

**Parliament of the Commonwealth of Australia**

**Sixth Report of the  
Senate Select Committee on Superannuation**

**Super — Fees, Charges  
and Commissions**

**Canberra**

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## **LIST OF RECOMMENDATIONS:**

(Chapters 1 and 2 do not contain any recommendations)

### ***Recommendation 3.1:***

*The Committee recommends that information provided to potential policy holders be presented in a brief and standardised format which will allow consumers to compare different products. (This information would be in addition to the more detailed contractual information.)*

*The Committee further recommends that the brief and standardised information include:*

- *a written description of each investment option facing the consumer and an outline of the general policy and strategy of the fund;*
- *a written description of all fees and charges, (including any initial, ongoing and/or termination fees/charges) and, where these are variable, the minimum and maximum charges;*
- *details of any penalties which may be imposed on early termination of the policy and the method of calculating these charges; and*
- *details of the dispute resolution process which can be accessed if the consumer believes the advice or information provided may be inaccurate.*

### ***Recommendation 3.2:***

*The Committee recommends that, in conjunction with investment information, a 'needs analysis' based on the consumer's individual circumstances and preferences should be carried out and retained by both the life office and the consumer as verification of advice to the consumer.*

**Recommendation 3.3:**

*The Committee recommends that the ISC encourage the adoption by the industry of standard clauses within promotional material and contract documentation and the adoption of plain English documentation.*

*In implementing this policy, appropriate material for consumers from a non-English speaking background should also be developed.*

**Recommendation 3.4:**

*The Committee recommends that life insurance agents disclose both orally and in writing the amounts of commission, as well as other benefits that accrue to them, as a consequence of the sale of personal and group superannuation products.*

**Recommendation 3.5:**

*The Committee recommends that any new commission disclosure scheme applying to life insurance agents be reviewed by an appropriate Senate Committee within three years.*

**Recommendation 3.6:**

*The Committee recommends that, to distinguish the role of the different types of agents and life brokers, agents should be required to disclose:*

- *the organisations with which the agent holds agency agreements;*
- *whether the agent is acting for the life office(s) with which the agent holds agency agreements and the nature of the fiduciary relationship with the life office;*
- *whether the agent is remunerated in whole or in part by commission on behalf of the life offices for selling the companies' life products;*
- *whether the commission will be paid from charges imposed by the policy; and*
- *the manner in which early surrender charges will be calculated.*



**Recommendation 3.7:**

*The Committee recommends that the Prices Surveillance Authority closely monitor the level of fees, charges and commissions applying to superannuation products and report on its activities in this area in its Annual Report to Parliament.*

**Recommendation 3.8:**

*The Committee recommends that the Insurance Contracts Act be amended such that the term 'free look period' is replaced by 'cooling off period' and made to apply to all personal superannuation plans.*

**Recommendation 3.9:**

*The Committee reiterates its recommendation in Safeguarding Super that an external review body be established to adjudicate on superannuation disputes.*

*The Committee further recommends that Government's proposed dispute resolution tribunal adjudicate on consumer complaints arising out of personal superannuation contracts entered into after 1 July 1992 where these have not been satisfactorily resolved at the company or industry level.*

**Recommendation 3.10:**

*The Committee recommends that the ISC and key superannuation industry groups representing the interests of consumers and providers, combine to develop and implement a five year superannuation consumer education strategy for implementation in early 1994.*

**Recommendation 3.11:**

*The Committee recommends that consumer counselling services be provided by the ISC in each of the capital cities and major regional centres.*

***Recommendation 3.12:***

*The Committee recommends that the industry establish and maintain an agent registration system, together with a code of conduct to be approved by the ISC.*

***Recommendation 3.13:***

*The Committee recommends that the ISC report annually on developments in the area of agent registration and that in three years an appropriate Senate committee inquire into and report on this matter.*

## CHAPTER 1 : INTRODUCTION

**All the major players, including the agents, life offices, the Government and the consumers have committed themselves to reform. Each shareholder must be prepared to be flexible about the detail of change and its implementation.<sup>1</sup>**

1.1 This report completes the Committee's deliberations on the original 17 terms of reference embodied in the resolution of the Senate on 5 June 1991<sup>2</sup> which established the Committee (see Appendix A). It deals principally with Term of Reference (g):

the level and structure of fees and commissions charged in relation to superannuation fund membership and asset management.

1.2 It also covers some matters under Term of Reference (h): 'the information available to members of superannuation funds', other aspects of which were dealt with in the Committee's first report, *Safeguarding Super*.

1.3 Since its appointment, the Committee has reported on its 17 terms of reference according to five themes:

- the regulation of superannuation, which was addressed in the Committee's first report, *Safeguarding Super*;
- the depth and breadth of superannuation coverage, which was covered in the second report, *Super Guarantee Bills*, and a background paper entitled *Super System Survey*;

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<sup>1</sup> Justice Paul Stein, Chair National Consumer Affairs Advisory Council. *SSCS Proceedings of the Super Consumer Seminar*, 4 November 1992, p143.

<sup>2</sup> In reappointing the Committee on 13 May 1993 the Senate resolved that the Committee should complete this term of reference.

- the impact of superannuation on the financial sector, which was covered in the Committee's third report, *Super and the Financial System*, which also addressed the problem of unfunded liabilities in public sector superannuation;
- the inter-relationship between superannuation and the fiscal and social security systems, which was covered in the fourth report, *Super – Fiscal and Social Links*; and
- fees, charges and commissions relating to the provision of superannuation. This matter has been addressed in a number of reports and issues papers.

1.4 Table 1.1 lists the Committee's reports and papers against the relevant terms of reference.

**Table 1.1 List of Committee Reports and Papers presented to the Senate**

Title	Date	Term of Reference
Super System Survey – A Background Paper on Retirement Income Arrangements in Twenty-one Countries	December 1991	(q)
Papers relating to the Byrnwood Ltd, WA Superannuation Scheme	March 1992	(c) and (e)
Interim Report on Fees, Charges and Commissions in the Life Insurance Industry	June 1992	(g) and (h)
First Report – Safeguarding Super – The Regulation of Superannuation	June 1992	(a), (c), (d), (e), (f), (h), (i), and (j)
Second Report – Super Guarantee Bills	June 1992	(l), (m), (o) and (p)
Super Charges – An Issues Paper on Fees, Commissions, Charges and Disclosure in the Superannuation Industry	August 1992	(g) and (h)
Third Report – Super and the Financial System	October 1992	(d)
Super Consumer Seminar – Proceedings	November 1992	(g) and (h)
Fourth Report – Super – Fiscal and Social Links	December 1992	(k), (b) and (n)

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Fifth Report – Super - Supervisory Levy

May 1993

Referral of  
Statutory  
Rule 283 of 1992

Sixth Report – Super - Fees, Charges and  
Commissions

(g) and (h)

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## Conduct of the Inquiry

1.5 The inquiry into fees, charges and commissions has been a protracted process which began in March 1992 when the Committee first took oral evidence from representatives of the life insurance industry in Melbourne. The evidence which followed reflected that there is a high degree of polarity amongst the various interest groups regarding the solutions which could be implemented to bring about more competitive and thereby more efficient structures of fees and charges in the sale of personal superannuation products. The material which the Committee gathered and presented in its interim report to the Senate on 3 June 1992 indicated that the level of initial commissions on many products appeared to be excessive with average initial commissions on some products as high as 60 per cent. Subsequent evidence showing high cancellation rates and low surrender values as a consequence of these seemingly high initial commissions focussed the Committee on developing solutions to make personal superannuation more equitable and portable. In Chapter 3 of this report these solutions are examined in detail and recommendations for reform have been formulated.

