

Communication

Workers' Union
News
OCTOBER
2008

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TELSTRA NEWS

MEETINGS ABOUT TESTRA'S ENTERPRISE AGREEMENT

GOC: 7 OCTOBER, 12 – 2pm

MELBOURNE CBD: 14 OCTOBER, 12 – 2 pm at SCOTS CHURCH

16 OCTOBER – 12 – 2 pm at COOPERS TAVERN IN Exhibition St

CLAYTON: 14 OCTOBER, 7pm CEPU OFFICE – 47 Henderson St, Clayton

WERRIBEE: 15 OCTOBER, 7pm Werribee Community Centre 4 Synnott St, Werribee

PRESTON: 16 OCTOBER, 7pm Preston Masonic Hall, Bell St, Preston

Telstra employees reject management agreements

Telstra employees in the company's Wholesale and Service Advantage (Call Centric) areas have rejected the non-Union negotiated agreement put to them by management.

By voting "NO" they have said that they simply don't trust Telstra to do the right thing by them and offer them a fair deal. And they are asking why their Unions have been cut out of the negotiating process.

The NO vote should also tell Telstra that it's not just Union members covered by the existing Union-negotiated agreement who feel this way. Clearly non-members and employees coming off AWAs are equally suspicious about the deal they were offered and about the real intentions of management. That's hardly surprising when everyone from the deputy Prime Minister down has criticized the agreement's contents, especially the Part B offer which severely cut entitlements for new employees and those coming off AWAs.

Employees sent exactly the same message to Telstra last year when they overwhelmingly rejected a similar non-Union negotiated agreement put to call centre employees.

But Telstra has chosen to turn a deaf ear to that message. So it has only itself to blame for this further defeat.

It's time management listened to its employees and returned to the bargaining table to forge an agreement which offers a fair wage rise, protects conditions AND provides the protections of Union involvement in all phases of the agreement process, from negotiation to enforcement through the AIRC.

The CEPU stands ready to resume talks now. Where's Telstra?

Staff shortages and Telstra's ECA strategy

New Telstra documents viewed by the CEPU cast an interesting light on the connection between staff shortages in Telstra and the company's current industrial relations strategy.

The documents, which come from Service Delivery, show that Telstra wants to find ways of dealing with high or peak workload volumes without hiring more staff. Those ways involve getting existing employees to work more "flexible" hours e.g. to work on their RDOs.

High or peak workloads usually occur when there are events like the heavy rains experienced in eastern Australia last summer. Even if they do not directly affect all regions, they do indirectly, as staff are spirited off from one part of Australia to another to deal with the crisis.

In fact, the flooding and consequent service disruptions in NSW and Queensland earlier this year actually

resulted in Mass Service Disruption Notices being issued for South Australia because so many SA field staff had been flown up north to deal with the problems there. Now that's a sign that there's a bit of a problem. So Telstra are getting in early this year and asking for volunteers – employees who will be available one Saturday or Sunday a fortnight during "peak volume" periods and/or will work one RDO per month during these times.

Yes, it's all voluntary at this stage. But Part B of Telstra's proposed employee agreement would allow work to be scheduled this way without employees' consent. That's because the hours of work are averaged over a year. And under Part B there would be no Saturday and Sunday overtime payments for anyone earning over \$52,000 a year (including super contributions).

If employees ever wanted evidence of the dangers of Part B, this is it.

Communication
Workers' Union
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UNITY IS STRENGTH



Proud to be Union

Telstra fails to gag Unions

In another set-back to its strategy, Telstra has received a knock-back from the Federal Court in its attempts to stop the CEPU and other Unions saying what they think about the non-Union negotiated agreements the company has tried to sell to its staff.

In the lead up to the Wholesale and Call Centric ECA ballots, Telstra applied to the Federal Court for an injunction to stop the Unions putting out information that the company said was "false and misleading". The Court threw out the application, saying that it wasn't convinced by Telstra's arguments and could "see *nothing false and misleading*" in the Union statements that the company quoted (See details below.)

Those who don't learn from the past are doomed to repeat it.

Telstra's gag attempt is yet another sign that management have not learned the lessons from last years' failed attempt to foist a

non-Union negotiated agreement on its employees.

That time round, Telstra tried to convince the Workplace Ombudsman that the CEPU has misled its members and other employees about the dangers of going down that path.

