

Ai GROUP SUBMISSION

Investigation into Proposed
Christmas Eve Part-Day
Public Holiday 2019

**Submission to the
Queensland Government
Office of Industrial Relations**

2 September 2019



About Australian Industry Group

The Australian Industry Group (Ai Group) is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors including: manufacturing, engineering, construction, automotive, food, transport, information technology, telecommunications, call centres, labour hire, printing, defence, mining equipment and supplies, airlines, health, community services and other industries. The businesses which we represent employ more than one million people. Ai Group members operate small, medium and large businesses across a range of industries. Ai Group is closely affiliated with many other employer groups and directly manages a number of those organisations.

Australian Industry Group contact for this submission

Stephen Smith, Head of National Workplace Relations Policy

Telephone: 0418 461183 or 02 9466 5521

Email: Stephen.smith@aigroup.com.au

Introduction

The Australian Industry Group (**Ai Group**) makes this submission in response to the Queensland Government's investigation into a proposed Christmas Eve part-day public holiday in Queensland.

As part of its investigation, the Queensland Government has released a [Consultation Regulatory Impact Statement](#) canvassing three options regarding a part-day public holiday on Christmas Eve. The third option of developing legislation to make Christmas Eve a part-day public holiday from 6pm to midnight under the *Holidays Act 1983 (Qld)*, is identified as the Government's preferred option.

Ai Group urges the Queensland Government to abandon plans for a Christmas Eve public holiday. No persuasive case exists for the Queensland Government to depart from the status quo – identified as option 1 in its Consultation Regulatory Impact Statement (**RIS**).

The proposed additional public holiday would impose unwarranted additional costs on businesses in numerous industries that need to operate on Christmas Eve. Many businesses in the manufacturing, health, transport, aviation, emergency services, energy, IT, maintenance services, telecommunications, accommodation services and numerous other industries need to operate on a 24 hour / 7 day a week basis due to the nature of their operations. The proposed public holiday will make these businesses less competitive with interstate and overseas firms.

The idea has reportedly been proposed by the SDA, the union which represents retail workers, at a time when the retail industry is generally struggling, with some retailers suggesting it is in recession. The proposal would further penalise retailers at their busiest period of the year.

The Government's reported argument that cafes will be able recoup the cost by charging a public holiday surcharge, fails to recognise that most of the businesses that will be impacted are not cafes and most impacted businesses will be unable to recoup the cost through a surcharge. Also, many cafes and restaurants are struggling to survive and the imposition of unnecessary additional costs is not in anyone's interests.

The proposed amendment to the *Holidays Act 1983 (Qld)* for an additional part-day public holiday adds to the disjointed and uncoordinated way in which State Governments are adding to public holidays and it undermines the sense that we have a national economy. The inconsistency in public holidays between States is already a major problem. This proposal will make the problem worse.

It is also concerning that the Queensland Government is contemplating the introduction of the public holiday for Christmas Eve in 2019. This provides business with little opportunity to budget for the additional costs that will result.

Since the Queensland Government made its announcement, many businesses have contacted Ai Group expressing very strong opposition to the public holiday given the adverse effects of their operations.

The idea is without merit and should be abandoned.

Cost of public holidays

The cost of each public holiday is very significant and should not be underestimated.

Many employers operate on a 24/7 or 7-day a week basis due to trading, supply chain and/or regulatory requirements. Industries such as manufacturing, health, transport, aviation, emergency services, energy, IT, maintenance services, telecommunications, accommodation services, retail, fast food, hospitality and tourism are particularly affected by both the annual quantum of public holidays and the conditions which are attached to them.

For many employers, ceasing operations on a public holiday is simply not possible or workable. These employers pay their employees a premium to work on public holidays at substantial cost. In the majority of industries, these costs cannot readily be 'surcharged' to consumers to minimise the cost to the business. For employers who close their operations on public holidays, there is a significant cost due to lost revenue and productivity. This is not confined to lost revenue for the period during which trading or operations cease during the public holiday period, but the consequent 'make-up' activities that impact at a later stage on productivity and costs.

The casual employees of businesses which close their operations will lose wages at a time when such income is likely to be highly valued over the Christmas / New Year holiday season.