1.6 The Committee was greatly assisted by the work of the Trade Practices Commission in conducting research and preparing a report on the sale of personal superannuation products. This report, and the seminar which the Committee convened in conjunction with the National Consumer Affairs Advisory Council and the Trade Practices Commission which was attended by more than 100 participants from industry, consumer and government agencies, also assisted in focussing the Committee on key issues and desirable outcomes in this critical aspect of superannuation.

1.7 The Committee generally welcomes the response of the industry to the recommendations proposed by the Trade Practices Commission and the nine options which the Committee proposed in its *Super Charges* issues paper. It would appear that the drawn out process, in which a high level of

community debate has occurred, has resulted in the formulation of policy which will assist in the achievement of sound long term retirement incomes goals.

## **The Place of Personal Superannuation in Retirement Incomes Policy**

### *Changes in Policy*

1.8 Traditionally, retirement incomes policy in Australia has had two components: the provision by government of an age pension funded from consolidated revenue and private superannuation plans supported by tax concessions. However, for most of the period since 1908 the emphasis has been on the age pension.

1.9 On several occasions unsuccessful attempts have been made to replace the non-contributory pension with a national superannuation scheme funded by earnings-based contributions from all employees. The first of these initiatives occurred in the 1930-39 period and was embraced by both Labor and non-Labor governments. The second, which was introduced in 1945, was funded by an additional personal income tax by employees and a payroll tax paid by employers which were credited to the National Welfare Fund and called a 'social services contribution'. In 1950 this contribution was merged with the income tax system and from 1952 payments from the National Welfare Fund were financed by appropriations from consolidated revenue. Thereafter, the fund was merely an accounting device until its abolition in 1985.

1.10 Historically, private pensions have largely been the preserve of members of the white collar and the professional workforce. Broadly-based occupational superannuation did not achieve any real prominence until 1986 when the Conciliation and Arbitration Commission, at the request of the Government and the trade unions, decided that it would formally approve agreements between employees and employers relating to contributions to approved superannuation funds in lieu of wage increases, up to a maximum of three per cent. The next major development in the extension of occupational superannuation occurred when the Parliament passed the Superannuation Guarantee legislation which provided that all employees receive a minimum coverage of nine per cent contributions by 2002. A large proportion of the moneys arising from award and SGC superannuation has been deposited in the rapidly expanding industry funds. Notwithstanding the

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thrust towards universal work-based superannuation coverage, many members of the workforce still need to make their own superannuation provisions.

1.11 The self-employed and those employees who wish to 'top up' SGC or award superannuation, continue to purchase personal superannuation plans, although a small percentage contribute additional funds to an industry scheme.

### *Personal Superannuation Plans*

1.12 Personal superannuation plans, which are sold by life offices and other financial intermediaries such as banks, have grown out of traditional life insurance products. These products constitute about 12.5% of funds held by financial intermediaries and premium income from them in 1991-92 was reported as being \$14 bn. According to the 1991-92 ISC Annual Report, at the end of 1991 there were 2.87 million superannuation policies in force with an asset backing of \$66 billion.

1.13 Life insurance offices have also played a key role in providing administration, funds management advisory services, and death and disability cover to the emerging industry superannuation schemes.

1.14 The Trade Practices Commission (TPC) in its report on *Life Insurance and Superannuation* identified the following categories of individual life office products which are sold by approximately 50 life insurance companies registered under the provisions of the *Life Insurance Act 1945*:

- risk products,
- savings products,
- conventional products,
- single premium products, and
- annuities.<sup>3</sup>

1.15 It is the savings product that has been the focus of consumer complaints to the Committee. Under this product arrangement consumers contribute for an extended period, usually between ten to 35 years. Early

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<sup>3</sup> Trade Practices Commission, *Life Insurance and Superannuation* 1992, p 92.

surrender or cancellation of the product often attracts a penalty charge and, as a consequence, the value of the payout is lower than accumulated premiums and interest. In defending this outcome, life offices claim that the lower than expected amount reflects the fact that it is in the early years of a policy's life when agents are remunerated. Selling these products through an agency system on a commission basis is a longstanding arrangement in the life insurance industry.

1.16 Consumer groups have questioned whether, in the context of large scale compulsory superannuation, these methods of remuneration and product design are appropriate to the needs of those who purchase superannuation plans. This report examines the place of personal superannuation in current retirement incomes policy and recommends changes to increase the quality and quantity of information available to consumers with the objectives of promoting greater industry efficiency and increased consumer equity.



## CHAPTER 2 CONSUMER CASE STUDIES

**In practice, unrestrained competition will not always produce the best possible economic and social outcomes. Some markets have impediments which tend to distance the competitive process and these investment, consumption and production choices. In those cases, market failure is said to occur.<sup>4</sup>**

2.1 The following material was received as evidence by the Committee from consumers who had experienced difficulties in transacting business with providers of superannuation plans. The case studies are a representative cross-section of a large number of consumer complaints received by the Committee which were a high proportion of total submissions (see Appendix B).

2.2 These case studies illustrate the unequal bargaining power which exists between consumers and providers in the personal superannuation industry and demonstrate that reliable and accurate information on all material aspects of each product has often been sadly lacking. These are themes which frequently arise in this report and underpin a number of the recommendations of the Committee.

### **Mr N Renton and Westpac**

#### **Submission No 8**

2.3 Mr Renton claimed that Westpac breached a contract by imposing a new fee midstream during a policy, despite promoting the fund on the basis that members would not be subject to charges bar the ones stated in its prospectus. While conceding that the money involved was 'minuscule', Mr Renton took umbrage at the principle involved in so far as this unilateral

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<sup>4</sup> Op cit, Trade Practices Commission, p 77.

action could open the way for Westpac to impose any level of new fee at whim: 'Why stop at \$10 per half-year? What is to stop the Bank of its own volition charging \$100 or \$1 000'. Mr Renton believed that the Bank's failure to consult policy holders prior to the charge and its about face on the prospectus statement, were both illegal acts.

