billion. Community pharmacies employ some 50,000 persons. The annual turnover of the average pharmacy is approximately $2.4 million. Of the approximately 5,200 pharmacies in Australia, over 98% are estimated to fall within the $10 million turnover threshold used to define a small-medium enterprise (SME).

3. The predominant model of operation of community pharmacy is that of a small business. Whilst the public often identify with banner groups of community pharmacy such as Terry White, Capital Chemist, Amcal, Chemmart and the like, these groups generally comprise separate independent small business which band together under a common brand name for marketing, management or promotional purposes. There are only a few genuinely large businesses in community pharmacy.

4. Community pharmacy is highly valued by the community as an accessible health care provider. Surveys consistently show pharmacy as one of the two most trusted and highly regarded professions[1]. It also represents one of the largest and most highly regarded networks of small business outlets in Australia. On average, each man, woman and child visits a pharmacy 15 times per year. That's close to 300 million occasions each year on which pharmacists could provide professional advice and service.

5. The PGA is committed to supporting and maintaining the community pharmacy model as the most appropriate and efficient system of delivering medicines, medication management and related services to the Australian public.

[1] Survey Source: Roy Morgan Research Centre Finding No. 4153 - April 04, 2007 'The Nursing profession (91%, up 2%) is still seen as the most ethical and honest profession, as it has been every year since being included on the survey in 1994. Pharmacists (85%, up 1%) and Doctors (81%, up 2%) have been consistently named in second and third place'

DEFINING THE RETAIL INDUSTRY

6. In the 2011 report by the Productivity Commission into the Economic Structure and Performance of the Australian Retail Industry, the Commission noted that:

   "*For the purposes of the Award, "general retail industry" means the sale or hire of goods or services to final consumers for personal or household consumption."*

   "Other specific modern awards applicable to the broader retail industry include:
   - *Pharmacy Industry Award 2010*
   - *Meat Industry Award 2010*
   - *Nursery Award 2010*
   - *Vehicle Manufacturing, Repair, Services and Retail Award 2010*" (page 294)

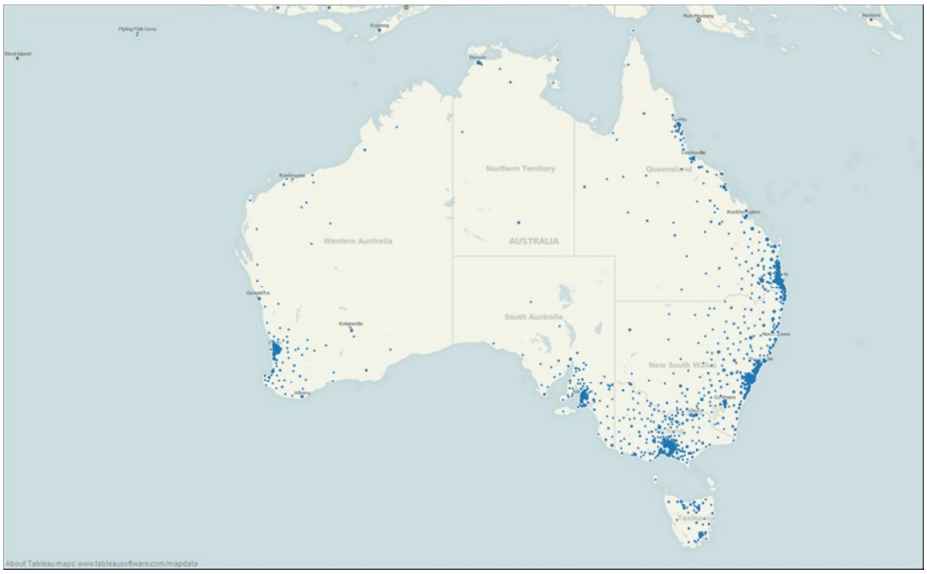
7. The Productivity Commission also noted in the original issues paper associated with the enquiry that community pharmacy businesses are unique in the commercial retail sector because so much of their income is derived from Government sources.

   "Pharmacies are specialist outlets with complex connection to broader public health policies such as the pharmaceutical benefits arrangements. However, pharmaceutical retailing is an area where competition from discount pharmacies and legitimate internet suppliers of prescription and non-prescription medicines is growing."

8. Community pharmacies occupy a unique section of the retail sector in Australia.

ACCESS TO COMMUNITY PHARMACY

9. Community pharmacy is highly valued by the community as an accessible health care provider. The map below shows the geographic distribution of community pharmacies in Australia.



