



Canon to start GPS Tracking Pilot: ASU response

Introduction & background

The ASU has become aware that Canon intends to commence the GPS Tracking of mobile phones Pilot on the 16th March 2018 (see below email from Canon).

Members will recall that Canon had flagged the commencement of this Pilot some time ago. Initially, it was going to commence before Christmas and then early in January 2018. The ASU specifically addressed this matter in a Newsletter to members dated 14th December 2017. (see marked area on page 1 of attached Newsletter). The ASU said at the time that it opposed the Pilot or Trial and it opposed the tracking going “live” while the policy was not agreed. The ASU went on to advise members to obey “lawful directions” while it dealt with the matter legally in the Fair Work Commission (see marked area on page 2 of attached Newsletter).

Meanwhile, in December 2017, the ASU applied to the Commission to arbitrate the GPS Tracking dispute. In early February 2018, the Commission set dates for an arbitration Hearing for April 5th and 6th, 2018. However, before the matter could be heard, Canon informed the Commission that it challenged the Commission’s jurisdiction (power) to hear this dispute, saying the GPS tracking matter was not part of the Canon eba and thus could not be heard by the Commission. The Commission therefore cancelled the April 5 and 6 Hearing dates and listed a jurisdictional objection Hearing for the 28th February in Melbourne (see below ASU Newsletter dated 26th February 2018).

Canon’s jurisdictional objection was heard by the Commission on the 28th February, and as is normal practice, Commissioner Gregory reserved his Decision to be released at his discretion at a later date. As explained in the ASU Bulletin of the 26th February, this Decision may take some time, and the consequences of the Decision are as follows: if the Commission agrees with Canon that it does NOT have the jurisdiction to hear the GPS Tracking dispute, then the case will not proceed to arbitration. If he agrees with the ASU submissions that the Commission DOES have the power to hear the matter, then Commissioner Gregory will list new Hearing dates to hear the arbitration. Canon acknowledges the FWC process in the attached email under the heading, “The new policy” (see attached). Canon also says it will not finalise the GPS Policy till the Fair Work process concludes.

Advice to members regarding Pilot

Given the jurisdictional objection in the FWC has not been decided and the arbitration has not yet been held, the ASU advice to members regarding the Pilot is the same as it was in the ASU Newsletter dated 14th December 2017. That is, that members should obey “lawful directions” and that by obeying “lawful directions” regarding the GPS tracking will not prejudice our case as part (g) of Clause 39 Disputes and Grievances says, “No party shall be prejudiced as to the final settlement (of the dispute) by the continuance of work in accordance with this procedure”.

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However, if Canon were to go beyond the Pilot and go “live” with the GPS tracking, for example, giving GPS tracking access to customers, then the ASU would make an urgent application to the FWC regarding the tracking matter.

Finally, the ASU is aware that in some States there is legislation that requires Consent before tracking can occur. Again, the ASU advises that giving Consent during the Pilot will not prejudice our case while the technician’s GPS location data is not visible to customers etc. However, if Canon were to go “live” the ASU would resort to the Commission.

If you have any questions, please contact your relevant ASU official below.

Branch	Contact	Email
National Office	Michael Rizzo	mrizzo@asu.asn.au
NSW/ACT	Lauren Hutchins Tom Edwards	lauren@asu.org.au tom@asu.org.au
VIC/TAS	Jonathan Smallbone	jsmallbone@asuvictas.com.au
QLD	Tammy Gaze	Tammy.gaze@theservicesunion.com.au
WA	Jill Hugo	jill.hugo@asuwa.org

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