2.4 Furthermore, Mr Renton's protest was met with a response from the bank that dissatisfied customers could take their business elsewhere. Mr Renton asserted that this left him short-changed because of the impact of the new fee on his contributions.

2.5 Westpac responded in the following way:

Following a further review of your file, we have re-instated your benefit to 96.461 units. Future management fees of \$10.00 per half year will also be waived.

We have reached this decision because of the unique nature of the timing, and your method of entry, into this Fund via Employees Provident Fund.

Would you please acknowledge your satisfaction with this arrangement, on the duplicate of this letter.<sup>5</sup>

## **Mr D Schwarz and Capita/MLC**

### **Submission No 17**

2.6 Mr Schwarz claimed that Capita (which was subsequently taken over by MLC) provided misleading information with respect to the surrender value of his policy. On taking out the policy, Mr Schwarz submitted he was advised that when members elect to leave a fund 'you [members] may have 91 per cent of the value of the funds held immediately, or you may have 100 per cent of your funds paid back over two years in monthly instalments – during this two year period, you receive a fund earning rate three per cent less than [what] continuing members receive'. This discounted rate of return is in addition to normal fees and expenses deducted from members' funds over the two year period.

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<sup>5</sup> Letter to Mr Renton of 22 July 1992

2.7 Mr Schwarz's specific complaint was not so much over the penalty surrender rate for early withdrawal, but relate to the advice he received from MLC when joining the fund. He claimed to have been advised that only in exceptional circumstances is the penalty surrender rate imposed. However, Mr Schwarz was subject to this penalty surrender rate when he withdrew his investment. He claimed also to have met a 'bureaucratic brick wall' when he attempted to obtain an explanation from MLC as to the circumstances resulting in the penalty rate.

2.8 It should be noted that the Capita/MLC promotional information submitted by Mr Schwarz was explicit regarding early surrender values but was vague regarding the 'exceptional circumstances' mitigating the surrender rate. Capita/MLC stated that surrender values 'may be less than the total of premiums paid'. It also stated that 'Capita would only implement these conditions [that is, the penalty surrender rate] when it considers such action necessary or desirable in respect to the interests of all policy holders in No. 1 Fund generally'. Under ISC Circulars 276 and 290 [clause 4.2(d)], it is necessary for the circumstances giving rise to the imposition of the surrender rate to be spelt out with clarity.

2.9 MLC's reply stated that the marketing material said nothing about 'exceptional circumstances' and that 'Capita would only implement these conditions when it considers such action necessary or desirable in respect to the interests of all policy holders in the No. 1 Fund generally.'

2.10 MLC further stated that the settlement conditions referred to by Mr Schwarz had nothing to do with agent commission and were closely designed 'to reflect the underlying assets during the period of the investment.'<sup>6</sup>

## **Mr G Hearn and MLC Life**

### **Submission No 24**

2.11 Mr Hearn was forced into early retirement due to invalidity. Since he was ineligible at his age for the retirement pension, he and his wife were dependent on the returns of his superannuation investments and his wife's income. Mr Hearn's early retirement meant he had to transfer his

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<sup>6</sup> MLC letter to the Committee dated 22 July 1992.

superannuation policy into a rollover fund. In addition to taxes, Mr Hearn incurred a five per cent commission charge of \$10 000. As he will be obliged to transfer this superannuation investment at age 65, he feared he will be faced with similar charges again.

2.12 Because Mr Hearn's invalidity required his wife to nurse him, Mrs Hearn has been forced to work only part-time. This has resulted in her inability to pay the premium on her own personal superannuation policy. The arrears on her premium payments have incurred 14 per cent penalty charges, the cumulative effect of which will whittle away all her contributions within ten years. While the Hearn's conceded Mrs Hearn's policy statement made reference to this penalty charge, they have expressed grievance with the agent who sold the policy for not alerting them to it. Compounding the Hearn's grievance was the life insurance company's response to their inquiries being relayed via the agent who sold the policy, despite the agent's conduct being a subject of their complaint.

2.13 Mr Hearn also alleged that one of his sons was sold a life insurance policy by an agent on the basis of misleading information. The sales agent was said to have exaggerated the benefits generated by the policy by extrapolating the fund's gross annual performance rate over the policy lifespan without taking account of charges, tax and likely inflation. Coupled with this 'sales hype' was the obscure and complex language and jargon used by the agent and the company's promotional material.

2.14 Subsequent to the Committee secretariat conveying Mr Hearn's allegations to the company now administering the above mentioned policies, the Committee was advised that:

... the policy of Mr Hearn's wife has now been 'paid-up'. No further premiums are required. Arrears of premiums and interest have been written off ... The policy on the life of Mr Hearn's son is not a superannuation policy. It has recently been surrendered and paid out.

2.15 The company concerned also noted that it both publishes investment returns *net* of tax and charges, and endorses the disclosure requirements contained in ISC Circulars 290 and 291.

2.16 *Notwithstanding the apparently satisfactory outcome in the case of Mrs Hearn's superannuation policy, the Committee notes that the company's response failed to account for both the agent's conduct and the company's*

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*continued reliance – until the Committee's intervention – on the agent as its medium for addressing the Hearn's complaints. This study underscores the importance of the general requirements in ISC Circular 276 and 290 [clause 4.2(d)] that life companies and sales agents disclose explicitly all charges in general and penalty fees in particular.*

## **Mr Foley and National Mutual**

### **Submission No 99(a)**

2.17 As in the case of Mr Renton, Mr Foley claimed that National Mutual (NML) imposed unilaterally a charge on withdrawals, despite promoting its Superguard Plus vehicle as having no entry or exit fee provisions. Unlike the Renton case however, National Mutual's contract stated that the company reserved the right to impose this sort of additional charge (which it called a 'buy-sell ratio'). Against this point, Mr Foley claimed that the information provided in promotional brochures was too difficult for the 'average client' to understand, thus nullifying the benefit to the consumer of the 14 day free look period. Mr Foley also noted that in response to client protest over the buy/sell ratio, NML withdrew the fee.

2.18 National Mutual's response to these claims stated that since the buy/sell ratio is a term of the policy, 'clients have a 14 day free-look period [which] means that they have an opportunity, even after purchasing the policy, to fully digest its terms, including those terms which allow National Mutual to impose certain conditions at a later date'; *ipso facto*, 'the 14 day free-look period ... enable[s] the client to rescind the contract'.

