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**TELSTRA EBA: CEPU
PUTS SPOTLIGHT ON
MEMBERS' CONCERNS**

Telstra's failure to offer a fair EBA deal to union members was the subject of intense media attention this week.

CEPU National President Ed Husic outlined the union's objections to Telstra's unfair wage offer on the ABC's Lateline program.

"Given that the global financial crisis has come and gone," he said "[how] can they, with a straight face, claim that they need to pay different pay rates and pay out-comes to their workforce depending on if they're on a non-union versus a union agreement?"

He went on to say that while there was currently ongoing industrial action in Telstra in pursuit of a fair wage rise, the union had to date attempted to minimise the impact of that action on the public.

"But at some point, if Telstra is refusing to move," he said, "we will need to consider escalating that action."

Husic stressed, however, that the CEPU would prefer a negotiated settlement of its claim.

The Lateline programme followed reports in the Australian Financial Review that several unions were pursuing wage claims which employer groups have described as "excessive".

But there is nothing unreasonable, Husic said, about the CEPU's claim for wage parity with those employees who are covered by the non-union negotiated ECAs that Telstra rolled out in 2008-09.

"There is a gaping differential between what they (Telstra) have offer us in the negotiated agreement versus what they were prepared to give employees in the non-union agreement at the height

of the global financial crisis," Ed told the Financial Review.

**CEPU WANTS AFP TO
INVESTIGATE TELSTRA
EAVESDROPPING**

The CEPU has asked the Australian Federal Police to investigate whether Telstra managers who listened in to union hook-ups, have broken Commonwealth laws.

The union has evidence that a number of Telstra managers have been listening in to CEPU hook-ups in which only members were supposed to participate. The union believes this activity raises legal issues in two ways – as a possible breach of the *Telecommunications Interception Act* and as a breach of the good faith bargaining requirements of the *Fair Work Act*.

On the first score, the union has presented an affidavit to the AFP outlining the details of the Telstra actions. The AFP will now consider whether or not there is a basis for a case to be brought against the company.

Telstra itself has said it takes the matter seriously and is conducting an internal investigation to determine what occurred.

Meanwhile, the CEPU has also taken the issue to Fair Work Australia where it argued that Telstra's actions were undermining the bargaining process by allowing management access to internal union discussions.

In a hearing before Commissioner Roe on 13 July the matter was settled when Telstra gave undertakings to instruct its staff not to eavesdrop on the hook-ups.

**MELBOURNE CHOSEN
FOR NBN NATIONAL
CENTRE**

NBN Co has announced that its National Operation Centre will be based in Melbourne.

The centre, which will include a test facility for service providers trialling new products, is expected to employ around 450 people. They will be responsible for “operations strategy and support, co-ordination of field operations, operation and management of the National Testing Facility and the development of the network’s operational and business support systems.”

This suggests that the number actually involved with network management may be relatively small, reflecting the technological advantages that the NBN will enjoy as a start-up operation e.g. no legacy networks/technologies to manage, a more centralised network architecture and relatively low fault rates.

The announcement also makes it clear that while the centre will co-ordinate NBN installation and maintenance functions, this work will be performed by contractors. (“We will be contracting work throughout Australia to suitably qualified and accredited companies, co-ordinated from this centre.”) This is in line with the lean employment structure being adopted by the company which is expected to directly employ only 1-2,000 workers even when it is fully operational.

It remains to be seen whether the staff of the centre itself will be directly employed by NBN Co. As has been reported in recent E-bulletins, NBN Co’s Tasmanian centre is run by Opticomm, one of the contracting companies involved in the Tasmanian roll-out.

The CEPU will be raising this question with NBN Co.

BEWARE OF TELSTRA’S COMMON LAW CONTRACTS

It appears that Telstra Management is pushing some of its employees to sign common law

contracts which purport to govern employment conditions and wages.

