



A•S•U

Tuesday 1st December 2009

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Assistant National Secretary
Greg McLean

Dear Fiona

GOOD FAITH BARGAINING: BAD FAITH

We refer to the good faith bargaining that commenced in September 2009.

We are concerned that you are not meeting the good faith bargaining requirement set out in section 228(e) of the Fair Work Act, because you refusing to meet face to face.

The history of the matter is as follows. Meetings scheduled to date have all been face to face meetings allowing for satisfactory amount of time for the large number of bargaining representatives to discuss claims and prepare reasonably for negotiations. Meetings have been scheduled well in advance and the meetings set down for the 10th and 11th of December 2009 were confirmed at our last meeting of the 9th October 2009. At no time during this face to face meeting nor at any time previously had you advised of your intention to introduce negotiations via teleconference.

You advised the ASU and the bargaining representatives via email on the 25th November 2009. This email did not provide any opportunity for discussion on how best the negotiations would work and whether or not teleconferencing was in fact acceptable to all of the bargaining representatives. The ASU subsequently responded on the 25th November via email that we did not accept this unilateral decision.

You subsequently received a number of email from bargaining representatives also advising you of their concerns with your process.

We have sought from you the reasons why this unacceptable change to meeting process has occurred. You advise us in your email of the 25th November that the reason is cost based. If this decision was based on financial requirements why was it not communicated to all bargaining representatives at the time of setting the dates.

Further you follow up your email of the 25th November 2009 with a response to a bargaining representative who has sought clarification on the teleconference, on the 30th November 2009 stating that "*As per my last email, we will consider further face-to-face negotiations following the next round.*" This response clearly demonstrates that the negotiations being face

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to face (the most effective method for bargaining representatives) is in fact dependant on the outcome of the next meeting.

We believe that your actions could be considered capricious and in breach of section 228(e) of the Fair Work Act. We believe that you are changing the meetings from face to face to teleconferencing in an effort to reduce the ability of bargaining representatives to communicate effectively at the bargaining table and therefore impeding the ability of all bargaining representatives to participate fully in the proceedings..

We request that you write to us, by close of business Thursday 3rd December 2009 agreeing to meet all bargaining representatives face to face on the 10th and 11th of December or, alternatively, explaining why you think that your conduct does not breach the good faith bargaining requirements set out in the Fair Work Act.

If you do not respond appropriately to our concerns, we reserve the right to seek a bargaining order from Fair Work Australia which will require you to meet your legal obligations.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jo Justo', with a stylized flourish at the end.

Jo Justo
National Industrial Officer

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