2.19 National Mutual also stated that the wording of its policies is neither misleading nor unnecessarily complicated. *The Committee observes, however, that a number of case studies magnify the importance of both up-front disclosure of the possible likelihood of new charges being imposed during the life of a policy, and the need for this eventuality and the likely circumstances leading to it to be expressed clearly, and referred directly to the consumer.*

**Mr Foley and National Mutual****Submission No 99(b)**

2.20 Mr Foley claimed that a major cause of dissatisfaction with certain superannuation plans is the failure to communicate, on an on-going basis, the various fees and charges. He submitted that in some employer sponsored superannuation schemes, which are promoted by life offices, employers and employee members understand clearly the amount contributed to the plan each month. However, many perhaps most members are unaware, if ever told, of the details of fees and charges for administration, insurance, life and disability cover, contributions tax, statements, cheques drawn, transfer to another fund and transfer of portfolio, within the fund. He further claimed that the conditions relating to the transfer of funds from National Mutual Tailored Super to another life office or other approved provider were expressed in such a way that their real impact was not appreciated. It was submitted that members in this plan were required to pay 2.5 per cent of their accrued benefit to transfer from managed funds to capital guaranteed portfolios and that apparently they had not been informed of this prior to making an election on joining the fund.

2.21 National Mutual contested these claims by stating that their technical documents and annexures which were provided in contractual documentation, and annexures to members applications, did itemise the charges associated with a transfer of funds. National Mutual further submitted that Mr Foley had raised issues covered in the trust deed and that the setting of certain charges was the responsibility of the trustees, not National Mutual.

*2.22 This case highlighted the need for a clearer delineation of powers and duties between the promoter/life office, the employer/client and the employee as regards the setting of fees and charges. It was yet another instance of the need to give careful consideration to the idea of having all fees and charges relevant to membership of a superannuation plan itemised in a simply expressed one page schedule at the front of any proposal or contractual documentation.*

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## Mr Toohey and the AMP

### Submission No 220

2.23 Mr Toohey, on retiring at 55 years of age in 1989, transferred his superannuation investment into a rollover fund. He was advised by the superannuation and financial adviser, who was also an agent for the company, that the following charges would apply to the rollover fund:

- entry fee                                      3-5%
- exit fee                                        0.5%
- annual policy fee                        \$27.00

2.24 On this basis, Mr Toohey invested \$340 000, the entry fee on which amounted to just over \$10 000 or approximately three per cent of the investment.

2.25 As Mr Toohey proposed to use this fund as the source of his yearly livelihood, he withdrew \$27 000 in January 1991 and \$30 000 in November 1991, the latter sum being intended to cover his living expenses for 1992. Following the latter withdrawal, Mr Toohey received an account statement from his company setting out the charges related to his two withdrawals. Included in the charges was a hitherto unmentioned charge called an 'Effect of Adjustment Index on Debit Transaction' fee of \$3 027.88. Mr Toohey claims that, when combined with the stated withdrawal fee, this adjustment fee in effect obliterates the interest-bearing return of his investment and will force him to draw down on his capital more quickly than he had allowed for.

2.26 Reinforcing Mr Toohey's claim that neither the company's promotional material nor the agent had referred to this 'midstream' fee *prior* to the sale, Mr Toohey's inquiries with the adviser who had sold him the policy about the adjustment index fee were in vain – the adviser stated he was unaware of this charge.<sup>7</sup>

2.27 AMP submitted that Mr Toohey had incorrectly ascribed the word 'fee' to the Adjustment Factor Index and submitted that the index had been explained in the original sales brochure as a mechanism to reflect changing unrealised asset values.

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<sup>7</sup> Mr G. Condon, Sub No 270.

**Retired Police Association – NSW (RPA) and AMP<sup>8</sup>**

2.28 The RPA claimed that the rollover fund to which its members belong, AMP Capital Secure Deferred Annuity, had imposed a new fee on withdrawals from this fund. Calling the fee an 'adjustment factor', it applies retrospectively to members who joined the fund after March 1990. Withdrawals from the fund will be subject to both withdrawal fees and the adjustment factor fee (as well as tax).

2.29 In response to complaints from members, AMP agreed to waive the new charge if no withdrawals were made before members reach age 65 years. However, as the RPA argues, this concession is meaningless for those who had based their retirement income streams on regular withdrawals from this fund.

**Mr L Sadowsky and National Mutual****Submission No 238**

2.30 Mr Sadowsky purchased a long term personal superannuation plan from National Mutual. He deposited a small single premium into the plan and undertook to pay \$130 per month thereafter. After three years contributions he decided to transfer his accumulated benefit to an employer sponsored fund.

2.31 Mr Sadowsky informed the Committee that an administrative charge of approximately 23% might be made if the funds were transferred.

2.32 He claimed that when he purchased the policy at no time was it emphasised that, after the qualifying period (said to be two years), would he receive less than the full amount of contributions should he roll the money into another fund.

2.33 National Mutual responded that the administration charge was based on terms and conditions in the original policy document, but conceded that it would appear that the termination charges may not have been clearly

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<sup>8</sup> RPA Newsletter, June 1992, p 1.



explained to Mr Sadowsky at the point of sale. National Mutual undertook to arrange an interview with Mr Sadowsky to ascertain what charges were explained to them when he purchased the policy as well as other information pertinent to the complaint.

*2.34 This case highlighted the need for an optimal flow of quality information between the agent and the consumer when private superannuation plans are purchased. It also demonstrates the need for simply presented and standardised information itemising all fees and charges.*

### **Mrs K Trotter on behalf of the Gap P & C Association**

#### **Submission No 269**

2.35 Mrs Trotter informed the Committee that her school employed a tuckshop convenor two days a week for approximately 39 weeks each year. She estimated that there would be six months when the tuckshop convenor would earn more than \$450 per month and therefore be entitled to SGC superannuation coverage.

2.36 She contended that the shop would be obliged to put \$91 into a superannuation fund which over the full year would charge \$69 (or approximately 75% of charges) in insurance and administration fees.

*2.37 This case, and a number of others considered by the Committee, highlights the need for a low cost mechanism to cover employees who experience discontinuous workforce participation. In its first report, Safeguarding Super, the Committee recommended that a central fund for lost members be established and that persons in irregular or changing employment have the option of rolling over contributions to this low cost fund.*

*2.38 In its response of 17 December 1992, the Government acknowledged the need to maximise the prospects of these employees receiving their entitlements and, subsequently in their package of prudential control bills, proposed to establish a register of 'lost members' to address this problem. The May 1993 package of Superannuation Industry Supervision Bills further proposes that tax file numbers be used to allow unclaimed benefits to be paid. As well, the legislation provides for the establishment of 'eligible rollover funds' into which unclaimed benefits or lost member funds can be*

*deposited. The Committee believes that administration charges still have the potential to eat away superannuation benefits for those in irregular employment and/or with more than one employer. Accordingly, the Committee anticipates further reviewing this problem.*

## **Ms H New and Scottish Australia**

### **Submission No 274**

2.39 On entering employment in the clerical industry Ms New was advised that her three per cent SGC contributions would be handled through an insurance policy negotiated with Scottish Australia. Evidently the employer did not wish to contribute to an industry scheme. Having been informed that the company would not receive less than \$100 in premium, Ms New agreed to 'top up' the policy by making a personal contribution of \$70 per month.