And just like the Federal Court, the Workplace Ombudsman found that the Unions had no case to answer about the information they had provided to their members.

In persisting in an already failed legal strategy, Telstra is not only wasting its own and the Unions' time and money, it is also insulting its own employees by suggesting that they are easily misled.

A more productive course of action would be to recognise that the opinions of its employees deserve respect and to return to the negotiations which those same employees have clearly signalled they want resumed.

What the Federal Court said about Telstra's arguments . . .

Justice Sundberg of the Federal Court was not impressed with Telstra's claims that the CEPU and other Unions had been misleading Telstra employees about it's proposed agreements (ECAs).

Here's what he had to say about some of Telstra's arguments.

*Telstra contends that the [Unions] have recklessly published false and/or misleading statements about the ECAs. It will be apparent ..that **Telstra has not made out a prima facie case...***

*Telstra contends that the [Unions'] **first statement** claims that it is seeking "to drive down the wages and conditions of its employees" by splitting the workforce into two classes "with inferior pay and conditions for all new employees".... over time the leading position which Telstra employees have secured in the sector **will be driven down...***

*The **second statement** is said to claim that the ECAs will result in employees no longer having the right to be visited by their Union representatives in the workplace.... The Unions in question will not be parties to the ECAs, and accordingly **will not have the right to hold discussions** under s 760.*

*The **fifth statement** is that Telstra is "using the damaging remnants of the Howard Government's Work Choices IR laws to deny workers the right to be represented by Unions". **The statement is neither false nor misleading.***

*The **seventh statement** is that "The non-negotiable pay offer made by Telstra to some staff this week would **cut key conditions such as overtime ... for new employees**". It provides that overtime is not payable to new employees who earn more than \$52,000 per annum. This is less than that available to Part A employees and inferior to the overtime arrangements for employees covered by Telstra's... agreements. While the statement is in general terms, **it is neither false nor misleading...***

*The **ninth statement** is that Unions are excluded from the Telstra Wholesale ECA "which has implications for your rights The Unions are excluded from the ECA and this does have implications for employees' rights, such as the unavailability of the s 760 right of entry... **I can see nothing false or misleading about this statement.***

Urgent OH&S Alert

The CEPU is concerned about several reports from members regarding non-specific swelling and lumps in their groin area.

In at least one instance it has been suggested that the position of the 'Tough Book' on the lap while working may be a source of radiofrequency energy. Large amounts of RF energy can heat tissue. This can damage tissues and increase body temperatures. Two areas of the body, the eyes and the testes, are particularly vulnerable to RF heating because there is relatively little blood flow in them to carry away excess heat.

At this point it is not fully known if there

is a risk from RF emitting devices such as mobile phones, but you should be concerned about avoiding any potential risks, you can take a few simple steps to minimize your exposure to radiofrequency energy (RF). Since time is a key factor in how much exposure a person receives, reducing the amount of time spent using a wireless emitting device will reduce RF exposure.

If you must conduct extended conversations by mobile phone every day, you could place more distance between your body and the source of the RF, since the exposure level drops off dramatically with distance. For example, you could use a headset and carry the mobile phone away from your

body. Similarly, do not place your laptop on your knees close to you groin area.

The CEPU is urging all members to be vigilant about any health effects that may be related to RF emissions. If you have experienced any symptoms that could be related to your laptop, this includes ergonomic issues related to twisting, eye strain, or other symptoms; you must seek a medical opinion.

We have included a Fact Sheet on how to conduct a TSE (Testicular Self Examination), this is a test that should be conducted regularly regardless of risk factors such as exposure to sources of Radio Frequency.

OUR APOLOGIES TO ANYONE WHO WAS INADVERTENTLY SENT A POSTAL NEWS LAST WEEK.

CEPU condemns latest round of job cuts

The CEPU has condemned Telstra's decision to cut a massive 800 jobs out of its business.