SOURCE: Pharma 360: Current distribution of pharmacies, produced by Guildlink June 2012

10. In the community pharmacy sector, extended and seven day a week trading patterns are required to meet the expectations of customers and patients. Data from the PGA's census (2006/07) shows that nationally, on average:

    - On Saturdays 96 per cent of community pharmacy are open, with 61 per cent open for a full day;
    - On Sundays 42 per cent of community pharmacy are open all day;

IMPACT OF THE MODERN AWARD PENALTY REGIME

11. During the award modernisation process (2008-2009) the Guild made submissions to the Australian Industrial Relations Commission regarding the impact of new and increased penalty rate provisions for Saturday and Sunday trading. Specifically the Guild's position was that the penalty rate provisions in the Pharmacy Industry Award 2010 (the PIA) did not reflect the seven day a week and late trading practices that prevail in the community pharmacy sector.

12. The penalty rates that resulted in the PIA also bear little relevance to those that existed previously and contained within the pre-modern award industrial instruments specific to community pharmacy.

13. To assist the Senate Standing Committee the following two comparative tables have been prepared which show the penalty rates as they are currently stated in the PIA; and the rates that existed in every jurisdiction for both Pharmacists and Pharmacy Assistants in the pre-modern award instruments.

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The Pharmacy Guild of Australia

COMMUNITY PHARMACY – PENALTY LOADINGS COMPARISON

TABLE 1: Saturday

	Midnight - 7am		7am-8am		8am-6pm		6pm-7pm		7pm-9pm		9pm-Midnight	
	P	PA	P	PA	P	PA	P	PA	P	PA	P	PA
PIA 2010 (current form)	2	2	2	2	1.25	1.25	1.5	1.5	1.5	1.5	1.75	1.75
Chemists (ACT) Award Community Pharmacy Award	2 2	2	1.5 1.5	1.5	1.25 1	1.25	1.5 1.5	1.5	1.5 1.5	1.5	1.5 1.5	1.5
Pharmacy Assistants (State) Award (NSW) Community Pharmacy Award	2	2	1.5	1.5	1	1.25	1.5	1.5	1.5	1.5	1.5	1.5
Retail, Wholesale and Distributive Employees (NT) Award Community Pharmacy Award	2	2	1	1.25	1	1.25	1	1.25	1	2	1	2
Pharmacy Assistants' Award (Qld) Community Pharmacy Award	2	2	1.25	1	1.25	1	1.5	1	1.5	1	1.5	1
Retail Pharmaceutical Chemists Award (SA) Community Pharmacy Award	2 2	2	2 1.5	2	1.25 1.25	1.25	2 2	2	2 2	2	2 2	2
Retail Pharmacy Award (Tas) Community Pharmacy Award	2 2	2	1.25 1.25	1.25	1.25 1	1.25	1.25 1.25	1.25	1.25 1.25	1.25	1.25 1.25	1.25
SDA Victorian Pharmacy Assistants Award Community Pharmacy Award	2	2	2	2	1.25	1.25	1.5	2	1.5	2	1.75	2
SDA WA Community Pharmacy - Pharmacy Assistants Award Community Pharmacy Award	2	2	1.25	1	1	1	1	1	1	1	1.25	1

P = Pharmacist PA = Pharmacy Assistant 'Midnight-7am' generally refers to an overtime penalty, not an ordinary hours loading

NOTES:

ACT - 1.5 loading applies 6am-8.30am; 1.25 loading applies 8.30am-6pm
NSW - PA - 1.5 loading applies 6am-8.30am; 1.25 loading applies 8.30am-6pm
NT - PA - 1.25 loading applies 7am-12midday; 12midday-6.30pm attracts an additional $ amount
Qld - PA - ordinary time applies from 6am
SA - 1.25 loading applies from 8am-12.30pm; 1.5 loading applies 12.30pm-5pm; 2 loading applies 5pm-9pm
Tas - 1.25 loading applies 6am-12midnight
Vic - PA - 1.25 loading applies 8am-12midday; 2 loading applies after 12midday
WA - PA - ordinary time applies from 6am

Community Pharmacy Award
- ACT - 1.25 loading applies 8am-8.30am
- NSW - 1.25 loading applies 8am-8.30am
- Qld - 1.25 loading applies 1pm-6pm
- SA - 1.25 loading applies 12.30pm-5pm; 1.75 loading applies 5pm-6pm