2.40 After 12 months contributions Ms New joined the Tasmanian Public Service and believed that she could roll over her full contributions to that employer's fund. Scottish Australia informed her that she was entitled to only five per cent of her contributions and advised that she maintain her policy, contribute \$1200 per year and pay \$36 per year administration charges.

2.41 Following the receipt of a letter advising them of adverse evidence, Scottish Australia investigated Ms New's complaint and advised that it acknowledged that the policy had not been to Ms New's advantage and that it had agreed to cancel it from inception. The company further advised that it had not hidden any fees or charges from Ms New who, it claimed, also had a responsibility to read the written material provided.

*2.42 This case demonstrated that those in an employment situation where there exists no award provision for SGC contributions to be deposited in a low cost employer-sponsored or industry fund, there is a strong likelihood that the Government's retirement incomes objective of self provision will be frustrated. The possible disharmony between SGC and award arrangements is a matter which the Committee could examine at some future juncture.*

### **Mr M Collins and Mercantile Mutual Life**

#### **Submission No 275**

2.43 Mr Collins informed the Committee that when he redeemed his insurance bonds he specifically asked the companies concerned not to notify the selling agents of his decision. On being subsequently contacted by an agent representing Mercantile Mutual, Mr Collins wrote to that company and LIFA registering his complaint.

2.44 Mercantile Mutual responded apologising for any inconvenience caused by the error. It submitted that copies of termination certificates prepared for clients are automatically generated and sent to their agents. In their haste to finalise the redemption, Mercantile Mutual had omitted to suspend the automatically generated letter.

### **Ms R Clarke and Mr R Webb and Friends Provident**

#### **Submission No 293**

2.45 Ms Webb and Mr Clarke purchased personal superannuation policies from Friends Provident Assurance Company Limited. They contributed to the policies for a period of four years. In February 1992, they inquired about rolling over the policies to another financial institution. Having been informed that the surrender values of the policies would be substantially less than total contributions and interest they claimed that they were not advised of on-going or early termination charges at point of sale.

2.46 Friends Provident contended that the agent had given an illustration showing the effect of costs and charges on the values of the policy and that the LIFA Complaints Review Committee could not decide in the favour of Ms Webb and Mr Clarke.

### **Conclusion**

2.47 These case studies, whilst being only a small fraction of total consumer complaints and disputes which arose during the inquiry, demonstrate the breadth and depth of consumer problems in the personal superannuation area. Recent ISC annual reports to the Parliament also manifested these

problems. For example, in its 1988-89 report, the ISC reported that it had received 232 written and 680 telephone complaints and enquiries, adding that a large proportion concerned individual superannuation plans. The report also noted that low surrender values in the early years were mainly due to the initial marketing expenses, that is, agent commission.

2.48 The 1989-90 report showed a deepening problem with 300 written complaints and enquiries and 800 by telephone. The ISC again reported low surrender values combined to make up a large proportion of complaints. The ISC noted that unless a breach of its Act had occurred, little could be done to assist complainants, however, the report went on to outline progress in the development of a three-tiered dispute resolution mechanism which would be run by the industry.

2.49 The 1991-92 report, whilst not identifying actual numbers of consumer complaints, further describes the industry complaints review mechanism and developments within the TPC and the industry to improve the quality of advice given by life agents.

2.50 The Committee notes with interest that the ISC took a 'symptomatic' as opposed to a 'causal' approach to consumer problems, preferring to rectify problems when they occurred as opposed to implementing forward-thinking structural reform. To this end, in the next chapter the Committee expounds on its view that the way to solve these consumer problems is to attack the cause of the problem not merely treat the symptoms.

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## CHAPTER 3 A CASE FOR DISCLOSURE

The 1990s, I think, will have to involve restructuring from the demand side. In fact we can say that one of the effects of deregulation and restructuring the supply side is to provide more choice. But, if consumers are not in a position to have sufficient information to exercise that choice, then clearly efficiency in the workplace is not going to occur.<sup>9</sup>

### The Issues

#### *Superannuation Policy*

3.1 If superannuation is to play its full part in the provision of retirement income, it is essential that contributions, premiums and fund earnings be conserved to the greatest practicable extent. Any avoidable outgoings place a brake on the accumulation of benefits. For this reason alone, the level of fees, charges and commissions paid by funds and/or contributors needs to be monitored to ensure that benefits are optimised.

3.2 Moreover, from the large number of complaints received by the Committee<sup>10</sup>, both directly and through consumer bodies, as well as press reports and anecdotal evidence, it is clear that there is a public perception that fees and, in particular, commissions, are excessive and hidden in many cases. Whether this perception is justified or not is open to argument, but its existence is not. The Committee believes that excessive fees and commissions were the norm in some sections of the industry and although the problem still exists, in recent times competitive pressures have reduced these charges significantly.

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<sup>9</sup> Professor Bill Melody, op cit, *Proceedings: Super Consumer Seminar*, p110.

<sup>10</sup> Appendix 1 contains a table which summarises the nature of each consumer complaint received by the Committee.

3.3 Now that superannuation is virtually compulsory, the integrity of its providers is clearly a matter of public concern, as are any adverse perceptions which have the capacity to undermine that integrity.

3.4 As would be expected, the complaints covered a wide range of problems, but one theme predominated - the high level of up-front commissions paid on regular premium savings or superannuation products sold by life companies and the consequent high cancellation, exit or transfer fees. Other aspects of essentially the same problem were the failure at the time of purchase to disclose, or explain adequately, the impact of the commissions and fees, difficulties in understanding the 'fine print' in policy documents and the inadequacy, or sometimes complete absence, of responses to complaints and requests for explanations on termination.

#### *Consumer Complaints*

3.5 The ISC, the industry's regulator, does not have a specific brief to investigate and resolve individual consumer disputes. Moreover, the sudden growth brought about by the introduction of award superannuation and the complexities brought about by frequent changes in taxation and other operating requirements so stretched the Commission's limited resources that effective action in this area was out of the question. Now that the ISC has the resources and the Government proposes to legislate for a statutory review/dispute resolution mechanism, consumers of superannuation will be in an enhanced position.

3.6 The general area of consumer complaints was a difficult one for the Committee. Although its terms of reference were broad enough to permit it to examine individual complaints and make recommendations as to the general rules that should operate, it did not have the time, the resources, the expertise or the authority to undertake the quasi-judicial role expected of it by many of the complainants.

3.7 It did, however, develop a routine which enabled it to gain an appreciation of the issues involved. Submissions which reflected adversely on individuals or organisations were withheld from publication, and forwarded to those named for comment. Some were later published but many were dealt with *in camera*. In a few cases, the Committee's inquiries led to a satisfactory resolution of the complaints. Overall, the procedure has enabled the Committee to come to an understanding of both sides of the problems -

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and to make recommendations which should both minimise their occurrence in the future and facilitate the resolution of those that do occur.

