



Canon update on GPS tracking of mobile phones dispute

Since we reported to you last there have been some major developments. On the 31st August we had a FWC Conference with Commissioner Gregory in Melbourne. Here we explored the 4 or 5 major outstanding issues. Commissioner Gregory suggested that he would like to hear of members concerns regarding the proposed GPS policy directly from ASU delegates so a FWC Conference was organised for the 18th September in Sydney.

This was attended by Michael Rizzo, National Office Industrial Officer and 4 ASU delegates from 4 different states i.e. Doug Hales (Qld), Paul O'Brien (NSW), Heren Shan (Vic), Carl Lowther (WA). The point of this Conference was that the Commissioner wanted to hear directly from the delegates about their and their member's concerns regarding the proposed Canon GPS policy.

The workplace delegates relayed to the Commissioner detailing concerns both orally and writing, including concerns about tracking and privacy, the technical function of the tracking app, the use of data for disciplinary purposes, the storage of data and the fact that the policy could be changed at any time by the company following some consultation. As a result, the Commissioner wrote a comprehensive report detailing the concerns and questions of the delegates and presented this to Canon for response (see attached "summary of discussions" document).

There then was a lull in proceedings for a few weeks until the Commissioner called another Conference for 7th December in Melbourne (see attached notice of listing). On the afternoon before the December Conference, Canon provided to the ASU and delegates a document which addressed some technical and privacy aspects of the GPS policy, but not the other outstanding issues raised such as the use of data for disciplinary purposes and the reason for the storage of the GPS tracking data.

At the December Conference which was attended by Canon and the ASU in person, and the ASU delegates by teleconference, we went over the Commissioners document in detail (attached summary of

discussions) again covering the topics mentioned above. There were some 5 or 6 points that may have resulted in agreement between the parties. Canon undertook to respond to these by COB on Wednesday, 13th December.

Meanwhile Canon announced that following meetings with some employees over the previous week, it had decided that in the next 2 weeks it would introduce an internal trial of the GPS tracking i.e. the customer would not be able to track the Technician, this would only happen at the end of January 2018.

The ASU encouraged Canon NOT to introduce the trial now before Christmas/New Year period with people on leave etc. and allow the time between now and Christmas to try and resolve some more outstanding issues between us. That the trial, if it must proceed, would be better suited in the New Year. Canon said NO. The ASU is opposed to the trial despite that it has not gone "live" yet.

The ASU believes we need more time to settle outstanding issues before any trial can begin.

One of the other main issues that remain outstanding, is that particularly in Vic and WA, State legislation makes it quite clear that GPS tracking can only occur if the individual gives his express (or implied) consent. Therefore, we argue that Canon cannot implement their policy in those States. Canon says it has legal advice that it can do so. The ASU has asked to view the advice. Canon has since advised the ASU and FWC that it will not release the legal advice.

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Despite some progression of the issues between us covered in the Canon email dated 13 December, there are still outstanding issues between us.

While Cannon says it will limit managers who can view the GPS data, limit data retention to 3 months, possibly allow employees to view their own personal GPS data and abide by the consultation and dispute resolution procedure of the EBA when consulting with employees, if it wants to change the GPS policy in the future, there are still significant outstanding issues.

They include: that the GPS data can be used for disciplinary purposes, that the privacy of the technician can be impacted upon by Canon or the customers, that Canon will try and override the protections afforded employees regarding GPS tracking and consent in States such as Victoria, WA and NSW, that a trial is being launched very soon without union or employee agreement.

The ASU now intends to escalate the dispute and ask the FWC to arbitrate the matter as per clause 39 disputes and grievances part (f) (see attached).

Given the impending Christmas/New year break and holiday season it may take some time for the FWC to hear the matters. Therefore, in the meantime, the ASU asks members to obey "lawful directions" from Canon and continue normal work as per part (g) of clause 39 disputes and grievances.

Obeying "lawful directions" regarding GPS tracking will not prejudice our case as part (g) says "no party shall be prejudiced as to the final settlement by the continuance of work in accordance with this procedure" (see attached).

Members will be provided with an update on this matter after the 8th January 2018.

More information

For more information, please get in touch with the relevant contact below.

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