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Dr Patrick Hodder
Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
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By email: corporations.joint@aph.gov.au

Dear Dr Hodder

I refer to the hearing conducted by the Parliamentary Joint Committee in Brisbane on 23 February 2017.

The transcript provided to me shows that during the course of that hearing, Senator Xenophon reportedly made the following statement:

Can I just invite both the ombudsman's office and your office, Mr Bingham, to comment on notice in respect of the changes that were made through the registered organisations Act. The relevance of that is not only the protections there for whistleblowers but dealing with the issue of the good faith fetter, which has been a significant problem; issues of exemplary damages; and issues of a civil remedy for reprisals which would change issues of onus, and the general process of dealing with them. It is a matter that the previous witnesses have commented on—Professor AJ Brown and others. If you could comment on that in due course, that would be useful.

It is also relevant in the context that the federal government has made a commitment to implement whistleblower protection laws for the corporate and not-for-profit sectors, and for the public sectors eventually, that are no less than the safeguards in the registered organisations amendments. It is, if not a template, at least a foundation for further reform, so I would be grateful for your critical comments in respect of that.

I am writing in response to Senator Xenophon's invitation.

In short, I agree with the statement made earlier in the Committee's hearing by Professor AJ Brown that these laws provide a new benchmark for whistleblower protection laws in Australia. In particular, I endorse the inclusion of a test based on a discloser having reasonable grounds to suspect that information indicates that disclosable conduct has occurred, and the availability of exemplary damages and enhanced civil remedies.

I trust these comments are of assistance.

Yours sincerely

Richard Bingham
QUEENSLAND INTEGRITY COMMISSIONER

9 March 2017