

S.The Signal

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The remaining CEPU's EBA IN TELSTRA MEETINGS for members and other staff in this round are:

* **TELEPHONE HOOK-UPS**
COUNTRY BASED MEMBERS:
TUESDAY 11 AUGUST 7PM
(Check email for No and pin)

* **OUTER METRO MEETING**
WEST: 7PM THURSDAY 13
AUGUST 2009: WERRIBEE
COMMUNITY CENTRE,
4 Synnot Street ext. Room 3

BRANCH SPECIAL MEETING
SPECIAL GENERAL: 6PM
WEDNESDAY 26 AUG 2009

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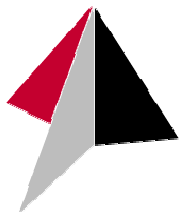
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TELSTRA EA NEGOTIATIONS: PROGRESS REPORT

The CEPU and other Telstra unions are continuing their negotiations with the company for a new Enterprise Agreement.

As indicated in previous E-bulletins, headline issues include:

- regulation of performance management systems to help ensure fairness and transparency;
- updating, where necessary, of banding and classification systems;
- redundancy provisions;
- dispute settlement and consultation processes;
- continuation of all conditions of employment;
- performance bonus systems;
- pay increases.

As members would be aware, legislative changes introduced by the former Howard Government put a number of key Telstra conditions at risk and it is important that these are now secured in the new EA.

For instance, under Work-Choices, the Telstra Redundancy Agreement expired once any new EA was agreed on. The *Fair Work Act* did not change this situation so it is now necessary to incorporate members' entitlements in the new EA.

Similarly, the Howard Government's privatisation of Telstra meant that members were no longer guaranteed certain conditions such as maternity leave and long service leave. Again, these conditions have to be incorporated into the new agreement (as they have been in the current one).

On the positive side, the laws introduced by Labor mean that Telstra has to agree to third-party

involvement in dispute settlement procedures. In other words, they have to allow an independent umpire to deal with disputes and cannot keep the whole process in-house. However, there is as yet no agreement between Telstra and the CEPU as to whether that "umpire" (which can be either Fair Work Australia or another body) can arbitrate disputes to give binding decisions.

No final agreement has been reached on the detail of these questions and a number of other issues, including the scale of salary increases, have yet to be discussed. However, the CEPU is hopeful of there being a desire on both sides to reach agreement as soon as possible and the union is working to achieve this.

CEPU SEEKS EXTENSION OF INDUSTRIAL ACTION ORDER

The CEPU has applied to Fair Work Australia, to have its Telstra members' ability to take protected industrial extended.

Members will be aware that under Labor's original legislative package, protected industrial action that was authorised under the Howard Government's laws was not going to be legal after 1 July, when the Fair Work Act came into force.

This would have meant that the CEPU would have had to conduct another costly and time-consuming ballot of Telstra members if it wanted to take any further industrial action in pursuit of a fair Enterprise Agreement.

Fortunately, the CEPU was successful in getting amendments to the legislation so that unions involved in industrial action campaigns before 1 July could have them extended after that date. However, unions had to apply for such extension by 28th July.

CEPU (T&S) website: www.cepu.net.au

National CEPU website: www.cepuconnects.org

The CEPU made the application to meet this cut-off date, not because EA negotiations with Telstra are going badly or have stalled. The application is a precaution which, if successful, will keep members' options open in the event that a satisfactory agreement with Telstra cannot be reached.

The union remains hopeful, however, that the good faith bargaining process, to which it is committed, will produce an agreement that protects members' conditions and meets their expectations.

OPTUS EPA: MEMBER CONSULTATIONS BEGIN

The CEPU is seeking the views of its Optus members and other employees as to the content of the next so-called Optus Employee Partnership Agreement (EPA), or EBA.

Although the current Optus Agreement does not reach its expiry date until October, the company has begun what it describes as "discussions" with employees about the content of the new agreement. In correspondence with the CEPU, the company has suggested that it does not regard these discussions as formal negotiations.

Once negotiations begin, Optus is obliged under Labor's laws to inform employees of their rights to have bargaining representatives. The CEPU automatically becomes the representative of its members in Optus. It would seem the company is in no hurry to begin this process.

