

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-Ā-TARA ROHE**

3062293

TO E Tū INCORPORATED
AND TO IDEA SERVICES LIMITED

Member of Authority: M B Loftus

Date: 23 August 2019

MINUTE AND RECOMMENDATION OF FACILITATOR

[1] E Tū, having been engaged in protracted bargaining for the renewal of a collective employment agreement with Idea Services, successfully sought a referral to facilitation. Facilitation took place over three days – 22 to 24 July.

[2] Having considered at depth the parties views, which were enunciated in detail, and my notes I have concluded it prudent to simply give a recommendation along with the key reasons for it rather than dissect each item in detail.

[3] The recommendation is **E Tū accept Idea Services amended offer as it stood at the end of our discussion on 24 July with respect to all monetary items and as suitably amended by virtue of my recommendation regarding term.** Our discussions must lead to a conclusion the money simply does not exist and is not readily attainable.

[4] In reaching this view I note the following considerations:

- (a) Idea's revenue does not match expenditure and there is no apparent dispute with its assertion the situation is deteriorating. The most recently reported loss is significant and considerably greater than that previously reported. In the absence of increased revenue there is little prospect of improvement given an aging clientele.

- (b) Idea receives over 90% of its revenue from state contracts. As such it must, as it says, be considered a price taker that has little scope for attaining an adjustment or setting a price that directly correlates its costs or allows it to provide what its workforce would see as an optimal service.
- (c) As a limited liability company the directors have various duties imposed under the Companies Act 1993. One is to avoid continuous trading in a way that is likely to incur loss and could ultimately see payment default. In other words the Directors are limited in their ability to allow increased expenditure without increased revenue.
- (d) As a general rule bureaucratically controlled revenue streams seek to minimise expenditure and there is little prospect of improvement without political support. In other words there is no current likelihood E Tū's claims can be financed. Here I comment on the suggestion the parent entity might subsidise Idea's operation. The parent is a separate entity and has no obligations in that regard.
- (e) The above leads to a conclusion the parties need to work in concert to lobby for improved and more realistic income streams. The point above means this undoubtedly necessitates political endeavours and the present governments' emphasis on well-being probably means this is an opportune time.
- (f) Finally I comment on the assumption Idea's services will have to be provided by someone. While that is true my recent experience with various aspects of public road transport disputes suggests that may not provide an outcome palatable to E Tū and its members. Again I reiterate the view bureaucratically controlled revenue streams generally seek to minimise expenditure. Where, as is the situation both here and with the bus contracts, labour subsumes the bulk of expenditure there is only one significant way cost can be controlled. The buses show what can occur with reducing conditions and that is not in the interests of either E Tū, its members or Idea Services.

[5] With respect to term **I recommend Idea Services accept E Tū's last position - a shorter term expiring 1 July 2020**. In doing so I caution E Tū this is not so as to allow an attempt to increase wages over and above those agreed with the government via the recent Car and Support Workers Pay Equity settlement as it suggested it intended. It is highly

unlikely government would contemplate providing the necessary funds given its recent initiatives and as already said it is government with provides the bulk of the revenue. The purpose of this recommendation is to allow the lobbying described above in order to attain funds to provide the level of service both parties wish to provide which will, in turn and if successful, provide revenue to address other aspects of E Tū's claim such as Health and Safety. As both parties observed this recommendation will affect current monetary offers and negate the need to agree increases beyond the expiry date.

[6] The recommendation there be a short term leads me to conclude **the status quo should apply to all other items.**

[7] Whilst this may seem a brief summation and recommendation it has been made with a consideration of all the issues canvassed by the parties. The simple fact is that as a result of having heard the parties input for three days I am convinced their future interests, and those of the clientele, require the attainment of improved revenue streams. That should be the focus with the question of distribution awaiting the outcome of efforts to improve income.

[8] I also note E Tū's comment about imminent meetings with various MP's. I commend the use of these opportunities but strongly suggest they be opened for use by both parties given it is almost inevitable Idea has more persuasive costing data that can inform and support E Tū's approaches.

[9] Final comment should be made about two other items. The first is Idea's proposal regarding RIDSAS training. On the information I gleaned I believe that would appear a suggestion worthy of advancement but which does not need any alteration to the collective. Its advancement is encouraged.

[10] The second is Idea's claim with respect to flexibility. Important here is recognition that in fact the present system, while imperfect, has worked sufficiently to suffice. I also note the comments about changing client expectations and more importantly the rather brutal statement quoted by Idea that strongly suggest the funder expects services will evolve to meet those expectations. Finally in this regard I note the expressions of both parties, and particularly those of the delegates, which confirmed client interests remain a focus.

[11] When I combine these factors I have to express some disappointment that on the last afternoon our talks reverted to a positional approach. That will tend to be destructive given

the present environment of inadequate funding and pressure to change the manner of delivery service. Aside from exhorting the parties to use the short term to work collaboratively to seek further funds I strongly suggest they engage in some training on interest based bargaining. Both have considerable knowledge of the industry and the ability to provide beneficial input about how future pressures can be addressed but these are inevitably stymied in an adversarial environment.

[12] Finally I note that should the above approach not be deemed appropriate by the parties I remain available to assist if required (albeit after 23 September).



Michael Loftus
Member of the Employment Relations Authority