

4 October 2019

Dr Jane Thomson  
Committee Secretary  
Senate Education and Employment Legislation Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600



Chamber of Commerce  
and Industry WA

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Dear Dr Thomson

**Re: Written Questions on Notice regarding the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019**

I refer to the email provided to the Chamber of Commerce and Industry of Western Australia (CCIWA) on 27 September 2019 in relation to the following questions on notice submitted by Senator Sheldon:

1. Can the witness please provide a complete list of their State and Territory and any other member organisations, and a complete list of the affiliates to those State/Territory and member organisations.
2. Can the witness please provide an update from their State and Territory member organisations of any and all breeches of the Fair Work Act by their affiliated organisations and any and all contraventions of laws related to Occupational Health and Safety laws, sham contracting laws, security of payment laws – for the past 2 years to August 2019.
3. Can the witness please provide a list of all affiliates to member organisations who have participated in the construction of buildings that have flammable cladding and/or were constructed with asbestos or a building that contains prohibited imports.
4. Can the witness please provide a list of all organisations affiliated to members organisations who have engaged in underpayment of wages and/or superannuation, or theft of wages and/or superannuation in the past two years to August 2019.
5. Can the witness inform the Inquiry if Gerry Hanssen has worked, at any time, for any members or affiliated to members, or if a business or subsidiary managed by him is an affiliate of any member of the witness. If this is the case can the witness inform the inquiry of the name of this organisation or organisations.

We note that these questions also appear to have been asked of the Australian Chamber of Commerce and Industry and other employer associations participating in these proceedings. Therefore, they do not specifically relate to the submission made by CCIWA.

CCIWA respectfully objects to the answering of the questions on the grounds that the questions are not relevant to the Committee's inquiry and/or that the request is not a reasonable one.

### **Questions Not Relevant**

The Explanatory Memorandum to the *Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019* (the Bill) identifies that its purpose is to ensure integrity of registered organisations and their officials recognising that these organisations have a privileged position under the workplace relations system.<sup>1</sup>

We note that the wording of question one with respect to its application to CCIWA is ambiguous and would appear to be drafted to suit an organisation whose membership comprises principally of other membership based employer associations. In the case of CCIWA, the overwhelming majority of members are private sector businesses.

Taking a constructive approach, question one appears to ask that CCIWA provide a list of all of our members. In the proceedings of the Committee on 25 September 2019 in relation to the *Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019*, Senator Sheldon asked whether CCIWA would be prepared to provide a list of its members to the Committee. The Committee was advised that we were not in a position to do so and the answer was accepted.<sup>2</sup>

Based on the above construction, questions two to four seek comprehensive information regarding whether our members have engaged in particular activities. Finally, question five relates to whether a named individual is associated with any of our members.

Given that the majority of our members are private sector businesses, a list of our members would appear to have no relevance to the matters being considered by the Committee.

Likewise, the extent to which private sector employers are compliant with their legislative obligations is not relevant to the matters to be considered by the Committee as part of this inquiry.

### **Questions not Reasonable**

We note that asking an employer association to provide the details of its members is akin to asking a union to provide details of its members. In the same way that such a question would not be viewed as reasonable, nor is it reasonable for employer associations to provide such information about its members.

Contractually CCIWA is also not able to provide information relating to our members without their express permission and further such information is commercially sensitive.

Therefore, it is not reasonable for CCIWA to respond to these questions.

There are also limits on the extent of information that CCIWA collects with respect to its members' activities and as such we are not in a position to respond to question two to four.

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<sup>1</sup> Explanatory Memorandum, *Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019*, Page i.

<sup>2</sup> Proof Committee Hansard, Senate Education and Employment Legislation Committee, Public Hearing - *Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019*, Wednesday, 25 September 2019, Page 2.

There are also regulatory barriers to us responding to these questions, in particular:

- the *Legal Profession Conduct Rules 2010 (WA)*<sup>3</sup> which restricts the disclosure of client information in relation to activities undertaken by our subsidiary organisation, Business Law WA, which is an incorporated law firm; and
- the *Privacy Act 1988 (Cth)* which restricts the disclosure of personal information about an individual and consequently means we are unable to respond to question five.

Yours sincerely

Paul Moss  
Principal Workplace Relations Advocate

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<sup>3</sup> Part 3, Section 9