### *Fees, Charges and Commissions*

3.8 In the specific area of fees, charges and commissions, the industry exhibited some reluctance to provide the required information and it was only after a strongly worded rebuke in the Senate that the required information was forthcoming<sup>11</sup>. On 22 July 1992, following the receipt of this information, the Committee convened a private hearing to discuss further the life office view regarding the disclosure of fees, charges and commissions. To assist the Committee's understanding of the issue, LIFA arranged a simulation of the sale of a typical personal superannuation plan which included a client needs analysis and discussion leading to the entering into a contract to purchase. The Committee found this hearing to be most informative and of considerable assistance in preparing this report.

3.9 In August 1992, the Committee published *Super Charges - An Issues Paper on Fees, Commissions and Charges in the Superannuation Industry* (the *Issues Paper*), which outlined some of the problems raised in a number of case studies, gave examples of a wide spectrum of commissions and other charges and identified the main issues for decision. The Committee used as its point of reference the standard competitive model, which assumes perfect information in a competitive market, and concluded that product knowledge is the key to the effectiveness of competition. The extent of disclosure of information is therefore a key element in market efficiency.

3.10 In March 1992, the Minister of *Justice and Consumer Affairs* referred the general subject of the role life insurance agents, including consumer complaints, problems of disclosure of information and the early termination of agreements, to the Trace Practices Commission (TPC) and directed it to consult with this Committee and other bodies carrying out relevant investigations. On 4 November 1992, the Committee joined with the TPC and the National Consumer Affairs Advisory Council in sponsoring a one-day seminar on consumer issues affecting the insurance and superannuation industries. This seminar, which was attended by more than 100 participants from a wide cross-section of the industry, was a most useful exercise in

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<sup>11</sup> Senate Hansard, 3 June 1992, p 3351, *Interim Report on Fees, Charges and Commissions*, June 1992.

information sharing and analysis. The Committee, in reporting to the Senate on 12 November 1992,<sup>12</sup> tabled the proceedings of the Seminar.<sup>13</sup>

3.11 The TPC published its report *Superannuation and Life Insurance* in December 1992. The Committee believes that the TPC report provides an excellent survey of the issues and endorses the general thrust of its recommendations.

3.12 The Committee has had the benefit of all of these studies and activities as well as a most useful set of commentaries from the major providers and consumer bodies.

3.13 There is general agreement among consumer groups, life office agents and the personal superannuation industry that super products should become 'more competitive', that is, that more diversified products should be offered to meet individual circumstances and also that the costs and other relevant features of these products should be disclosed to allow a greater and more flexible consumer choice. It is also generally acknowledged that the provision of more information will lead to increased competition and industry efficiency.

#### *Life Insurance Industry*

3.14 The period under review has not been an easy one for the life insurance industry. The industry, along with other financial intermediaries, has encountered considerable difficulties generating high rates of return on investments, especially those with a high property weighting. A number of witnesses expressed their concerns on this matter and informed the Committee of their decision to cancel policies and receive a lower than expected benefit. Compounding this problem, and also causing an outflow of funds from life offices, were the financial difficulties being experienced by a large number of policy holders which had resulted in the cancellation of many regular premium superannuation plans. The problem of policy discontinuance has been compounded by the removal of certain tax concessions from employee SGC 'top up' superannuation. Table 3.1, which shows data on policy discontinuance rates in personal superannuation

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<sup>12</sup> Super Consumer Seminar, Senate Hansard, 12 November 1992, p 2927.

<sup>13</sup> *Proceedings of the Super Consumer Seminar*, November 1992.



collected in 1992 by the TPC, illustrates the extent of policy surrenders. For example, if the data is representative of the industry as a whole, after four years 21 per cent of policies would have been discontinued.<sup>14</sup> Table 3.2 shows the overall impact of these discontinuances in dollar terms.<sup>15</sup> Table 3.3 shows the long term trends in policy discontinuances for the period 1982-91.

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<sup>14</sup> Op cit, Trade Practices Commission, p 72.

<sup>15</sup> Insurance and Superannuation Commission, Annual Report, 1991-92, AGPS, Canberra, p 16.

Table 3.1

**Cumulative Policy Discontinuance Rates**

Duration in Years	1	2	3	4	5	6	7	8	9	10
Percentage of Personal Superannuation Policies	9	12	17	21	25	28	32	35	39	42

Table 3.2

**Superannuation Business - Annual Premiums**

	12 months ended 31 December 1991 \$m	12 months ended 31 December 1990 \$m	Percentage Decrease
New Annual Premiums	1713.5	2083.0	17.7
Annual Premiums Discontinued	1303.0	1478.4	11.9

**Table 3.3**

**Discontinuances - Forfeiture and Surrender Rates**

Year	Forfeiture Rate Ordinary (%)	Superannuation (%)	Surrender Rate Ordinary (%)	Superannuation (%)
1982	17	09	07	06
1983	22	14	08	07
1984	17	11	08	07
1985	14	10	08	06
1986	15	09	08	06
1987	15	10	08	06
1988	11	09	08	05
1989	15	09	08	06
1990	15	11	10	07
1991	15	14	23	06

Source: *Insurance & Superannuation Commission Annual Reports*

**Notes**

Forfeiture rates (ordinary & superannuation) are defined as the annual premiums forfeited in a year expressed as a percentage of the mean of new annual premiums written over a two year period ending six months earlier.

Surrender rates (ordinary) are calculated as the ratio of the total annual premiums discontinued by surrender in the year shown to the mean of the annual premiums in force at the beginning of the two previous years.

Surrender rates (superannuation) are calculated as the ratio of total annual premiums discontinued by surrender in the year shown to the total premiums in force at the beginning of the year.

3.15 The life insurance industry has undergone considerable staff and organisational restructure. During the inquiry a number of offices announced plans to rationalise staff and make substantial changes in market strategy. The industry, in keeping with trends in the other financial institutions, manufacturing and service industries has experienced its own brand of microeconomic reform.

3.16 Whilst it could be said that much of the restructuring has occurred in the context of a general economy-wide trend, the need for the restructuring is also a consequence of poor strategic planning and ineffective management by the industry. In respect of the latter point the Committee records its concern that some sections of the life insurance industry adopted investment practices contrary to sound diversification. In the strategic planning domain, attempts by some offices to engage in overly-aggressive marketing practices whereby some consumers were sold products which neither suited their needs nor matched their premium paying capacity, have also contributed to current problems. Under these conditions it was inevitable that, as soon as low returns or financial hardship prevailed, significant rates of policy surrenders would be experienced.