Telstra is choosing the common law contract option because it no longer has access to new AWAs (Australian Workplace Agreements) or ITEAs (Individual Transitional Employment Agreement), because the Federal Government’s Fair Work Act has stopped any new AWAs or ITEAs. The only individual contract option available to employers now is a common law contract.

What are some of the problems with common law contracts?

In the first instance, the contract agreement can only be enforced by you in common law. That is, if Telstra is breaching your contract you must use the civil courts (Federal Court, High Court, etc) to try to redress the problem. This is outside the capability of most employees due to the costs alone.

With AWAs, ITEAs, or EBAs, any dispute can be dealt with in the industrial law processes such as Fair Work Australia etc, which is a low cost (or no cost) jurisdiction and which is generally handled for members by the union or the union’s legal representatives.

In terms of the content of Telstra’s common law contracts, the following problems are obvious:

- Many conditions of employment rely on Telstra policy which can be changed by Telstra at any time, unilaterally (e.g. leave loading, penalty payments for overtime, public holidays etc).
- If you are required to work additional time you may or may not be paid overtime. It is not guaranteed.

- You are not guaranteed any pay increases; they are totally reliant on Telstra management’s decision.
- The contract requires you to comply with Telstra’s policies but you cannot force Telstra to comply with its own policies in regard to your employment. That is they can breach their own policies and you have no redress.
- Any performance-related component of your remuneration is totally reliant on Telstra management. That is not guaranteed.

Given the above examples, before anyone signs a common law contract which is put in front of them, they should make sure that they get advice before signing. The union would be pleased to assist.

NBN/TELSTRA AGREEMENT: EMPLOYMENT IMPLICATIONS

On Friday 25 June, CEPU Divisional Office representatives received a briefing from Telstra on the 20 June announcement of an in-principle agreement between the company and NBN Co. The meeting was attended by Telstra HR and by Greg Adcock, a member of the Telstra NBN negotiating team.

The in-principle agreement establishes a framework for co-operation between Telstra and NBN Co which will see Telstra progressively transfer its fixed line traffic to NBN Co and, at the same time, de-commission the Customer Access Network. Over time, this will obviously make a range of functions associated with operation of the CAN redundant.

In view of these impacts and in order to better equip current Tel-

stra employees to participate in the NBN roll-out, the Government has agreed to make up to \$100 million available to Telstra for the retraining and redeployment of its current workforce. Telstra indicated that the money was unlikely to be available until the 2011-2012 financial year when it is anticipated the agreement will be finalised.

The focus of the 25 June discussions was the implications of these arrangements for employment in the company. Telstra confirmed that:

- * As the agreement is non-binding and subject to shareholder approval in the first half of calendar 2011, no direct employment impacts can be expected during the coming financial year. Similarly, as noted above, no funding for training is expected to flow before then.
- * For the same reasons, the agreement will make no difference to the current 900 planned redundancies.
- * Telstra expects that both the current redundancy targets and any future job losses flowing from the CAN shut-down will be met largely through voluntary redundancy.
- * Telstra will use the \$100 million training fund to equip its workforce with fibre-based skills.
- * Telstra will seek to maximise its involvement in the NBN roll-out, including in the future roll-out of fibre to new housing estates, responsibility for which will devolve to NBN Co as from 1 January 2011.
- * It is envisaged that current Telstra employees participating in the NBN project would remain as full-

time employees of Telstra i.e. they would not be transferred to NBN Co or to a third party. They would therefore keep all their entitlements.

The CEPU rejected the view that the current redundancies should continue despite the NBN agreement. In the union's view these are being driven by budgetary rather than operational needs and are short-sighted, especially if the company wants to maximise its participation in NBN work.

On the other hand, while many uncertainties still remain about how the NBN project will operate, Telstra clearly now has an expectation that it will play a significant role in at least the construction phase.

Telstra is one of 21 companies that have been shortlisted to participate in the mainland roll-out, but the only one with such a sizeable directly employed and highly skilled workforce. There appears to be a recognition that this represents a competitive advantage to Telstra in tendering for NBN work.