There is obviously a somewhat fine line between "discussions" and "negotiations". However, whether or not Optus can be said to be already negotiating with its employees, the CEPU believes that its members have the right to

have organised input into the EPA renewal process.

The union has held a number of consultations with its members with a view to establishing what they see as the key issues for the EBA and ensuring that these are represented to management.

CASE CASTS DOUBT ON TELSTRA ECAS

The status of at least some of Telstra's non-union Employee Collective Agreements (ECAs) could be in doubt as a result of a successful case brought by the CEPU.

The Federal Court has ruled that employees at electrical company Blue Star Pacific were not given a reasonable opportunity to decide whether they wanted to accept a proposed ECA because they were not given sufficient opportunity to consider it collectively.

The company had initially scheduled a meeting so that employees could discuss the ECA proposal but the meeting was subsequently cancelled. The agreement was then put to a postal ballot and voted up.

Justice John Reeves accepted the argument put on behalf of the CEPU that the employees were not given a reasonable opportunity to discuss the agreement among themselves and that the ECA had consequently not been validly approved.

While the former *Workplace Relations Act* allowed employers to make AWAs on a one-to-one basis with employees, something more was required when making collective agreements, he said. He argued that the provisions of the Act obliged employers to provide employees with an "appropriate time and occasion to meet together as a group" to discuss any proposed ECA.

This issue was raised with Telstra during its recent ECA "campaign" and led to the company making arrangements such as phone hook-ups for at least some of its employees who were offered ECAs. Despite that Telstra's ECAs may have been "approved" without proper opportunities being provided. Their legal status could now be in doubt.

The Telstra unions are considering the implications of this judgement for those of their members who are now covered by ECAs and will be consulting with them before deciding on any further action.

AUSTRALIA POST: CEPU MOVES CLOSE TO BALLOT FOR ACTION

(2 July, 2009): Following the union's formal decision advising that it could not recommend EBA7 to the CEPU membership in Post, the union has been talking with members across the country, discussing the issues at stake and getting members views on the way forward.

The Divisional Executive of the CEPU Communications Division considered reports back from its branches and members and took the following decision:

"Given the continued reluctance of Australia Post to address the critical concerns our members have with management's latest EBA7 offer - and taking into account member feedback since the decision to reject the EBA7 offer - the Divisional Executive supports the move to consult with members about the need for a ballot to authorise the taking of protected industrial action in Post.

The union has attempted - through negotiation - to include greater protections for members in the draft EBA7 document. Post has refused to move on

these matters. Attending further talks with Post will not be productive, as they have consistently said they would not agree to our improvements to EBA7. This is why we need to consider taking industrial action - to get a new Enterprise Agreement that contains the necessary measures to secure jobs and conditions, improve safety and protect members' take home pay.'

All members are urged to update their contact details with their branch, to ensure they are able to vote in this ballot.

Branches will hold special after-hours briefings with delegates to develop the next steps in the campaign to achieve a better EBA7."

CEPU PUTS SKILLS ON INDUSTRY AGENDA

The creation of a highly skilled workforce in the information and communications technology sector is essential for innovation and should be a key priority for government, according to the CEPU.

This was the message that the union took to the first meeting of the Federal Government's Information Technology Innovation Council on which both the CEPU and the Finance Sector Union (FSU) are represented.

The IT Innovation Council is one of several that have been established to advise government on measures that will help boost productivity and modernise the Australian economy through encouraging innovation. Innovation in the ICT sector is obviously central to this process, as ICT technologies are increasingly central to the whole economy.

Both the CEPU and FSU stressed the need for more investment in skill development to address shortages in both the IT and telecommunications areas. They also pointed to the need for a more systematic and responsible ap-

proach to resourcing and training when new ICT technologies are introduced into the workplace.

The problems that have arisen from Telstra's failure to provide adequate training on the Siebel system show the downside of innovation that is not supported by adequate employee training and resourcing levels.

The Skill Council's work is ongoing and the CEPU hopes to be able to help it develop more detailed recommendations to the Government in these areas.

WIDEBAND DESIGN PERFORMANCE MANAGEMENT

The CEPU has been made aware of the impact of the so-called Performance Management regime on Wideband Design staff.

The union and the employees in Wideband Design have never been properly consulted about this programme and an examination of some of the Management literature associated with the scheme could lead to the conclusion that it has been designed by the unqualified and ignorant.