3.17 The industry watchdog, the ISC, reported to the Parliament on the trends in policy cancellation. However, whilst no doubt it was aware of the seriousness of some of the marketing practices (and the consequent results by way of policy discontinuance), nowhere in its annual reports to the Parliament is this concern expressly mentioned. The Committee believes it is necessary that the ISC under its strengthened and enhanced charter adopt a more critical, independent and forward-looking position in overseeing the life insurance industry, advising both Government and the Parliament of any undesirable trends or practices and recommending legislative intervention should this be required.

3.18 The advent of compulsory superannuation has resulted in a lower demand for the traditional personal superannuation products. The removal of some tax concessions, which greatly assisted the sale of life products, has placed further pressure on life offices.

3.19 In the interests of stability, it is of critical importance that the industry and the Government agree on a package of reforms which will both restore consumer confidence and engender greater efficiency. If this reform is not achieved it is likely that the Government's overall retirement income policy objectives will be thwarted.

3.20 The Committee is pleased that the industry has acknowledged that reform is both necessary and desirable and it commends LIFA on its May 1993 package of reforms (see Appendix F) which should result in more efficient market practices and enhanced returns for superannuation savers. However, the matter of disclosure of agent commission has not as yet been resolved and the Committee believes that the Government should implement change in accordance with Recommendation 3.4 of this report.

## **Current Disclosure Practice**

3.21 Disclosure of information is currently provided for under regulation and in ISC guidelines.<sup>16</sup> Under the new disclosure guidelines which have applied since 1 July 1992, a fund must provide its members with information concerning:

- its investment strategy and earnings;
- details of any investments which account for more than 5 per cent of its assets;
- the names of trustees, investment managers or other financial advisers or consultants;
- the fund's crediting rate and reserving policy; and
- fees, charges and other expenses.

3.22 In his October 1992 statement on prudential supervision of the superannuation industry, the Treasurer indicated that disclosure guidelines will be further examined in the context of the review of three current inquiries:

Through these measures, members will be better informed about the operation of their fund and will be able to evaluate its performance. Currently there are inquiries being conducted by the Trade Practices Commission and the Senate Select Committee, which are examining issues related to the marketing of life insurance and superannuation products. In addition, the ISC is reviewing the Life Insurance Act. The appropriateness

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<sup>16</sup> OSS Reg 17 and ISC Circulars 276, 290, 291.

of the disclosure regime at the point of sale will be reconsidered by the Government upon the completion of these inquiries'.<sup>17</sup>

3.23 While the information required to be disclosed to consumers has increased, concerns remain about the timing of product information, the clarification of industry terminology and the disclosure of fees and commissions. In the Committee's view these are areas for enhanced requirements for the disclosure of information, which will result in increased competition and greater consumer protection.

3.24 According to the Roy Morgan Research Centre (RMRC) survey commissioned by the TPC, the most important source of information and advice for consumers is oral advice and information from life agents and intermediaries. Of the 517 recent purchasers of life insurance and superannuation products who were surveyed, two thirds (68 per cent) used this source and almost half (42 per cent) considered this as the most useful source.<sup>18</sup>

3.25 The research also found that consumers were inadequately informed about most of the seventeen categories of relevant information. The survey asked respondents what issues they discussed with the agent or adviser, which issues they would discuss today, whether the agent had told them about the issue and whether the issue had either not been mentioned or they could not recall. The results, which were classified by five possible responses from consumers, are shown in Table 3.4.

3.26 Consumers indicated on average they had asked about two of the 17 relevant categories of information as listed in Table 3.4, while nine had been told to them by the agent and five were not discussed. For example, the least mentioned information included commission arrangements between agent and the company (65 per cent did not mention), who they should complain to about problems with the policy (53 per cent), product performance comparisons between funds (41 per cent) and exit fees (36 per cent).

3.27 The survey conducted by Consensus Research for LIFA sheds further light on the key role that agents play in advising in the sale of

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<sup>17</sup> John Dawkins, *Strengthening Super Security*, AGPS, Canberra, p 13.

<sup>18</sup> RMRC, *Report for the TPC on Consumers' Experience with Life Insurance Offices*, November 1992, p 3.

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superannuation plans. In that survey of over 2000 consumers: 92 per cent of respondents said that their agent was honest, four per cent disagreed; 85 per cent expressed satisfaction with the advice, nine per cent expressed dissatisfaction; and 80 per cent said that appropriate policies had been marketed, 14 per cent disagreed.<sup>19</sup> In this context, it is worth noting that in the U.K. one of the 'observable trends' in the life insurance market is that 'reputation' is a key determinant of consumer choice of agent and product provider.<sup>20</sup>

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<sup>19</sup> Op cit, *Proceedings of Super Consumer Seminar*, p 37.

<sup>20</sup> London Economics, *Independent Financial Advisors and the Impact of Commission Disclosure*, October 1992, p 5.

Information	Asked when bought policy %	Would ask today %	Told or explained by agent or adviser %	Can't recall %	Didn't mention %
Recommendations on the best policies to meet insurance, superannuation or investment needs	16	3	51	9	22
Entry Fees	13	3	52	6	27
Exit Fees	13	3	39	9	36
Amount of deductions from amount paid to cover management costs, commissions, etc	10	5	48	5	31
Loss of capital investment if cashed in before maturity	9	7	59	6	20
Likely return or performance of policies	28	7	55	2	8
Possibility of decrease in value if downturn in financial markets	5	5	53	10	26
Current performance compared to competitors' policies/fund/plans	4	2	48	4	41
Commission arrangements between agent and company	3	6	19	8	65
Past performance of insurance or investment company	10	1	60	4	25
Past performance of policy	6	1	58	7	28
Ability to cease contributions without penalty	12	2	40	11	34
Current tax benefits	12	3	62	9	13
Whether tax benefits were likely to be dependent on future Government policy changes	3	5	46	8	38
Cooling-off period	2	1	54	10	33
Size and financial condition of insurance or investment company	6	2	54	7	32
Who you should complain to about problems with the policy	1	1	40	5	53

Source: Roy Morgan Research Centre (RMRC), Unpublished material prepared for the TPC.<sup>21</sup>

<sup>21</sup> Roy Morgan Research Centre (RMRC), Unpublished material prepared for the TPC.



3.28 In light of these findings and recommendations made to it, the Committee believes that additional information should be given at the point of sale.

**Recommendation 3.1:**

The Committee recommends that information provided to potential policy holders be presented in a brief and standardised format which will allow consumers to compare different products. (This information would be in addition to the more detailed contractual information.)

The Committee further recommends that the brief and standardised information include:

- a written description of each investment option facing the consumer and an outline of the general policy and strategy of the fund;
- a written description of all fees and charges, (including any initial, on-going and/or termination fees/charges) and, where these are variable, the minimum and maximum charges;
- details of any penalties which may be imposed on early termination of the policy and the method of calculating these charges; and
- details of the dispute resolution process which can be accessed if the consumer believes the advice or information provided may be inaccurate.

