

Associate to Justice Iain Ross AO
President
Fair Work Commission
Level 4, 11 Exhibition Street
MELBOURNE VIC 3000

2 November 2016

By email: chambers.ross.j@fwc.gov.au

Dear Associate,

**MATTER C2013/5139 –
APPLICATION BY UNITED VOICE AND AUSTRALIAN EDUCATION UNION FOR AN
EQUAL REMUNERATION ORDER**

CCSA has reviewed the written submissions in support of the Applicants' application to hold a preliminary hearing to deal with the comparator issue, submitted by the Applicants in response to Directions made by His Honour on 19 November 2016.

CCSA does not support the Applicants' submission in its current form. The Applicants have only put forward options for comparators applicable to Diploma- and Certificate III-qualified employees covered by the *Children's Services Award 2010*. No attempt has been made to proffer an equivalent comparator for Early Childhood Teachers covered by the *Educational Services (Teachers) Award 2010*.

If the matter was to proceed in the manner proposed by the Applicants, all Respondents and the Fair Work Commission itself would be placed at the disadvantage of having to proceed in two different ways – dealing with one major part of the application for which a comparator has been determined, while dealing with the other major part in the absence of an identified comparator. By contrast, each of the individual Applicants would only need to proceed in a single manner based on the particular employees represented by their individual Unions.

This directly contradicts the Applicants' assertion that the holding of such a preliminary hearing would be more efficient and save the parties and the Fair Work Commission time and expense. The holding of such a preliminary hearing in the absence of consideration of a proposed comparator for Early Childhood Teachers would only be more efficient for the Applicants. Other parties and the Fair Work Commission would be adversely affected by the increase in complexity generated by this proposal.

As such, CCSA contends that the proposal of the Applicants would be neither "fair and just" in accordance with s 577 of the *Fair Work Act 2009*, nor an efficient performance of functions and exercise of power by the Commission in accordance with s 581 of the Act.

CCSA therefore respectfully contends that, if the Commission is minded to grant the application to hold a preliminary hearing to deal with the comparator issue, that should only occur if the Applicants proffer comparators for all major employee groups covered by the main Application (i.e. Diploma and Certificate III-qualified Children's Services Employees, and Early Childhood Teachers). Such a requirement should also be extended to Matter C2013/6333 which is being heard in conjunction with this matter.

Yours sincerely,



Megan Mendham
Chief Executive Officer