Unfortunately though, the impact of this scheme on Telstra's employees is not funny. Let us look at some of the issues:

- Who sets the targets and on what basis?
- What "sanity check" have the targets been through?
- What allowances are made for matters outside the employees' control?
- What allowances are made for leave, training etc?
- Who checks the checkers? eg:
- Who checks for fairness and equality in work type allocation (simple, complex, easy/difficult)?
- Who checks for evenness of application from region to region, person to person, prod-

uct to product, work area to work area?

- What consultation has taken place and takes place with the employees to seek agreement and "ownership" of the targets and measures?

Or is it as we suspect all handed down like a tablet from some god-like being above?

What sort of a scene is Management setting up when it:

- Threatens employees with the sack right up front if they don't shape up?
- Organises MONTHLY reviews of performance in what must be the greatest act of overkill one can imagine in a work area like this?

Let us refer to the performance and development plans

What does the word "timely" mean?

What does "positive outcomes for Telstra" mean?

What does "provide honest analysis" mean?

What does "getting things done now" mean?

On the one hand according to the Performance and Development Plans, it's good if employees "question traditional methods and look for new opportunities" but on the other hand, in practice, it is made clear to employees that they will be frowned upon or "marked down" if they disagree with Management, particularly with regard to the Performance Management Process.

Employees are required to "actively listen and understand alternate points of view", according to the Performance and Development Plans, but in practice Management requires obedience, and makes it clear they are not happy with disagreement with the Management or with dissenters.

What has this all led to in Wide-band Design?

Setting up a climate of fear, anxiety, and bullying for staff, lowered morale, deteriorating relationships between staff and managers, and in the end this is leading, or will lead, to poorer quality work, more unplanned absences from work and poorer performance overall.

One must ask: in whose interests is this all being done?

Whether you are a member of the CEPU or not you should support union members' efforts in Wide-band to get the situation cleaned up.

ANTI-DISCRIMINATION LAWS STRENGTHENED

Recent changes to anti-discrimination laws will provide employees with more protections against unfair treatment in the workplace.

The *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* has recently been passed by federal parliament in response to findings by the Productivity Commission.

Key changes to current law include those that:

- clarify the need for employers to make reasonable adjustments for people with a disability;
- clarify the matters to be considered when determining unjustifiable hardship (which operates where it would be unjustifiably hard on an employer to accommodate an employee's disability) and makes clear the onus of proving it lies with the person claiming it;
- change the definition of indirect discrimination so that employers will now have to prove that the requirement or condition being imposed was

reasonable (previously employees had to prove the unreasonableness of the requirement or condition);

- clarify the definition of disability to include behaviour that is a symptom or manifestation of the disability.

The *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* also amends the *Age Discrimination Act 2004* (ADA).

The new act removes the 'dominant purpose' test from the ADA so that employees need only prove that age was a reason (not the dominant reason) for the alleged behaviour.

The changes may sound technical but they mean that employers will need to reconsider their approach to the management of workplace issues and termination of employment.

The implications for the union and its members are that the changes will generally make it easier for employees to claim that they were discriminated against on the basis of disability or age.

DUTCH WORKERS FIGHT RISE IN RETIREMENT AGE

Work stoppages and mass demonstrations are on the horizon, according to the largest Dutch trade union, if the Dutch Government goes ahead with plans to raise the retirement age.

FNV Bondgenoten, the largest single trade union in the Netherlands, has promised strong tactics in its campaign against the proposal.

The government recently considered raising the age that employees can receive their national pension from 65 to 67.

So the first major action in the campaign will be a work stoppage for a symbolic 65 minutes on 7 October this year.

FNV Bondgenoten boasts close to 470,000 members working in a wide range of industrial, commercial and service-focused companies and organisations so the effects of the stoppage will be felt across a variety of economic sectors. The trade union said that it may organise mass demonstrations, either in The Hague or Amsterdam, if the 65-minute 'strike' fails to have any effect.

Union Network International (UNI), the international union body to which the CEPU is affiliated, has expressed its support for the Dutch campaign.

Meanwhile, it is worth reflecting that strike action in Australia against the Rudd Government's similar proposal to raise the retirement age would be illegal. This is a reminder of the task that still lies ahead of the labour movement in restoring workers' rights in Australia.

LEN COOPER Branch Secretary

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