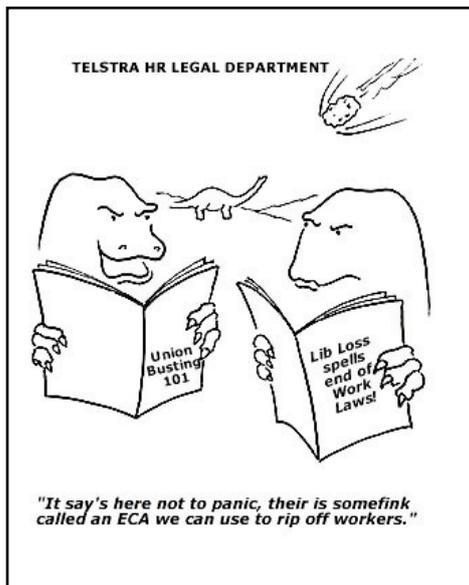
The cuts are a result of a reorganisation that will see Telstra fold its Big Pond activities into its other customer-based business units rather than have it as a separate section of the company. The idea, according to management, is to avoid duplication of systems and to simplify customer-facing processes.

At the same time, a new unit, Telstra Media, is being set up to handle Telstra's mobile and internet content business.

Telstra claims that the reorganisation and the job cuts have been made possible by the revamping of IT systems as part of the "transformation" process. But with the IT transformation behind schedule and over budget, there's every chance that the reductions will simply add to the problems the company is already facing in this area. CEPU Communications Division National Secretary, Ed Husic, also queried the sense in laying off hundreds of employees at a time when Telstra was preparing its National Broadband Network bid.

"We should look to find any way we can to retain skills in Telstra as it gears up to potentially roll out this network," he said. The CEPU will hold talks with Telstra about the cuts next week in line with the requirements of the Telstra Redundancy Agreement. The Union will be seeking further detail of the job losses and how Telstra will mitigate the adverse effects of this decision on our members.

Any members affected should contact their state branches for assistance and advice.



The CEPU met with Telstra on 29th September regarding the loss of 800 jobs across the company which they claim arise as a result of investments in new systems and tools as part of a 5 year Transformation plan.

Job cuts were to occur in Consumer and Channels, Telstra Business, Country Wide, Big Pond, Strategic Marketing and Product Management. At the meeting Telstra is still unable to provide a complete picture in relation to the proposed cuts but did give additional advice with respect to Consumer and Channels, Telstra Business and Country Wide as follows:

Business Unit	No. of Positions	Level (AWA/Band)	Location	
Consumer and Channels	43	2	NSW	
	67	3	NSW	
	12	4	NSW	
	10	2	QLD	
	23	3	QLD	
	1	4	QLD	
	65	2	VIC	
	97	3	VIC	
	11	4	VIC	
	2	2	WA	
	7	3	WA	
	2	2	SA	
	3	3	SA	
	Telstra Business	20	2	NSW
		6	3	NSW
5		4	NSW	
1		2	QLD	
8		3	QLD	
1		4	QLD	
28		2	VIC	
23		3	VIC	
6		4	VIC	
1		2	WA	
4		3	WA	
1		3	SA	
Country Wide		2	2	NT
		1	3	NT
		1	4	NT
	3	2	WA	
	4	3	WA	
	3	2	SA	
	1	3	SA	
	1	2	ACT	
	4	3	ACT	
	2	2	TAS	
	10	2	NSW	
	14	3	NSW	
	2	4	NSW	
	14	2	QLD	
	12	3	QLD	
2	4	QLD		
11	2	VIC		
5	3	VIC		
4	4	VIC		

N.B.: The levels are the broadbanding job descriptions which cover EA/AWA employees, when Branches receive the "A" forms the specific job classification will be provided, e.g. CSSW6.

Telstra is to seek additional advice with regard to Big Pond, Strategic Marketing and Product Management and further union meetings have been programmed. Telstra claimed that the overwhelming majority of employees in the 800 were in fact not EA employees. Branches will commence to receive Form As with the EA equivalent, e.g. SW7, SW8, etc. 600 employees are being exited in late November, the balance are expected to leave by Christmas 2008. Telstra agreed that the two briefings provided to date on this matter do not preclude the normal consultation under the Telstra Redundancy Agreement. Telstra claimed they are seeking volunteers, using two job placement agencies Choice and Hudsons as well as the Telstra Jobs Programme. EAP is being provided as well as Telstra Super Financial Advice. Despite all the rhetoric Telstra was unable to give any details of cases where identified redundant employees had been redeployed to other parts of the business. Branches should highlight in the press the large number (just under 100) of employees to be cut from Telstra Country Wide.

From what we can glean from the two meetings, the process appears to be budget cut based rather than the traditional process and now Telstra is attempting to fit the actual cuts to the announcement of 800 jobs to go.