The draft RIS for the proposed holiday states:

Should Christmas Eve be declared a public holiday from 6pm to 12 midnight, workers in these sectors would have the right to refuse to work or to be compensated at public holiday rates if they do work. If this occurred, a preliminary estimate of additional wage costs to Queensland industry per annum, including the public sector is in the range of a lower end estimate of \$41.3 million to an upper end estimate of \$136.9 million. The preliminary estimate for the public sector per annum is in the range of \$9.4 million to \$21.1 million.

In Ai Group's view, the above analysis understates the likely cost of the proposal.

The RIS assumes that the proportion of employees working on Christmas Eve would be similar to those who worked on Christmas Day in 2011. Appendix A shows employees from a large range of industries worked on public holidays in 2011, including on Christmas Day, Boxing Day and an additional Christmas Day public holiday.

Based on the industries in which employees worked on the Christmas Day and/or Boxing Day public holidays in Queensland in 2011, we estimate that a total of 63,170 non-farm businesses in Queensland could be affected by a part-day public holiday, including 62,869 small and medium sized businesses (with 1 to 199 employees). This amounts to 37% of the 167,652 employing businesses that were active in Queensland in 2018. A further 9,100 agricultural businesses may also be affected, since almost all farm businesses must attend to their crops and/or livestock every day including public holidays. If these farming businesses are included, then 42% of employing businesses in Queensland are potentially affected by the costs associated with public holidays (see **Table 1** below).

These businesses would need to:

- Pay employees more to work during the part-day public holiday hours;
- Increase the work hours of business owners to cover the part-day public holiday; or
- Close the business during the part-day public holiday when they would otherwise have stayed open, resulting in a significant loss of sales revenue. In retail trade and some other sectors, Christmas Eve is among their busiest trading days of the year, so such a closure would result in a much larger loss of revenue than on almost any other working day. For many small businesses, closing would therefore be a last resort, or would not be considered as a viable option at all.

Appendix A of the RIS indicates that the number of people working on Boxing Day and the 'Christmas day additional public holiday' was significantly higher in 2011 than the number working on Christmas Day. The RIS adjusts these 2011 employment numbers to reflect employment growth until 2018, producing an estimate of 360,121 who worked on Boxing Day in 2018 (assuming the same work patterns as in 2011) and 108,596 who worked on Christmas Day. A similar methodology indicates that 337,302 would have worked on a Christmas Day additional public holiday if it were held in 2018.

With approximately 2.5 million people employed in Queensland as of June 2018, this suggests 14% of the State's total workforce was working on Boxing Day in 2018, 13.5% would have worked on a Christmas Day additional holiday (if it were held), and 4.3% was working on Christmas Day in 2018. Christmas Eve is one of the busiest trading days of the year for many retailers, hospitality businesses and their suppliers. The number of people working on Christmas Eve are therefore likely to be closer to Boxing Day and/or a Christmas Day additional holiday (if it is held) than they are to Christmas Day. With more than triple the number of people working on Boxing Day compared to Christmas Day in Queensland in 2011, this suggests the true cost could be more than triple the estimate presented in the draft RIS. This implies a total cost range in the order of \$123.9 million to \$410.7 million in employment costs alone, not including the cost to businesses that choose to close instead.

The huge cost of public holidays on businesses was highlighted by Ai Group research in 2015 that reported that the additional "AFL" public holiday in Victoria had the following effect on business:

- 85% of businesses closed on the public holiday;
- 71% of businesses incurred additional labour costs (including penalty rates paid on the day but also additional paid hours on other days to make up for lost production), averaging \$14,250 per business; and
- 85% of businesses incurred a loss of revenue. The average loss was \$57,500 per business and ranged from \$1,000 to well over \$500,000 per business.

The regulatory impact modelling by Price Waterhouse Coopers (PwC) (commissioned by the Victorian Government), estimated the total loss of economic activity due to the public holiday at between \$680 million and \$852 million per year. PwC had also estimated that Victorian employers would pay additional wages of between \$117 million and \$147 million in penalty rates, if they chose to open for business on the ‘AFL’ public holiday.

