



**ALLIANCE**  
**Of**  
**Communication Workers Union**  
**&**  
**South African Communication Union**

## Dear Colleagues

BCX STI dispute arbitrated by CCMA. Present at the arbitration: representing BCX employees-Lionel Samuels; Representative-Karriem Abrahams; witness-Rafique Modak; Witness-Johan Bower (BCX Employee); Keith Aimes (SACU Organizer Western Cape).

BCX was represented by Legal Counsel, Darren Mer, Hannelie Du Toit (BCX Employee Relations) and Vivian Brikkels (Telkom SA LTD SOC).

The arbitration was a continuation from 2018, and was set down for 11 & 12 February 2019.

### **Proceedings Update:**

As communicated previously we started our evidence in chief with Lionel Samuels presenting the documents that would be introduced and the rationale behind it. The session ended on 23 January 2019, allocating an additional two days for evidence on the matter.

On 11 February 2019, SACU General Secretary Karriem Abrahams lead evidence on amongst other things his correspondence with the BCX representative Hannelie Du Toit.

During Lionel Samuels' testimony the legal representative for BCX asked Lionel if he was aware that Trudon, which is also part of the group, did not receive STI because they did not achieve their targets. The response was that we could not confirm or deny it. The legal representative went a step

further by asking that if it could be proved would that satisfy us. Again the response was that we were not in a position to respond to that.

After this session we pursued this and engaged some staff at Trudon, who indicated they in fact did receive STI payment. We also received the correspondence sent out by their CEO, indicating such.

This correspondence was subsequently introduced by me in my evidence in chief. My evidence ended with this and the legal representative requested that the cross examination should be left for the next day as he would have to take guidance from his client. The session on 11 February 2019 thus ended at 15:00.

On the 12 February 2019, the session started with the cross examination of myself. I was asked about the fact that I am not an employee of Telkom or BCX and as such my knowledge on the documents is limited to the information received from members. It was clarified to the legal representative that I participate in strategic meetings within Telkom regularly and engage on these matters. I am therefore fully aware of the content and on occasion would be signatory to some of the agreements on national level.

The issue of Trudon was pursued with statements being that Trudon and BCX are not similar as I tried to portray on more than one occasion. Lionel had to remind the legal representative that we never introduced Trudon. All we did was rebutting what they inferred during their cross examination. Because of the fact that BCX legal counsel objected to one of our witnesses because he was present in the proceedings (Just like I was) we had to get a different BCX witness. We managed to secure a senior manager, Rafique Modak to testify on very short notice.

Rafique testified to the fact that the BCX policy which appeared

miraculously at the onset of the arbitration as the BCX STI policy was never distributed to staff and as a senior manager with staff reporting to him he never saw the document before it was presented to him at the CCMA.

The legal representative tried to imply that it is not always possible to communicate everything. He further tried to imply that the hurdle of 95% in the document referred to BCX and not the group. Even the commissioner asked him to show her where it was written like that.

When Rafique stood down my cross examination continued. I explained that the STI trigger would be the 95% financial target the group must achieve. The representative indicated that would be like taking from Peter to give to Paul. If you do not meet your target why must you participate? This was again claimed as a statement. I responded by explaining in detail that the trigger for payment of STI is the group meeting the financial target set. After this the monies that can be allocated are in the policy based on the performance of the subsidiary/Business unit. Because the group met the target, a 10% allocation was secured. 60% is subject to the subsidiary performance based on their income statement. 30% is given to the Subsidiary/business unit as a divisional/team amount, KPI.

After the explanation given, the commissioner indicated to the legal representative that was but a version and he can question the version. He opted not to question or rebut the version presented.

A few questions on the email correspondence were asked. The session ended at 16:30 on 12 February 2019. A further 3 (Three) days will be allocated for the company to present their case as well as allow for cross examination. The closing arguments will be made in writing, after which the CCMA will issue their award.

**THE CHOICES YOU MAKE, NOT THE CHANCES YOU TAKE**  
**DETERMINE YOUR DESTINY...**

**END**

**Karriem Abrahams**

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