



**State Public Services Federation
Group**

**CPSU-SPSF Submission to the
Senate Select Committee on the USFTA
A Response To
The Call For Comment Concerning
The Australia US Free Trade Agreement (USFTA)**

CPSU-SPSF GROUP – Background Information

The CPSU is one of the largest public sector unions in Australia with more than 180,000 members. There are two "**Groups**" in the Union. The **SPSF Group** and the **PSU Group**.

Our Group is the State Public Services Federation (SPSF Group). We primarily represent employees of State Governments. For example, State Government Administration, Education, Agriculture and Natural Resources, or their agencies like Universities, Electricity Authorities, Roads and Traffic or Water Resources bodies.

The other part of the union is the PSU Group. Its members are generally employed by the Commonwealth Government or its agencies, such as Tax, CentreLink, Defence, Immigration, and a significant number of private Telecommunications and Call Centre operators.

State Branches

The basic parts of our section of the Union, the SPSF Group, are the five State registered Public Sector Unions and Branches.

The five State bodies are:

- Public Service Association of NSW
- Public Service Association of South Australia
- Civil Service Association of Western Australia
- State Public Services Federation Tasmania
- Queensland Public Sector Union of Employees

These unions are registered under relevant State industrial relations laws. They are known as "**associated bodies**".

In **Victoria**, there is a Branch of the Federal Union known as the **CPSU SPSF Group Victorian Branch**.

Although most industrial relations legislation is state based, our union members are members of both their state union (as listed above) and the state branch of our Federal Union.

In Victoria, industrial relations take place under Commonwealth industrial relations law, the Workplace Relations Act.

What do we do

Wages, salaries and conditions of work of members of the Associated bodies are mostly regulated by State awards and agreements made by judges or commissioners in State Industrial relations tribunals.

Also, employees and Union members in **Universities** and in the **Victorian Public Sector** are covered by the Federal AIRC.

The Federal Union looks after nationwide industrial issues for Universities and also industrial matters that span more than one State.

It handles industrial relations between other Federal unions and deals with other Peak Bodies, like the ACTU, on behalf of the rest of our Union Branches and the "Associated Bodies".

Also, it coordinates any issues that interest more than one Branch. These might include such things as training standards, rights of women members, health and safety and so on.

Union policy on issues relevant to all the State Branches is made by the **Federal Council**, the SPSF Group committee of management under the Workplace Relations Act.

There is also a **Federal Executive** that manages the affairs of the union in between meetings of Federal Council.

The CPSU **National Officers Committee (NOC)** deals with issues that affect both the PSU Group and the SPSF Group. The senior officers of each Group, like the SPSF Group State Secretaries, or the PSU Group National Executive members make up the National Officers Committee.

David Carey is the Federal Secretary of the SPSF Group within the union and is also one of two Joint National Secretaries of the CPSU. He is a member of the ACTU Executive representing the CPSU.

Adrian O'Connell is the National Secretary of the PSU Group and the other Joint National Secretary of the CPSU.

In the CPSU-SPSF Group, each of the State Branches has a **Branch Executive and Council** elected by the Union Members in each State.

Some States also have an additional State union Executive and Council also to run the affairs of their **State** registered union.

Contact Information

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CPSU-SPSF Concerns

In addition to general concerns about the impact of the current USAFTA on the provision of services and goods for the Australian population, the CPSU-SPSF also has specific issues with the Agreement and the potential impact on our members as providers of public goods and services. Our concerns can be grouped as follows:

1. The consultation process
2. Ambiguity of terms and terms of reference
3. Impact on government authority and autonomy
4. General impact
5. Conclusion

1. The Consultation Process

Trade Agreements are negotiated on a government-to-government level with little or no public participation. The resulting agreements are Treaties and as such are unchangeable by future administrations. The CPSU-SPSF believes that any changes to social policies which affect the public interest should be publicly debated and decided by Parliaments at the national or State level, not secretly negotiated and signed.

2. Ambiguity of terms and terms of reference

Some of the terms that we have difficulty with are terms such as *commercial basis*, *market access*, *negative list*, *public purpose* and *established or maintained for a public purpose*.

- Public services are meant to be excluded from the agreement, but the definition of public services is those 'not provided on a commercial basis nor in competition with other service providers'. The US government could demand that greater market access be provided in those areas where there is commercial provision or existing competition. In Australia, many public services are supplied on a commercial basis or in competition with other service suppliers, including health, education, water, energy and post.

That such a "commercial basis" may simply be a nominal cost or "cost recovery" or "user pays" basis for public services, the widespread nature of these forms of payments for public services leads us to fear that a significant part or even a majority of public services may be open to be designated, or argued to be as supplied on a "commercial basis". We believe that this is an ambiguous definition.

- The USFTA is a *negative list* agreement for services and investment which means unless a service is not specifically listed as exempt/reserved, then it is automatically included.
- Although there is a general reservation giving State governments the right to make new laws about law enforcement and correctional services, for social welfare, social security, health, public education, public training and childcare, governments only have the right to make new regulation to the extent that they are "established or maintained for a public purpose". We think this is an ambiguous definition.

- Market access for services means that there can be no restrictions on the number of service providers, no requirements about staffing numbers and regulation for qualifications, licensing and technical standards cannot be "more burdensome than necessary". We think this is an ambiguous definition
- Social welfare, public education, public training, health and childcare are reserved "to the extent that they are established or maintained for a public purpose". There is no clear explanation of how *established or maintained for a public purpose* would be assessed.

3. Impact on government authority and autonomy

Public utilities (water and electricity) and public transport are not excluded items. This means that there could be challenges by the US government to new State government laws or policies about numbers of service providers, staffing numbers, qualifications, licensing or technical standards.

The dispute process means that if a law or policy is in breach of the USFTA, the dispute process requires initial consultations, referral to a Joint Committee of US and Australian government officials and, if not resolved, to a dispute panel of three agreed *trade law* experts. This latter stage is particularly troubling as the ultimate public interest may not be best served if decisions are to be made according to purely trade law criteria.

Currently, State governments can impose purchasing regulations which require foreign contractors to give preference to local products or to support local employment. This will not be permitted under the USFTA. We are particularly concerned about the impact of this on regional development and employment.

4. General impact

The model which this Agreement introduces and the removal of restrictions to competition for the provision of these broad public sector services could mean that the current protections provided to users of public services will be significantly undermined.

Our members, who provide these public services, have observed the effect in the last decade of the increasing imposition of private sector and competitive models of public service delivery. The experience has been almost universally that the quality of those services has declined, the levels of employment of people providing these services has diminished and in many cases the cost to the user has risen.

Our recent experience includes but is not limited to the introduction of private competition to public sector services in rail, gas and electricity, corrective services, aged care and childcare.

5. Conclusion

Considerable doubts have been raised as to the actual economic benefits which may accrue to the Australian economy if the USFTA is implemented. In our view, even more important is the potential for this agreement to undermine Australia's sovereignty and democracy. Many nations do not consider the USA to be the benchmark for principle or quality in health, in agricultural policy, in food labeling, in

quarantine. Yet this agreement will see the imposition of US values and standards in our country.

We, the CPSU-SPSF, on behalf of our members and all Australians do not consider that this agreement is in the national interest and should therefore not be endorsed by Cabinet.

The CPSU-SPSF group is willing to address the Senate Select Committee and provide more detail of the above-mentioned general propositions.

To arrange an appearance before the Senate Select Committee by the CPSU-SPSF, please contact David Carey, Federal Secretary of the CPSU-SPSF group on dcarey@spsf.asn.au or phone (02) 9299 5655.