The very large increase in labour costs that would apply to businesses that must remain open, or choose to remain open, on the proposed Queensland Christmas Eve public holiday are highlighted by the following examples:

Award	Rate that currently applies between 6pm and midnight on Christmas Eve	Rate that would apply on the proposed public holiday
<i>Manufacturing and Associated Industries and Occupations Award 2010</i>	15% afternoon shift loading	250% penalty
<i>General Retail Award 2010</i>	6pm to midnight: 25% penalty	225% penalty
<i>Fast Food Industry Award 2010</i>	6pm to 10pm: Ordinary rate 10pm to midnight: 10% loading	225% penalty
<i>Hospitality Industry (General) Award 2010</i>	6pm to 7pm: Ordinary rate 7pm to midnight: 10% loading	225% penalty

The South Australian and Northern Territory Christmas Eve public holidays apply from 7pm until midnight, but the proposed Queensland Christmas Eve public holiday would apply from 6pm until midnight, thereby imposing even higher costs on Queensland employers and creating even more inconsistency with public holidays in other States.

The costs associated with national inconsistency regarding public holidays

A large number of employers that operate in Queensland also operate in other States and Territories. These employers must administer different public holidays in each State or Territory in which they operate. This point is made clear by Table 2 in the RIS which displays the various public holidays observed by each State and Territory.

The inconsistency creates a heavy administrative and cost burden on employers that operate in more than one State or Territory. These costs need to be considered by the Queensland Government, in addition to the direct costs associated with business decisions to operate or not operate on the proposed public holiday.

In 2015 the Productivity Commission conducted an extensive inquiry into Australia’s Workplace Relations Framework. In December 2015, the Productivity Commission released its final report which contains the following important finding: (emphasis added)

“State and territory governments can choose to designate public holidays that have some particular cultural significance for their jurisdictions. However, in doing so, they should take into account the total number of public holidays in the jurisdiction relative to the national benchmark of eight national public holidays, and the impacts, which vary depending on whether the public holiday is on a weekend or weekday. Declaring additional days as public holidays may be politically appealing, but comes at significant economic costs. A public holiday declared on a weekday will often lead to closure of an enterprise on that day, with losses in output, reduced convenience for customers, and reduced capital utilisation. If the enterprise decides to operate on a weekday public holiday, the cost per employee will generally rise by 150 per cent above the standard weekday rate.”¹

In its final report, the Productivity Commission made the following recommendation (16.2):

The Australian Government should amend the National Employment Standards so that newly designated state and territory public holidays are not subject to public holiday penalty rates or a paid day of leave.

The Queensland Government’s proposed Christmas Eve public holiday is wholly inconsistent with the approach recommended by the Productivity Commission.

In addition to the many problems and additional costs that inconsistency imposes on all businesses which operate in more than one State, there are special problems for businesses that operate in towns close to the border with New South Wales. It is unfair for businesses in Coolangatta to have much higher costs imposed on them on Christmas Eve, than businesses which operate in Tweed Heads.

Ai Group has previously called for the Council of Australian Governments (COAG), to develop a nationally consistent approach to public holidays in respect of:

- The quantum of public holidays;
- The days on which public holidays which are recognised in each State and Territory are held; and
- The substitution of certain public holidays which fall on weekends rather than declaring additional days.

Ai Group urges the Queensland Government to support a nationally consistent approach to public holidays, rather than proceeding with the proposed Christmas Eve public holiday which would lead to even more inconsistency.

¹ Productivity Commission 2015, *Workplace Relations Framework*, Final Report, Canberra, p.536.

The interaction between Qld public holidays and federal workplace laws

The *Fair Work Act 2009 (Cth)* (**FW Act**) applies to the majority of employers and employees in Queensland. The FW Act, through the National Employment Standards (NES) recognises 8 specific public holidays:

- 1 January (New Year's Day)
- 26 January (Australia Day)
- Good Friday
- Easter Monday
- 25 April (Anzac Day)
- The Queen's Birthday holiday
- 25 December (Christmas Day)
- 26 December (Boxing Day)

In addition to the 8 public holidays above, the FW Act, recognises public holidays declared or prescribed by or under a law of a State or Territory (s.115(1)(b)). The FW Act also recognises as public holidays, those days that are substituted for public holidays under a law of a State or Territory.

The effect of this is that any Queensland law, such as the *Holidays Act 1983*, under which public holidays are declared, will require employers to recognise those public holidays for Queensland employees. The conditions applying to public holidays recognised under the FW Act include entitling an employee to be absent from work (s.114(1)) and ensuring that any request by an employer for an employee to work a public holiday is reasonable (s.114(2)).

