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VIA EMAIL

Judy Dubois
Registry Operations
Canadian Human Rights Tribunal
160 Elgin Street, 11th Floor
Ottawa, ON K1A 1J4

Dear Madam:

RE: ***FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA ET AL. V. ATTORNEY GENERAL OF CANADA***
T#1340/7008

OUR MATTER ID: 5204-002

This correspondence constitutes the First Nations Child and Family Caring Society of Canada's ("Caring Society") reply to the March 13, 2019 written submissions of the Congress of Aboriginal Peoples ("CAP"), as directed by the Tribunal in paragraph 52 of its March 4, 2019 Order (2019 CHRT 11).

At paragraphs 32-35 of its submissions, CAP states that it must be included in consultations and discussions regarding the proper definition of a "First Nations child" for the purposes of the federal government's implementation of the Tribunal's orders regarding Jordan's Principle. However, as the Assembly of First Nations has noted, this submission goes beyond the scope of the submissions allowed by the Panel in 2019 CHRT 11. The Tribunal explicitly contemplated CAP's participation being limited to "the scope of the eligibility and/or effectiveness of remedies under Jordan's Principle for non-status First Nations children living off-reserve."

The Consultation Committee on Child Welfare ("CCCW") exists by virtue of the powers vested in the Tribunal by the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6. The CCCW is not a vehicle for consultation under section 35 of the *Constitution Act, 1982*, as is expressly recognized in the Consultation Protocol finalized on March 2, 2018, at paragraph 3(f):

> ***The consultation provided for in this Protocol is intended to complement and support, but shall not be a substitute for, the direct relationship between Canada and First Nations at the regional and community levels.***

Canada's consultation obligations are not co-extensive with the CCCW's mandate. While consultations through the CCCW must be guided by the honour of the Crown, they are not in themselves sufficient to discharge Canada's obligations in this regard. The CCCW's work does not in any way limit the consultations that Canada can and ought to undertake outside of its ambit; indeed, Canada has often raised consultation with those outside the Tribunal proceedings as a variable in its implementation of the Tribunal's orders, to varying degrees of merit.

In any event, the Tribunal does not have jurisdiction over Canada's consultation with non-parties. If CAP has a complaint regarding that consultation, the proper forum is to be found elsewhere.

Finally, CAP submits at paragraph 35 that "[s]ubstantively equal resourcing must address Métis […] inequalities and needs aggravated because of this neglect". While the Caring Society does not dispute that all Aboriginal communities are entitled to substantive equality, matters related to any Métis rights in the context of this case are outside the scope of this proceeding.

Yours truly and respectfully submitted,

David P. Taylor

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