



Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

17 April 2013

Dear Committee Secretary

Inquiry into the impact of Federal Court fee increases since 2010 on access to justice in Australia

The Community and Public Sector Union (CPSU) is an active and progressive union committed to promoting a modern, efficient and responsive public sector delivering quality services and quality jobs. We represent around 60,000 members in the Australian Public Service (APS), other areas of Commonwealth Government employment, ACT Public Service, NT Public Service, ABC, SBS and the CSIRO.

As the major union representing employees in the Federal Court, the CPSU welcomes the opportunity to make a submission to this inquiry on the impact of federal court fee increases since 2010 on access to justice in Australia. The CPSU would like to highlight issues regarding *“the application of the revenue that has been raised by federal court fee increases; and other relevant matters.”*

This submission reflects the increasing pressures on our members working in the Federal Court, the impact of changes to court fees and the need for increased funding from the Commonwealth Government.

Increasing pressures on the Federal Court

The Federal Court, like other courts, has been under severe pressure for the past few years. Workloads have increased, staffing levels have declined and current funding levels are not covering total expenses.

Over the past five years, the number of Federal Court matters filed has increased from 4,428 in the 2007-08 financial year to 5,277 in 2011-12, a workload increase of 19.2%.

Table 1 - Federal Court Matters Filed over the Last Five Years

	2007-08	2008-09	2009-10	2010-11	2011-12
Filings of Appeals and Related Actions	1354	874	695	638	614
Filings of Major CoAs (excluding Appeals & Related Actions)	3074	2988	2951	4304	4663
Total	4428	3862	3646	4942	5277

Source: Federal Court Annual Reports

Over this same period, actual staffing levels at the Federal Court have fallen from 422 in 2008 to 359 in 2012, a decline of 63 or 17.5%.

Table 2 - Staffing actual occupancy at 30 June - includes full-time and part-time staff

Year	2008	2009	2010	2011	2012
Numbers	422	372	363	358	359

Source: Federal Court Annual Reports

The financial accounts from the court's Annual Reports show increasing financial pressures on the Federal Court. In 2010-11, the Federal Court had a deficit of over \$8.37 million. While the deficit shrunk to \$4.26 million in 2011-12, it is still a significant change from a surplus in the 2009-10 financial year.

A comparison of financial accounts over the past five years shows that while total expenses have been fairly constant since the 2009-10 financial year, revenue has fluctuated. The Federal Court needs a more stable source of revenue or these financial pressures will continue.

Table 3 - Federal Court Financial Accounts 2008-2012

	2007-08	2008-09	2009-10	2010-11	2011-12
	(\$m)	(\$m)	(\$m)	(\$m)	(\$m)
Total ordinary revenue	104.45	103.72	115.49	106.66	111.10
Total expenses	107.80	105.55	114.25	115.03	115.36
Deficit	-3.35	-1.84	1.24	-8.37	-4.26

Source: Federal Court Annual Reports

It is clear that the Federal Court needs the Commonwealth to increase its funding. Only direct Commonwealth funding will provide the stable source of revenue needed to meet these greater workloads, prevent further job losses and cover the Federal Court's expenses.

The CPSU is not alone in arguing for the need for increased funding for the Federal Court. Former Chief Justice of the Federal Court and now High Court Justice, Patrick Keane, has also called for funding to be restored to 2010 levels, the last time the court did not have a deficit in its financial accounts.

The impact of changes to fees on the Federal Court

CPSU members have indicated that the fee increases announced in the 2012-13 Budget have not led to additional revenue to relieve funding pressures. The increases in fees, particularly the increase from January 2013, have instead encouraged more people to use state Supreme Courts instead of the Federal Court because its fees are cheaper. This in turn has affected revenue raised by the Federal Court from court fees.

The decline in revenue has affected the capacity of the Federal Court to permanently fill staffing vacancies. For example, CPSU members in the Sydney have indicated that four vacancies have not been filled. The Federal Court has back-filled those positions rather than make permanent appointments, impacting on staffing workloads.

Changes to fee exemptions have also significantly impacted on the Federal Court. The Federal Court has ended fee reductions and only has full exemptions from fees. The criteria for a complete exemption are far stricter, meaning many who have not been able to get a full exemption may have to seek other ways to fund their application which can delay the filing and court proceedings. The removal of fee reductions has also meant that there is less revenue for the Federal Court as more individuals seek a fee exemption or do not proceed with court cases.

These problems associated with changes to court fees show why the Commonwealth must provide additional funding to the Federal Court to cover revenue short falls. Only direct funding will provide the stable source of revenue needed to adequately staff the Federal Court and manage demand.

If the Committee requires further information from the CPSU in relation to the matters raised in this submission please contact

Yours sincerely

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