An employee may refuse an employer's request to work on a public holiday if the employee's refusal is reasonable. In determining what is a reasonable, s.114(4) of the FW Act provides a set of factors that must be taken into account:

- (a) the nature of the employer's workplace or enterprise (including its operational requirements), and the nature of the work performed by the employee;
- (b) the employee's personal circumstances, including family responsibilities;
- (c) whether the employee could reasonably expect that the employer might request work on the public holiday;

- (d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, work on the public holiday;
- (e) the type of employment of the employee (for example, whether full-time, part-time, casual or shiftwork);
- (f) the amount of notice in advance of the public holiday given by the employer when making the request;
- (g) in relation to the refusal of a request--the amount of notice in advance of the public holiday given by the employee when refusing the request;
- (h) any other relevant matter.

In addition to the above entitlements in the FW Act, most modern awards and enterprise agreements require employers to pay penalties to employees who work on a public holiday. Typically, such penalty payments are set at 225%-250% of the employee's minimum rate of pay.

The RIS cites that "a major reason"² for considering a part-day public holiday on Christmas Eve relates to the desire by workers to attend traditions and observances and spend time with family and friends. This Statement suggests that employees do not otherwise have an entitlement to refuse work for any day other than a public holiday. This assessment is not accurate.

Employees requested by their employer to work overtime during the period 6pm-12pm on Christmas Eve (such as in circumstances identified in Case Study 1 of the RIS) are currently already afforded the protections of s.62(3) of the FW Act which regulates the circumstances in which employees can be requested to work additional hours. Specifically, s.62(1) prohibits an employer from requiring an employee to work more than their weekly ordinary hours (38 hours per week for full-time employees and less of part-time employees) unless the additional hours are reasonable. Employees are entitled to refuse to work unreasonable additional hours. The factors identified in s.62(3) must be taken into account in determining whether any additional hours requested are reasonable or unreasonable. Many of the factors in s.62(3) are the same as, or similar to, the factors in s.114(4) which apply to public holidays.

Accordingly, this "major reason" for introducing a new public holiday does not stand up to scrutiny.

Conclusion

A case has not been established for introducing a new part-day public holiday on Christmas Eve. The additional part-day public holiday:

- Is strongly opposed by Queensland businesses;

² *Consultation Regulatory Impact Statement- Investigation of part-day public holiday on Christmas Eve, 2019, p.17.*

- Would impose additional costs on industry that will not be able to be recovered;
- Would reduce the competitiveness of Queensland businesses;
- Would increase the inconsistencies between public holidays in different States and Territories;
- Would add to the complexity and cost of administering public holidays for many businesses.
- Would not universally provide employees with the ‘right to refuse work’;
- Would penalise thousands of casual employees who will lose work on Christmas Eve because many employers will close their operations.

The proposal is without merit and should be abandoned.

Table 1: Total businesses in Queensland, by industry and size (number of businesses at June 2018) and industries potentially affected by a partial public holiday on Christmas eve

