

In the matter of:

An application by the Communications Electrical Electronic Energy Information Postal Plumbing and Allied Services Union for consent to an alteration of eligibility rules

(D 2003/7)

MEMORANDUM OF AGREEMENT

This Agreement is made between:

**Communications Electrical Electronic Energy Information Postal Plumbing and Allied Services Union ("CEPU")
and
Australian Services Union ("ASU")**

Preamble

1. The parties have reached the situation where they are both determined to exhaust every possibility of effecting the withdrawal of their objections to the other union's applications to change their Rules (D2003/7 and D2003/37).

The basis of the provisional agreement in relation to the ASU withdrawing its objection to the CEPU application is identified in this agreement and is subject to approval by each union.

The ASU in its application (D2003/37) seeks to provide coverage of call centre employees employed by Optus in South Australia. It is agreed that the conditions applying to the CEPU application (D2003/7) will apply "mutatis mutandis" to ASU coverage of Optus in South Australia. The CEPU will seriously and urgently consider the ASU proposal re Optus.

The basis of the CEPU withdrawing its objections to the ASU application is still to be determined.

It is agreed as follows:

2. CEPU will amend its application in matter D2003/7 to the following:

2.17.2 Without in any way limiting or being limited by any other provisions in rule 2, the union shall also consist of any person employed in a call centre by:

- (i) *Telstra (as defined by relevant legislation) and/or any company or business providing a service for or to Telstra under a contract; and*
- (ii) *SingTel Optus (or Optus Group and/or as defined by relevant legislation) and/or any company or business providing a service for or to SingTel Optus under a contract; and*
- (iii) *Any company or business in the telecommunications services industry and/or any company or business providing a service for or to that company or business under contract.*

(iv) (a) *For the purposes of this sub-rule and subject to the exemptions set out herein a company or business in the telecommunications services industry means any company or business whose principal function is carrying on the supply of telecommunications services and includes any company or business whose principal function is the supply of value added telecommunications services.*

(b) *Provided that the telecommunications services industry does not include any company or business whose principal function is the manufacture and supply of telecommunications equipment and line whether or not such company or business also installs and maintains telecommunications equipment and line, and any company or business whose principal function is the installation, service and/or maintenance of telecommunications equipment and line, unless the business also operates that equipment and line.*

2.17.3 *Provided that persons employed by Teletech, Salmat, Primus, AAPT, Hutchison, NTT, B Digital, and Cardcall shall not be eligible for membership of the union under rule 2.17.2.*

- 3A. In respect of the alterations to the organisations rules provided for in the application in D2003/7 in so far as the application involves an extension of its pre-existing eligibility coverage, the CEPU undertakes to the ASU that it will not by the application disturb the status quo, except in accordance with this agreement, as to membership, awards, agreements and industrial coverage between the two organisations either within telecommunications, or related industries such as the Contract Call Centre and Pay TV Industries. These include companies listed in Schedule A.
- 3B. In the event that work currently performed by direct employees of an entity listed in point 2(i), (ii) and (iii) is contracted to a company at which the ASU has a real and significant industrial interest, the CEPU and the ASU will confer under the auspices of the ACTU to discuss arrangements to avoid unnecessary duplication of representation at such a company on site.
- 3C. The CEPU and the ASU agree that where Telstra, Singtel Optus and companies in the Telecommunications Services Industry as defined in rule 2 (i), (ii) and (iii); contract work out to any company where the ASU has coverage rights and members and where, but for this rule change, those employees would be ineligible to join the CEPU, the CEPU will have the right to represent those employees but will not organise or reach agreement with the employer without first consulting with and reaching agreement with the ASU. If agreement is not reached any dispute will be dealt with as per clause 7 of this agreement
- 3D. Where the CEPU and the ASU both have membership in a company, and there is no certified agreement in operation, then neither union will make a certified agreement with that employer without first consulting and reaching agreement with the other union. If agreement is not reached any dispute will be dealt with as per clause 7 of this agreement.

- 3E. The CEPU undertakes to consult with the ASU, in the event it intends to make an application to vary the industry and/or award classification definitions appearing in the Telecommunications Services Industry Award 2002 or otherwise broaden its telecommunications coverage as a result of new technology, bundling services, ownership changes and joint ventures.

Further Undertakings

4. The CEPU will also give undertakings as follows:
- (i) The CEPU undertakes that should its eligibility rules as amended as aforesaid it will not attempt to limit or prevent the ASU from representing members in a company in any manner and will support the role of the ASU to represent its members.
 - (ii) The parties undertake that they will not seek to rely on the withdrawal of the objection by ASU in this matter to found an inference adverse to the industrial rights and coverage of either party in any way in other proceedings or matter.
5. Nothing in this agreement shall be taken to prejudice the position of either party which seeks to organise workers in a company that has no union presence, provided that the strategy for organising such a workplace is in accordance with the ACTU policy as set out in the ACTU Call Centre Coverage protocol and the ACTU Union Coverage and Organisation Policy.
6. The CEPU will not rely on the fact that its rules have been altered to argue before the Commission or elsewhere that such alterations in any way strengthen any future applications the CEPU may make to alter its eligibility rules to represent persons who are members of or are eligible to be members of ASU.
7. The CEPU and ASU agree where a dispute arises over the interpretation, implementation or application of this agreement, the following procedure will be followed:
- 7.1 The CEPU and ASU will attempt to resolve the dispute through consultation at the local level between officers of the relevant State or Territory Branches of the CEPU and ASU.
 - 7.2 If the consultation referred to in clause 7.1 fails to resolve the dispute the CEPU and ASU will attempt to resolve the dispute through consultation between officers of the National Office of the CEPU and National Office of the ASU.
 - 7.3 If the consultation referred to in clause 7.2 fails to resolve the dispute either the CEPU or the ASU will submit the dispute to the offices of the ACTU for further consultation between the parties under the auspices of an officer or officers of the ACTU. The provisions of the Contract Call Centre protocol and the ACTU union coverage and organisation policy shall apply.
 - 7.4 If the consultation referred to in clause 7.3 fails to resolve the dispute the parties agree to submit the dispute for resolution by a private arbitration conducted by a member of the Australian Industrial Relations Commission pursuant to s111AA of the Workplace Relations Act 1996 or to another agreed arbitrator

7.5 The parties agree the decision of any private arbitrator made in private arbitration conducted pursuant to clause 7.4 of this agreement will be final and binding on the parties

7.6 The parties will take no further action in relation to the dispute whilst it is before the private arbitrator

8. On the above basis the ASU will withdraw its objection in D2003/7

9. This agreement is an agreement for the purposes of s.158(5) of the Workplace Relations Act 1996.

SCHEDULE A

Austar Entertainment, Stellar, Virgin Blue, Australian Communications Exchange (ACE) Queensland, Tunstall Premier Line, Mondial Assistance (World Care), NEC Australia, Communitel, Stratcomm, Itel Community Telco Limited, Link Telecommunications, Salmat Telecommunications, Cellnet Telecommunications, AAPT, Data 3, RP Data, Mincom, Pracom, Foxtel Pty Ltd, Virgin Mobile, Sitel, Salesforce, Customer Service Pty Ltd, UCMS, Publicis Loyalty, Teletech, Royal Auto Clubs, TABCORP/UNTAB, EDS, Multiple Sclerosis Society, Blind Welfare Association, Comskil, Australian Kidney Health, Line 1, AGL.



Peter Tighe
National Secretary CEPU



Paul Slape
National Secretary ASU

8/3/05