



**SENATE STANDING COMMITTEE ON EDUCATION,  
EMPLOYMENT AND WORKPLACE RELATIONS**

26 April 2012

Mr Chris Craigie SC  
Commonwealth Director of Public Prosecutions  
GPO Box 3104  
CANBERRA ACT 2601

Dear Mr Craigie

As you may be aware from media reports, Fair Work Australia has given this committee an undertaking to provide it with a copy of that agency's report into the National Branch of the Health Services Union in the next few weeks.

The committee has been approached by the legal representatives of an interested party with a request not to publish the report on the grounds that to do so would give rise to a substantial risk of prejudice to any subsequent legal proceedings.

Committees follow the Senate's *sub judice* convention, whereby debate or inquiry is avoided if it would involve substantial risk of prejudice to legal proceedings, assessed against specific criteria which are discussed in Odgers Australian Senate Practice, 12<sup>th</sup> edition, pp 198–203. Even where a substantial risk exists, however, committees must consider whether there is nevertheless an overarching public interest in conducting the debate or inquiry.

In seeking to make this assessment, and noting that the report has been provided to you by Fair Work Australia, the committee has resolved to seek your advice as to the likelihood that its publication would prejudice any subsequent legal proceedings. The committee would be grateful to receive this advice at your earliest convenience.

Yours sincerely,

Senator Gavin Marshall  
Chair, Legislation Committee