

The Right of Rebuttal

by Martin Berzi



On 26 March 2024 the FAAA put out a document titled “EBA10 Termination Application History” which is somehow supposed to explain why the FAAA caved in to Qantas and agreed to support EBA 11 despite a previous 97% No vote by members.

The FAAA statement fails to explain why the FAAA caved in other than some reference to the FAAA being somehow “gagged” from making any comment about EBA 11 and that the FAAA had been placed in an impossible position.

Members pay fees to the FAAA to protect their industrial interests. The FAAA was never gagged and it was not placed in an impossible position. What the FAAA did was to fail to defend its members industrialist interests and it buckled under an industrial strategy employed by Qantas aimed solely at significantly reducing crew members terms and conditions of employment.

What was called for at the time was true leadership from the FAAA not an industrial capitulation. Can anyone imagine the TWU or AIPA bucking at the first sight of pressure from Qantas?

FWC is the industrial umpire, it’s not there to simply do what Qantas asks. It was an encumber on the FAAA to stand up to Qantas and use the FWC to defend its member’ industrial interests. Instead, the FAAA crumbled.

It takes time to run a court case and during that time EBA10 would have remained in force. I have it in my mind that Commissioner Cambridge set a date in April 2022 for the hearing - is this correct?

With a Federal election scheduled for May 2022. ¹

‘Labor, which has been performing strongly in recent polling, has promised to stop employers from unilaterally terminating agreements if it wins the election which is due to be held on or before 21 May.’

There was no need to panic.

We will never know what the outcome of the case would have been but given the time that it would have taken to run the case and wait for a decision and the fact the Federal election was looming (and the Labor Party strongly favoured to win) time was on the FAAA’s side.

Even if a decision was handed down and the FWC was disposed to terminating the Agreement (which is a big step for the FWC to take) it is likely that it would have required undertakings from Qantas to maintain conditions whilst bargaining was recommenced. The terms and conditions set out in EBA11 were not inevitable and FWC would not have imposed the Agreement on members.

‘According the only 1.3 percent of all employer-initiated applications (terminate) were made in the context of ongoing enterprise bargaining negotiations’ ²

Nothing now said by the FAAA explains why the FAAA leadership team failed to fight for its members at the very time that its members needed the FAAA to fight and show leadership. Instead, the FAAA buckled under Qantas industrial pressure and the FAAA membership are paying the price.

Dr Veen said although the termination of an enterprise agreement can be a mechanism to progress stalled negotiations, it is far from a straightforward process.

Three aspects to the termination process

1. The Fair Work Commission plays an underappreciated and cushioning role in the process
2. Termination applications take time, and their outcomes can be unpredictable and contested
3. Termination will likely have a serious long-term impact on employee morale and a business’ workplace relations.

¹ [The Guardian Aust 2022 Terminations](#)

² Dr Alex Veen, Senior Lecturer in Work and Organisational Studies at the University of Sydney Business School. Published in Australian Journal of Labour Law [University of Sydney Business School](#)

26/03/24 TOT/01

EBA10 Termination Application History

Dear Martin,

In the past few weeks many members have inquired as to the communications between Qantas and the FAAA in the lead up to the successful vote on the *Flight Attendants’ Association of Australia, Qantas Airways Limited and QF Cabin Crew Australia Pty Limited Enterprise Agreement 2022 (EBA11)*, commonly known as “EBA11”.

Screen Capture of an official Union Email sent to members (Above)