Number of businesses, June 2018	Non-employing	Small (1-19 employees)	Medium (20-199 employees)	Large (200+ employees)	Total employing	Total
Agriculture	27432	7503	587	19	8109	35535
Aquaculture	122	72	8	0	80	203
Forestry and Logging	677	163	6	0	169	848
Fishing, Hunting and Trapping	1034	364	6	0	370	1396
Agriculture Support Services	2076	1021	57	3	1081	3152
Agriculture	31341	9123	664	22	9809	41134
Coal Mining	56	68	11	18	97	149
Oil and Gas Extraction	39	27	5	3	35	74
Metal Ore Mining	136	36	11	9	56	195
Non-Metallic Mineral Mining Exploration and Other Mining Support Services	266	177	20	0	197	462
Mining	1052	667	91	33	791	1847
Food Product Manufacturing	626	1055	217	22	1294	1938
Beverage and Tobacco Product Manufacturing	138	100	14	0	114	248
Textile, Leather, Clothing and Footwear Manufacturing	613	515	39	0	554	1159
Wood Product Manufacturing	529	561	93	3	657	1175
Pulp, Paper and Converted Paper Product Manufacturing	34	25	6	0	31	77
Printing & Recorded Media)	449	503	42	0	545	995
Petroleum and Coal Product Manufacturing	30	26	0	6	32	59
Basic Chemical and Chemical Product Manufacturing	289	226	37	9	272	553
Polymer Product and Rubber Product Manufacturing	247	294	53	3	350	600
Non-Metallic Mineral Product Manufacturing	273	293	34	3	330	607
Primary Metal and Metal Product Manufacturing	152	176	37	12	225	380
Fabricated Metal Product Manufacturing	1456	1524	164	14	1702	3138
Transport Equipment Manufacturing	880	738	82	0	820	1701
Machinery and Equipment Manufacturing	1001	1068	122	9	1199	2172
Furniture and Other Manufacturing	839	731	35	0	766	1604
Manufacturing	7556	7835	975	81	8891	16406
Electricity Supply	139	56	9	9	74	208
Gas Supply	28	17	3	0	20	48
Water Supply, Sewerage and Drainage Services	101	62	11	5	78	182
Waste Collection, Treatment and Disposal Services	418	402	25	0	427	857
Utilities	686	537	48	14	599	1295
Building Construction	10376	5974	180	6	6160	16539

Heavy and Civil Engineering						
Construction	1173	1033	100	9	1142	2318
Construction Services	33005	23578	668	21	24267	57261
Construction	44554	30585	948	36	31569	76118
Basic Material Wholesaling	1358	1425	147	10	1582	2941
Machinery and Equipment Wholesaling	1308	1394	126	9	1529	2822
Motor Vehicle and Motor Vehicle Parts Wholesaling	553	560	50	0	610	1161
Grocery, Liquor and Tobacco Product Wholesaling	816	825	151	6	982	1805
Other Goods Wholesaling	1608	1342	94	3	1439	3014
Commission-Based Wholesaling	1055	645	14	0	659	1721
Wholesale	6698	6191	582	28	6801	13464
Motor Vehicle and Motor Vehicle Parts Retailing	983	1147	170	10	1327	2295
Fuel Retailing	216	455	62	0	517	723
Food Retailing	1388	2518	280	9	2807	4203
Other Store-Based Retailing	5868	7958	466	12	8436	14331
Non-Store Retailing and Retail Commission Based Buying and/or Selling	2347	1085	27	0	1112	3461
Retail	10802	13163	1005	31	14199	25013
Accommodation	1394	1418	167	22	1607	2991
Food and Beverage Services	3606	9890	1289	51	11230	14822
Hospitality	5000	11308	1456	73	12837	17813
Road Transport	11764	4863	288	14	5165	16925
Rail Transport	3	3	0	0	3	8
Water Transport	90	50	8	3	61	152
Air and Space Transport	232	99	12	3	114	336
Other Transport	432	239	28	3	270	706
Postal and Courier Pick-up and Delivery Services	2214	1500	35	0	1535	3752
Transport Support Services	8996	525	48	10	583	9581
Warehousing and Storage Services	176	129	15	0	144	323
Transport	23907	7408	434	33	7875	31783
Publishing (except Internet and Music Publishing)	390	214	9	0	223	615
Motion Picture and Sound Recording Activities	756	367	27	3	397	1152
Broadcasting (except Internet)	20	15	10	6	31	43
Internet Publishing and Broadcasting	199	74	0	0	74	277
Telecommunications Services	243	188	9	0	197	429
Internet Service Providers, Web Search Portals and Data Processing Services	512	268	7	3	278	787
Library and Other Information Services	19	12	0	0	12	43
Media & Telco	2139	1138	62	12	1212	3346
Finance	5717	1441	66	13	1520	7234
Insurance and Superannuation Funds	19936	628	6	3	637	20573

