

# Good faith bargaining: What you need to know



**(27 June, 2009): The CEPU and Telstra have now begun talks aimed at reaching a new Enterprise Agreement in the company.**

The formal process of making the new EA will be governed by Labor's new *Fair Work Act* which commences on 1 July. This is when Labor's "good faith bargaining" rules come into operation.

But the way the negotiating parties behave right now can also be taken into account in future if there is a question about whether they have bargained in good faith.

It is important that all CEPU delegates and other members understand the rules of good faith bargaining and the obligations it puts on both Telstra and the CEPU.

## **WHAT IS GOOD FAITH BARGAINING?**

Under the Howard Government's workplace laws, employers did not have to bargain with employee representative organisations (i.e. unions) at all.

Under Labor's laws, this will change. A company which wants to get a new agreement with its employees **MUST** negotiate with their chosen representatives.

They must also bargain with them in "good faith". The *Fair Work Act* spells out what this means. Telstra must:

- Attend and participate in meetings at reasonable times
- Disclose relevant information in a timely manner
- Give genuine consideration to any proposals put by the CEPU and give reasons for its response to them
- Not act irresponsibly or unfairly in a way that undermines bargaining or employees' freedom of association (i.e. union) rights.

The CEPU and any other employee representatives bargaining with Telstra must also observe these rules.

## **WHY DOES IT MATTER NOW?**

Although the *Fair Work Act* does not start to apply to bargaining until 1 July, the way Telstra and the CEPU behave now can affect certain decisions further down the track.

For instance, if Telstra decided to just walk away from the bargaining table, as it did last year, it would be possible after 1 July to get an order from Fair Work Australia (the new industrial umpire) to make the company continue negotiations. Fair Work Australia would be able to consider Telstra's behaviour now in deciding whether or not to make such an order.

The same rules apply to the CEPU. For instance, if negotiations with Telstra broke down and the CEPU was forced to consider taking further industrial action, our bargaining behaviour both before and after 1 July could be taken into account by Fair Work Australia before it authorised such action (or another ballot for industrial action).

## **KEEPING THEM HONEST**

Telstra's decision to put its best foot forward and start Enterprise Agreement talks before 1 July shows it understands the importance of playing by the new rules. For its part, the CEPU has suspended its industrial action campaign to show its commitment to the good faith bargaining process.

Over the coming weeks, it will be important to make sure that Telstra honours this "truce" and does not engage in any behaviour which could undermine the bargaining process or unfairly affect our members.

This includes any attempts to intimidate or discriminate against CEPU members on the basis of their participation in the union's industrial campaign. Such action would be contrary to the principle of freedom of association and would be in breach of the good faith bargaining rules.

CEPU delegates and other members should immediately report any instances of such discrimination to the union.

## **A POSITIVE START**

Finally, it is important for members to be aware that the new good faith bargaining rules do not impose any obligations on either Telstra or the CEPU to accept each other's proposals or in fact to come to an agreement at all.

However, the CEPU is optimistic about the possibilities of establishing a better working relationship with Telstra's new management than existed under the former regime. While it is still early days, the meetings which have been held so far have proceeded in a positive way.

It is to be hoped that they can be concluded in the same spirit and deliver an agreement which reflects a proper respect for Telstra employees and their contribution to the company.

Members will be kept informed of developments. For more information contact your union or call 1800 102 360 or go to [www.cepconnects.org](http://www.cepconnects.org)

