

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2016 - 2017

Agency - Fair Work Ombudsman

Department of Employment Question No. EMSQ17-001491

Senator Paterson asked on 02 March 2017 on proof Hansard page 46

Question

FWO - Transport Workers Union contract obligations

Senator PATERSON: It is funny that you should mention that. Clause 20.1 of the contract, which deals with default by other parties, states:

If either party is in default under this contract on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this contract, the party not in default may terminate the contract in whole or in part.

Obviously, this is going to get to a definitional issue here. In providing an unfinished app not suitable for public release to you, did they discharge their obligations under the contract?

Senator MARSHALL: That is definitely a legal opinion.

Ms James: Yes. We would take that on notice.

Answer

The Fair Work Ombudsman (FWO) considers that the Transport Workers Union (TWU) delivered the services required under the contract.

In June 2014, the FWO agreed to an extension of contract to 8 July 2014, for the delivery of the App. On 8 July 2014, the TWU delivered the app to the FWO.

Between July and December 2014, the App was undergoing review and changes. The FWO was reviewing the App (including multiple versions), including the content, structure and multimedia. This included providing feedback to the TWU on a number of occasions, including requesting changes to content and additional content.

After the TWU made the requested amendments, the FWO approved the App for release in January 2015 and the App was scheduled to be launched in May 2015. The FWO subsequently withdrew its approval to release the App and did not provide further approval before the repeal of the *Road Safety Remuneration Act 2012* and the abolition of the Road Safety Remuneration Tribunal.