This is a positive for CEPU members, at least in the short to medium term. However, in the longer term, as the CAN is decommissioned and NBN roll-out completed, new functions and jobs will have to be found for displaced staff if significant redundancies are not to occur.

REDUNDANCY KNOW YOUR RIGHTS

There are a number of fundamentals in a redundancy situation in Telstra.

Under the union/Telstra redundancy agreement you are entitled to seek negotiations (via the union if you wish), within two weeks of the "Form A" being issued. The negotiations are able to examine Telstra's "reasons" for the redundancies, whether the jobs are

actually redundant, whether management have done all they can to "mitigate" the impact of the redundancies etc.

This negotiation period is only available to employees on the EBA, and not to employees on the ECA, and it is only available to employees on AWAs and ITEAs if Telstra agrees. There is no formal appeal in the event of a depot/centre closure.

Under the redundancy agreement, you can appeal internally to Telstra against your selection for redundancy. The union will help you with this and handle the appeal for you if you wish. This is also available to employees on the ECA and only available to employees on AWAs and ITEAs if Telstra agrees.

Under the redundancy agreement disputes about the redundancies can be taken to the industrial relations commission (now called Fair Work Australia). The union will help you with this and represent you at FWA should you wish.

Access to FWA over the redundancy agreement issues is not available to employees on an ECA, and is only available to employees on AWAs and ITEAs if Telstra agrees.

Some and even many of the decisions taken by managers to cut staff are driven by "bean counting", with little or no consideration of the impact on customer service or the employees left to do the work. If necessary the union will help you escalate any such issues for negotiation/consideration up to the highest levels in Telstra if required, whether you are employed on an EBA, ECA, AWA or ITEA.

We are, and will continue to, go public to expose management's actions which undermine customer service and worsen em-

ployee stress and working conditions.

The union/management redundancy agreement spells out your redundancy entitlements and your rights. You can get a copy of the agreement on the intranet or from the union office or on the website www.cepu.net.au or www.cepuconnects.org.au

It is important to understand that the Form A notification of redundancies gives very little useful information to the union. It gives the union no information about the individuals affected, about the work area affected or about other redundancy related issues.

Therefore, unless you contact us we do not know who is going, who is being targeted and what "shonkys" are being pulled or attempted.

Make sure you contact us, if there are problems. The A forms are designed by Telstra to keep us ignorant of the facts.

WORKERS TURN TO UNIONS FOR BETTER PAY: NEW ABS DATA SHOWS LIFT IN UNION MEMBERSHIP

[ACTU 12 May 2010]

A lift in union membership in the past year shows working Australians are turning to unions to improve their pay and conditions.

New ABS data released today shows there has been a lift in union membership of more than 82,000 workers and the proportion of the workforce in unions has increased from 19% to 20%.

The data shows there are 1.9 million Australians that are members of a union and that union members earn, on average, \$145 a week more than non-members.

There has been a rise in union membership density in both the public and private sectors with

the strongest gains among male full time workers.

ACTU Secretary Jeff Lawrence said the new data was very encouraging considering most of the Liberal's WorkChoices IR laws were still in place when the ABS survey took place in August 2009.

LEN COOPER Branch Secretary

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Silvio Crisafi is the union endorsed Taxation Agent, Financial Adviser and Public Accountant

9819 7255

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UNION DUES 2009/10 (Taxation)

Telstra/APost ONLY
Category/Dues Paid/Salary

A - \$514.80

Based on salary \$64,798 & above

B - \$468

Based on salary = \$52,522 but less than \$64,798

C - \$374.40

Based on salary = \$37,147 but less than \$52,522

D - \$187.20

Based on salary less than \$37,147

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Work related enquiries must be directed to the union first



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Our standard home loan has been awarded one of the 'best of the best' by Money Magazine 2002.

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- ★ Mobiles lenders available to visit you at work