Auxiliary Finance and Insurance Services	5833	3928	78	6	4012	9847
Finance & Insurance	31486	5997	150	22	6169	37654
Rental and Hiring Services (except Real Estate)	5014	1664	128	6	1798	6820
Property Operators and Real Estate Services	37688	6417	267	7	6691	44389
Property services	42702	8081	395	13	8489	51209
Professional, Scientific and Technical Services (Except Computer System Design and Related Services)	23628	17349	731	29	18109	41739
Computer System Design and Related Services	4672	3282	111	5	3398	8075
Professional services	28300	20631	842	34	21507	49814
Administrative Services	4167	3925	564	53	4542	8699
Building Cleaning, Pest Control and Other Support Services	6079	3076	130	11	3217	9296
Admin & support services	10246	7001	694	64	7759	17995
Public Administration	68	34	0	0	34	94
Defence	4	5	0	0	5	8
Public Order, Safety and Regulatory Services	681	476	87	8	571	1251
Public admin & safety	753	515	87	8	610	1353
Preschool and School Education	74	261	113	25	399	470
Tertiary Education	1142	885	68	9	962	2109
Adult, Community and Other Education	2047	1442	99	0	1541	3592
Education	3263	2588	280	34	2902	6171
Hospitals	97	40	19	8	67	168
Medical and Other Health Care Services	11685	10588	219	9	10816	22498
Residential Care Services	199	169	105	20	294	495
Social Assistance Services	1813	823	344	9	1176	2994
Health	13794	11620	687	46	12353	26155
Heritage Activities	29	32	11	0	43	78
Creative and Performing Arts Activities	1722	384	25	0	409	2114
Sports and Recreation Activities	1308	1339	137	11	1487	2792
Gambling Activities	64	106	6	6	118	180
Art & Rec services	3123	1861	179	17	2057	5164
Repair and Maintenance	6313	6628	153	6	6787	13096
Personal and Other Services	3443	4321	109	6	4436	7890
Personal & other services	9,756	10,949	262	12	11,223	20,986
unknown	2,970	917	45	9		3,943
ALL INDUSTRIES	280,128	158,115	9,886	622	167,652	448,663
non-farm businesses in affected industries		58,502	4,367	301	63,170	

Table 2: Total employment in Queensland, by industry, May 2019 and industries potentially affected by a partial public holiday on Christmas eve

Industry	Full-time workers	Part-time workers	Total workers
Agriculture	65.6	15.2	80.8
Mining	69.0	2.0	71.0
Manufacturing	143.0	26.8	169.8
Utilities	21.4	3.3	24.7
Construction	198.3	38.7	237.0
Wholesale trade	54.6	14.7	69.3
Retail	118.6	130.0	248.7
Hospitality	75.1	122.6	197.6
Transport & warehousing	103.5	30.4	133.9
Info. media & telecomms.	25.8	7.4	33.1
Finance & insurance	53.7	12.4	66.1
Rental & real estate	32.5	6.1	38.6
Professional services	127.5	43.9	171.4
Administrative services	56.5	35.7	92.2
Public administration	136.4	31.7	168.1
Education	129.8	84.0	213.8
Healthcare	216.3	140.2	356.5
Arts & recreation	26.4	23.0	49.3
Other services	76.4	30.5	106.9
All industries	1,730.3	798.4	2,528.7
non-farm workers in affected industries	1,066.4	562.4	1,628.8



AUSTRALIAN INDUSTRY GROUP METROPOLITAN OFFICES

SYDNEY 51 Walker Street, North Sydney NSW 2060, PO Box 289, North Sydney NSW 2059

CANBERRA Ground Floor, 42 Macquarie St, Barton ACT 2600, PO Box 4986, Kingston ACT 2604

MELBOURNE Level 2, 441 St Kilda Road, Melbourne VIC 3004, PO Box 7622, Melbourne VIC 8004

BRISBANE 202 Boundary Street, Spring Hill QLD 4004, PO Box 128, Spring Hill QLD 4004

ADELAIDE Level 1, 45 Greenhill Road, Wayville SA 5034

PERTH Suite 1, Level 4, South Shore Centre, 85 South Perth Esplanade, South Perth WA 6151

REGIONAL OFFICES

ALBURY/WODONGA 560 David Street Albury NSW 2640

BALLARAT Suite 8, 106-110 Lydiard St South, Ballarat VIC 3350, PO Box 640, Ballarat VIC 3350

BENDIGO 87 Wills Street, Bendigo VIC 3550

NEWCASTLE Suite 1 "Nautilus", 265 Wharf Road, Newcastle 2300, PO Box 811, Newcastle NSW 2300

WOLLONGONG Level 1, 166 Keira Street, Wollongong NSW 2500, PO Box 891, Wollongong East NSW 2520

www.aigroup.com.au