The Pharmacy Guild of Australia

COMMUNITY PHARMACY – PENALTY LOADINGS COMPARISON

TABLE 2: Sunday

	Midnight - 7am		7am-8am		8am-6pm		6pm-7pm		7pm-9pm		9pm-Midnight	
	P	PA	P	PA	P	PA	P	PA	P	PA	P	PA
PIA 2010 (current form)	2	2	2	2	2	2	2	2	2	2	2	2
Chemists (ACT) Award Community Pharmacy Award	2 2	2	2 2	2	1.5 1.5	1.5	2 2	2	2 2	2	2 2	2
Pharmacy Assistants (State) Award (NSW) Community Pharmacy Award	2	2	1.5	2	1.5	2	1.5	2	1.5	2	1.5	2
Retail, Wholesale and Distributive Employees (NT) Award Community Pharmacy Award	2	2	1	2	1	2	1	2	1	2	1	2
Pharmacy Assistants' Award (Qld) Community Pharmacy Award	2	2	1.5	1	1.5	1	1.5	1	1.5	1	1.5	1
Retail Pharmaceutical Chemists Award (SA) Community Pharmacy Award	2 2	2	2 2	2	2 2	2	2 2	2	2 2	2	2 2	2
Retail Pharmacy Award (Tas) Community Pharmacy Award	2 2	2	1.5 1.5	1.5	1.5 1.5	1.5	1.5 1.5	1.5	1.5 1.5	1.5	1.5 1.5	1.5
SDA Victorian Pharmacy Assistants Award Community Pharmacy Award	2	2	2	2	2	2	2	2	2	2	2	2
SDA WA Community Pharmacy - Pharmacy Assistants Award Community Pharmacy Award	2	2	1.5	1	1.5	1	1.5	1	1.5	1	1.5	1

P = Pharmacist PA = Pharmacy Assistant 'Midnight-7am' generally refers to an overtime penalty, not an ordinary hours loading

NOTES:

ACT - 2 loading applies 6am-8.30am; 1.5 loading applies 8.30am-6pm; 2 loading applies 6pm-12midnight
Qld - PA - ordinary time applies from 6am
Tas - 1.5 loading applies 6am-12midnight
WA - PA - ordinary time applies from 6am
Community Pharmacy Award:
ACT - 2 loading applies 7am-8.30am

14. The Guild's concerns in regard to the penalty regime in the PIA were heightened when in the latter months of 2011, the PGA finalised the results of a survey conducted to collect data from pharmacy proprietors on the impact of the PIA on community pharmacy businesses. The survey respondents indicated a core set of key behavioural changes in the industry as a result of the penalty rate provisions in the modern award. These key impacts included:
    - 54% of pharmacies decreased the overall hours offered to employees
    - 39% reported that the proprietor was working more hours
    - 34% of pharmacies have reduced or ceased trading on public holidays and were re-evaluating their Sunday trading hours

15. Community pharmacy as a sector has continued to rely on award terms and conditions as the baseline for workplace arrangements and pharmacy employers have not converted to agreement making (in any form) in numbers of any significance.

16. The growth of wages in the pharmacy sector is having a substantial impact on the operating costs of our members. Community pharmacy businesses are unique in the commercial retail sector because so much of their income is derived from Government sources. Pharmacies are at the front line in the provision of medicines to the Australian community under the Pharmaceutical Benefits Scheme (PBS). Between 70 to 80 per cent of pharmacy income is derived from the PBS under which the price of most medicines is fixed by Government policy. This means the normal business response to an increase in cost – to increase prices – is not an option for community pharmacies.

17. The decrease in overall hours offered to employees in the sector, along with the adjustment of trading hours are indicative of the major impact of the penalty rate regime. Non-standard working time patterns are part of the community pharmacy sector, and enable community pharmacy to provide essential primary health care to the Australian community. These non-standard working time patterns have come about especially so in the provision of extended or continuous service to the public, particularly in health and emergency services provision.

18. The PGA shares the concerns of other retailers with regard to the impact of the penalty rates contained within the modern awards for retail, including the Pharmacy Industry Award 2010 (PIA).

FOR FURTHER INFORMATION

Patrick Reid
National Director
Business Development and eHealth Division

The Pharmacy Guild of Australia National Secretariat Level 2, 15 National Circuit, Barton, ACT 2600
PO Box 7036, Canberra Business Centre, ACT 2610 Australia
Telephone: + 61 2 6270 1888 · Facsimile: + 61 2 6270 1800