

Question No: 008
Topic: Penalty to BT for misleading statements online
Committee Member: Mr Falinski
Reference: Hansard page 15

Question

Mr FALINSKI: I will take their silence as a no. I move to a question of Google ad words and search terms. At a previous hearing in November last year, I asked you why it was that ASIC had issued a penalty to BT for misleading statements online that were to do with them using the key term 'industry super' when people Googled. **You issued them with a fine for three penalties, totalling \$20,400. Is that right?**

Mr Shipton: I think I have to refer to my commission colleagues. My memory of this matter is not as intact as I'd like it to be.

Mr FALINSKI: To be fair, it might actually precede your time as chair. I do apologise for that part.

Mr Shipton: I think we may have to that particular matter on notice.

Mr FALINSKI: While you're taking that on notice: as part of our inquiry of industry super we have asked them to provide them with more advertising terms they use in their Google advertising. With the exception of Tasplan, industry super has literally refused to do so. Could it be that it's because, when you type in 'retail super', you find a lot of industry super funds come up in those search terms?

Mr Shipton: I would not profess expertise in this matter.

Mr FALINSKI: Do you mind if I keep asking questions despite your lack of expertise?

Mr Shipton: In this particular matter, I should add.

Mr FALINSKI: Of course, Mr Shipton.

CHAIR: This is just a time warning, Mr Falinski. We will go to the break after the closure of your questions.

Answer

ASIC issued a fine to BT Funds Management Ltd (BT) of \$24,000 for two infringements. BT paid the \$24,000 fine. The details are as follows.

On 19 May 2015, ASIC issued two infringement notices of \$10,200 each to BT under section 12GXA of the *Australian Securities and Investments Commission Act 2001* (Cth)(ASIC Act). The infringement notices were in respect of misleading statements contained in the online advertising of BT Super.

The first infringement notice was issued for the statement "BT Super Has Outperformed Industry Super Funds Over the Last 5 Years*" published on search results pages generated via www.google.com.au from 26 June 2014 to 18 September 2014. ASIC was concerned that BT misled consumers by representing that superannuation products issued by BT had generated greater returns than those generated by all industry super funds during the stated period. In reality, BT's superannuation products had not generated greater returns during the stated period.

The second infringement notice was issued for the inclusion of the words "Industry Super Australia" in the headlines of BT advertisements published on search result pages generated via www.google.com.au from 29 October 2014 to 17 November 2014. ASIC was concerned that BT misled consumers into believing that BT had an affiliation with Industry Super Australia (ISA), an organisation which manages collective projects on behalf of fifteen industry super funds. BT has never had an affiliation with ISA.

Further details, including links to the two infringement notices, are contained in ASIC Media Release 15-149MR.