

16 February 2018

Mr Mark Fitt
Committee Secretary
Senate Economics Legislation Committee
PO BOX 6100
Parliament House
Canberra ACT 2600

Dear Mr Fitt,

Inquiry into Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017

The Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017 (**Whistleblower Bill**) is currently before the Senate and you have invited me to make submissions on behalf of

[REDACTED] I make the following specific submissions:

- (a) **Journalists:** professional journalists should not be included in the 'emergency disclosure' provision on the basis that the media will always have an inherent vested interest in publishing information in a manner which is sensationalised. This means that companies may not have an opportunity to investigate or address the matters the subject of a disclosure before they are published in the media. Further (and this point is amplified below), a professional journalist not only has the above vested interest but also has a conflict of interest in reporting a disclosure as also serving their own economic interests.
- (b) **Good faith not required:** The Whistleblower Bill proposes that it will no longer be necessary for the whistleblower to make their disclosure 'in good faith' in order to qualify for the protections. This requirement should be reinstated as the motivation for making a disclosure is highly relevant to the context of the disclosure.

Motivations collateral to the disclosure will provide insights as to the timing and accuracy of the disclosure. By way of example, if a whistleblower receives a payment from a media publisher or a class action law firm as consideration for their use of the disclosure, the fact a payment has been made is relevant contextual information and assists informing as to whether the disclosure may be relied on.

As an alternate submission, the Committee is encouraged to recommend that a whistleblower disclose any potential conflict of interest when making a disclosure. Such an obligation would cause the above payment to be disclosed and support the legislative purpose of transparency around whistleblower disclosures. It will have the added benefit of contextualising the media publication or class action demand.

(a) Anonymous disclosures: There is no longer a requirement for a whistleblower to disclose their identity in order to receive the protections. This requirement should be reinstated; fairness and transparency dictate that the identity of the whistleblower be known before they can obtain the benefit of the protections.

Yours sincerely