Branches will be kept informed of developments.

Labor IR reforms a mixed bag

Judging by the outline Deputy Prime Minister Julia Gillard has now given of Labor's new industrial relations laws, they are going to be a mixed bag for working Australians.

Gillard unveiled key elements of her IR package in a speech to the National Press Club this week.

It is clear from her presentation that while many of the worst features of WorkChoices will be gone in 2010 when the new system will be fully operational, many will stay.

And most features of the broader Howard agenda, put in place in 1996 with his first wave of workplace "reform", will also remain intact.

On the plus side:

- Employers will be obliged to negotiate with their employees and their representatives if a majority of them want to bargain collectively – the employers can't just refuse to negotiate as they can now.
- Both sides will have to bargain in good faith and if they don't Fair Work Australia, the successor to the AIRC, will be able to order them to do so.
- A wider range of matters, including items such as salary sacrifice, pay roll deductions and leave for trade Union and occupational health and safety training can be included in agreements.
- Small employers will no longer be able to simply sack employees with no warning, counselling or avenue of appeal.

On the other hand:

- Industrial action outside a collective bargaining situation is still illegal and a secret ballot of employees will still be needed to authorise that action.
- Employers will have new powers to dock the pay of employees who take "wildcat" industrial action
- The industrial relations "umpire", Fair Work Australia will have very limited powers to deal with bargaining or other disputes. There will usually be no compulsory arbitration.
- Small businesses (those with fewer than 15 employees) will still have the right to dismiss employees after just one warning.

ACTU President, Sharan Burrow, welcomed the Deputy Prime Minister's speech, saying that the new legislation would represent another important step in dismantling WorkChoices.

But both the ACTU and individual Unions have expressed concern about the limited powers of Fair Work Australia and the weak unfair dismissal protections the legislation will provide.

It will not be possible to judge the full impact of Labor's new laws until the details of them are revealed later this year. But it is already clear that the labour movement's fight to wind back the legacy of the Howard years is far from over.



A Memoir? Not just for politicians . . .

Telstra's former spin doctor, the bombastic Phil Burgess has left the building, but only for a short while it seems. Phil plans to launch his memoirs about his time in Australia titled What's up Down Under. He will apparently also remain on Telstra's payroll as a 'consultant' to the telco and advisor to chief executive Sol Trujillo. Phil's book will centre on telling Australian's what's up with the government, particularly what's up with the regulators. No doubt Phil will have plenty to say about the need for less regulation on business not more. Afterall Phil comes from the land of the regulatory free for all that has brought the economy to the brink. Deregulation lies at the heart of the disaster currently facing US and the globalised finance markets, and deregulation lies at the heart of the spectacular US corporate collapses in the preceding decade. Enron, Worldcom, Qwest, Tyco + many others all at some stage led the call for less regulation on corporations, these companies executives showed nothing but contempt for their obligations to employees, shareholders and customers alike, they demonstrated nothing but an individual and collective greed in a business culture of false euphoria.

Just before his shortlived departure Burgess stated:

"When you have regulation you are trying to protect public health and safety, increase choice to consumers, promote investment so consumers will have more choice, and trying to foster healthy and competitive industry. If you assess what the Australian Consumer and Competition Commission and the Australian Consumer and Media Authority have done over the past three years they would fail on almost every one of those criteria."

No Phil, what they have done is protect Australian's from the kinds of excesses that we have seen in the US, that is what regulators that are doing their job properly do. We know you do not like it; but that is the way it is and the way it should be. We suggest that it may be a good idea not to waste your time writing your book Phil, the worlds economies are going to be cleaning up the deregulation mess started in the US, we will all be too busy to read it. The 'D' Word (Deregulation) is probably going to be a very hard-sell for a long, long time. As for that consultancy Phil, we probably will not be needing you.

Working at heights: Subbies at risk

A recent problem involving Downer Engineering sub-contractors has highlighted both the health and safety and financial risks that such workers are often exposed to.

The group of sub-contractors, operating in South Australia, had been installing satellite dishes for Foxtel services – work that requires appropriate safety equipment and procedures for working at heights. CEPU officials responding to queries from the subbies found that the equipment that they had been issued with was not appropriate for the task and notified the SA occupational health and safety authorities about the problem.

