

Coles Forced to Compensate Workers for \$70m/annum Rip Off

by Ben Schneiders, Royce Millar and Nick Toscano via gail - SMH Tuesday, May 31 2016, 11:55am
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Supermarket duopolist Coles has admitted it underpaid workers and 'agreed,' in view of industrial relations laws, to compensate all workers that have been ripped off. Both 'slave-driving' Coles and the treacherous SDA union, which should be de-registered for supporting Coles, not workers, in the appeal to the Fair Work Commission have learned that deception doesn't pay in the long run. Shame on you Coles and shame on you SDA and Wesfarmers for this treachery.



Supermarket giant Coles underpaid its employees and cut penalty rates in a cosy deal with the shop assistants' union that has cost low paid workers perhaps \$70 million a year.

In a landmark decision, the full bench of the Fair Work Commission found some of the 77,000 workers at Coles faced "significant" underpayment from the deal, first revealed by Fairfax Media in 2015.

Part time and casual workers, who make up 80 per cent of the Coles workforce, were especially hard hit.

Tens of thousands of Coles workers have been paid penalty rates that are lower than the workplace award - the basic wages safety net.

The commission's ruling on an appeal by Coles trolley worker Duncan Hart is a humiliating judgement for Coles and the conservative Shop, Distributive and Allied Employees Association (SDA), the ALP's largest union affiliate.

It casts a cloud over a string of similar deals across the retail and fast food sectors including with the country's two largest employers, Woolworths and McDonald's.

And it comes at an uncomfortable time for Opposition Leader Bill Shorten and the ACTU, who have made the defence of penalty rates a key part of the election campaign.

All workplace agreements are meant to pass the "better off overall test" (BOOT), which is intended to ensure workers are paid more under workplace agreements than the award.

The Fair Work decision found the Coles agreement failed the test.

The tribunal has given Coles - Australia's third largest employer - 10 days to provide undertakings to either compensate employees left worse off by working shifts with low penalties, or to overhaul

rosters. If it fails to do so, the agreement will be ripped up.

The ruling comes after Fairfax Media this month revealed McDonald's is also underpaying its Australian workers tens of millions of dollars a year under a deal struck with the SDA.

Some McDonald's workers were paid nearly one-third less than the award, under a 2013 deal approved by the Fair Work Commission.

Fairfax Media revealed the underpayment scandal at Coles nearly a year ago, based on work by Josh Cullinan, a senior official at the National Tertiary Education Union, who has researched the Coles deal in a personal capacity.

On Tuesday Mr Cullinan said the tribunal's most significant finding was that the agreement should never have passed the "better off overall test".

"Make no mistake; if the Coles deal did not pass the [test] then the agreements for Woolworths, the Super Retail Group, Bunnings, McDonald's ... they are all likely not to pass," he said.

"Over the next little while, we will have to see some sort of analysis of these agreements to find out how they came to be made."

Mr Cullinan's research on Coles found some low-paid workers were as much as \$3500 a year worse off than the award. Last year Mr Cullinan, backed by the meatworkers' union, challenged the deal at the Fair Work Commission.

As a result, Coles was forced to provide undertakings to lift casual loadings from 20 to 25 per cent and pay young workers more. Now it has also been told to pay higher penalty rates for weekend and night work.

Mr Hart, who triggered the Fair Work full bench hearing, said the tribunal ruling was "as clear a victory as we could have hoped for".

He said the decision raised questions about deals struck across the retail and fast food sector by the SDA. "This is a repudiation of the SDA's cosy deals with bosses," Mr Hart said.

A Coles spokesman defended above inflation pay increases in its workplace agreements and said the company would "respond to today's decision in due course".

They would not comment on how much the decision could cost it.

In a written statement, SDA national secretary Gerard Dwyer said the union would review the tribunal decision.

"The SDA welcomes any move that improves the wages and conditions of any workers in Coles."

Mr Dwyer has refused Fairfax Media requests for interviews in recent weeks about his union's deals with both Coles and McDonald's

Greens employment and industrial relations spokesman Adam Bandt attacked Coles for the underpayments, and praised those who had "courageously" stood up for weekend rates of pay.

"I want people to join their unions so that their unions can stand up for them, but doing rotten deals with Australia's largest companies and trading away penalty rates isn't the way to attract them."

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Jungle Drum Prose/Poetry. <http://jungledrum.lingama.net/news/story-2250.html>