But the subbies had been instructed to use it all the same and had been threatened with penalties, including “suspension” i.e. no jobs if they refused to work under these conditions.

The issue turned on the use of appropriate anchor points for the fall arrest systems used by the subbies. Fall arrest equipment should be viewed as a total system and without correct attachment points the equipment cannot be regarded as fit for purpose.

So the instruction to use the equipment was in fact unlawful, as the CEPU was able to prove.

The Union also successfully argued that for the purposes of this case, the subbies had the same rights as employees under occupational health and safety laws because Downer Engineering had “effective control” of the way they worked.

The issue is not yet fully resolved, however. While Downer has agreed that another system, involving rigging, is needed to provide its subbies with proper protection it is not willing to pay for the extra time it takes to install the that equipment! So the subbies are being financially punished for working safely.

Downer subbies are not impressed and are considering further action.

BSA and Service Stream squeeze subbies

CEPU Subbies have been complaining for some weeks now over being subjected to thousands of dollars in fines under their independent contracts from both Service Stream and BSA.

These employers of subbies issued the fines for allegedly faulty work but have failed to provide any adequate details or reason about each ticket of work the subcontractor was being fined against.

A mass meeting held at Parramatta Park last Friday morning was well attended by subcontractor members who are concerned about their financial wellbeing due to the fines coupled with the lack of work currently being made available.

One subbie reported being fined for allegedly faulty work on a job completed in February when he hadn't even started working for the contractor until June. A Victorian subcontractor was reportedly fined \$178,000 and another being fined around \$40,000. Others in the industry have mostly reportedly received fines of anywhere up to \$6,000.

The contracting companies also believe they can apply a payment withholding arrangement without any agreement from the subbie.

If you were unable to attend the mass meeting on Friday but have been subjected to an unfair fine, then you are urged to contact Branch Organiser Shane Murphy as soon as possible for advice on what steps need to be taken to dispute the unfair fines.

Once subcontractors have disputed the fines, before attending any resolution meetings with Service Stream or BSA, subcontractors are advised to contact Val Butler for advice immediately on 0408766444 or email vabutler@iinet.net.au.

Telstra hits employees with superannuation charges

CEPU members who are currently employed by Telstra on AWAs have been calling the Union to report problems with superannuation charges.

The problem stems from legislative changes that mean that super must now be paid not only on base salary but on short-term incentives, sales commissions and job point payments.

This is a good principle. Unfortunately, however, Telstra's failure to implement the change efficiently has turned it into a burden for many of its employees. Although the company has known of the changes for at least 12 months before they were introduced, it evidently did not get systems in place to deal with them. As a result, AWA employees are now being told that they will have to pay back payments for the period from 1st July 2008.

In a typical example, an employee will have to pay an extra \$145 a fortnight on top of his/her regular contribution for the next six pay periods. This is hardly welcome any time, but it is especially inconvenient with Xmas coming up.

The CEPU has written to Telstra asking for an explanation of this oversight and for flexible repayment process to be put in place to prevent any hardship amongst employees.

Unions can represent contractors says ACCC

The Australian Competition and Consumer Commission (ACCC) has opened door to greater Union involvement in collective bargaining by contractors.

In a letter to Craig Emerson, Minister for Small Business and Contractors, ACCC Chairman Grahame Samuel has said that the Howard Government's independent contractor legislation does not prevent Unions representing contractors in negotiations.

In early 2007 the Howard government introduced amendments to the Trade Practices Act that were designed to permit small businesses, including contractors, to collectively bargain without breaching competition laws and to limit the ability of Unions to get involved in collective negotiations.

The specific limitation put on Unions was that they were not allowed to apply for collective bargaining authorisation on contractors' behalf. According to *Australian Financial Review* reports, Samuel has now told Emerson that this prohibition is “*very limited in nature [and] does not restrict the ability of Unions to assist in the preparation of a collective bargaining agreement notification or restrict their participation in the negotiation process*”.

Samuel's narrow interpretation will not be welcomed by those employer groups which have been seeking to limit Union involvement in commercial negotiations.

But Ken Phillips, executive director of Independent Contractors of Australia, says the Samuel interpretation simply confirms that independent contractors should be allowed to choose who represents them, from a Union to a solicitor.

That's right. Anything else goes against the right to freedom of association which applies to contractors as much as to any other group of working people.