3.29 The ACA believes that any adviser should be required to keep a written record of the consumer's financial situation and needs (as required in the UK).<sup>22</sup> This requirement would not involve the creation of a large bureaucratic support network, but firms selling superannuation products would need to maintain a file of such advice according to a standard format as prescribed by the ISC. According to the RMRC survey, in 18 per cent of recent life office purchases the quality of the investment decision was found to be poor and this was associated with the source of information and

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<sup>22</sup> Sub no 227, para 7.8.

advice.<sup>23</sup> Such a 'needs analysis' would indicate the appropriateness or otherwise of the superannuation product sold to the consumer.

**Recommendation 3.2:**

The Committee recommends that, in conjunction with investment information, a 'needs analysis' based on the consumer's individual circumstances and preferences should be carried out and retained by both the life office and the consumer as verification of advice to the consumer.

*Clarification of Industry Terminology*

3.30 The Committee's Issues Paper suggested that the introduction of standard terminology would assist consumers in making meaningful product comparisons as well as their understanding of the market. In the United Kingdom, the Securities Industries Board requires that certain standardised phrases be used in promotional documents. A similar approach to common terms used in the industry would benefit consumers.

3.31 Commenting on the standardisation of terminology, the ISC stated that it:

... acknowledges that while standardised nomenclature would be useful, it may be difficult to enforce on a legislative basis. In most areas of commerce the legislative requirements or titles are not often used by industry participants in their dealings with the public. Any introduction of standardised terminology might well lead to standardisation in communication between certain parties but not in the final interface between the company/intermediary and the consumer.<sup>24</sup>

3.32 The Committee notes that LIFA is currently developing proposals to simplify policy documentation and related material. These proposals should be evaluated by the ISC with a view to their introduction, where appropriate, throughout the industry.

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<sup>23</sup> RMRC, op cit, p 4.

<sup>24</sup> ISC, Response to the *Issues Paper*, p 13.

**Recommendation 3.3:**

The Committee recommends that the ISC encourage the adoption by the industry of standard clauses within promotional material and contract documentation and the adoption of plain English documentation.

In implementing this policy, appropriate material for consumers from a non-English speaking background should also be developed.

**Disclosure of Fees and Commissions**

3.33 The range of fees payable by members of occupational and industry superannuation funds depends on the extent to which services such as record keeping and administration, investment management and custodial services are contracted out or performed in-house. The market is highly competitive for the provision of these services and costs are thereby kept to a minimum. In addition disclosure of such fees is mandatory.

3.34 With regard to personal superannuation, that is contracts between individuals and providers (usually life insurance offices), a range of fees is imposed to recoup the commissions paid to agents and costs to the life office. These may take the form of establishment fees, annual fees, exit fees or a combination of these.

3.35 The question as to whether agents should disclose to potential customers the amounts and bases of commissions they receive has aroused sharp differences of opinion. The general rationale for disclosure is that it is necessary in order to ensure that the market is fully informed, a prerequisite for being fully competitive. There are, however, a number of more specific reasons for disclosure.

3.36 The traditional life insurance industry was dependent on a marketing system based on commission payments to agents, or 'consultants', who operated as independent businesses, some tied to one company, others independent. While there is only limited objective evidence available, the system lent itself to inefficiencies in establishment and operating costs. The most telling evidence is that which points to high rates of policy surrenders and low policy surrender values indicating substantial leakages from the

retirement income flow. Certainly, the time spent on unsuccessful one-to-one canvassing had to be paid for out of commissions on successful sales. As companies tried to build market share, they tended to increase benefits to agents, either through higher commissions or through other devices such as very low interest loans. One submitter informed the Committee that, in addition to renewal and asset based commissions, some agents received 'overwrite' commissions based on aggregate production which can be as high as 70% of the initial commission.<sup>25</sup>

3.37 The question the Committee asks is, where there is a standardised product type, why, in the context of a compulsory superannuation environment, which may be extended at some future juncture to include the entire workforce, including the self-employed, is it necessary for anyone to pay hundreds or even thousands of dollars for the privilege of taking out a superannuation policy? However, the Committee affirms that, consistent with any award or employment contracts, those members of the workforce who wish to purchase superannuation plans should still be free to choose a product of their choice, regardless of its front end commissions or other charges.

3.38 Commissions on regular premium superannuation products are sufficiently large as to be the dominant factor in the setting of exit fees or surrender values on discontinued contracts, particularly in the early years. As noted previously, this was the principal area of complaints to the Committee and, in some cases, over 90 per cent of the first two years' premiums were absorbed in this way. As more than half of all super policies are discontinued within six years, the scope for misunderstanding at best and deception at worst, is obvious. Increased levels of disclosure at the outset would, by allowing for comparison of advisory service costs, assist in minimising these problems.

3.39 Information presented to the TPC shows that more than two-thirds of purchases of superannuation products relied on oral information presented by the agents and about the same proportion knew the agents prior to the commencement of the discussions.<sup>26</sup> It is quite apparent, therefore, that personal factors, such as trust, friendship, integrity and the like, play a major

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<sup>25</sup> The joint submission of 5 March 1993 from the Australian Society of CPAs and the Institute of Chartered Accountants (Joint CPA submission), p 5.

<sup>26</sup> RMRC, *op cit.* pp 3-5.

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part in clients' attitudes to agents. This being so, a reminder that the agent is the representative of, and is legally accountable to, the company rather than the client would be appropriate. Recommendation 3.6 addresses this matter.

3.40 Both the companies and the agents have supported the existing system on the grounds that the agent performs a valuable task in the provision of financial advice, geared to long-term planning. It was submitted that this is a highly skilled function and one worthy of adequate reward.<sup>27</sup> If this is the case, then the adviser has a duty to inform the client of the 'fee' payable for the advice, just as the client has a right to know the charges. The client would then be in a position to compare the advice, and its cost, with that available from professional investment advisers operating on a fee-for-service, rather than a commission, basis. In any event, the argument falls down completely since the commission is paid on the sale value, rather than the time spent.

3.41 Finally, full disclosure of commissions would inhibit, if not completely eliminate, the practice of 'twisting', that is advising the client to surrender a policy in order to take up a new one, thereby earning the agent a new commission. It would also assist customers to make a rational choice when a number of different products are offered by the same company. At present, there is a strong temptation for agents to promote those products which earn the largest commissions. This practice is referred to in industry jargon as 'commission bias'.

#### *The TPC Inquiry*

3.42 The TPC inquiry recommended that all insurance intermediaries should be required to disclose the amounts of commission and other benefits payable by the supplier as a result of the sale of superannuation products. In arguing this case the TPC also pointed to 'commission bias', whereby the level of commission influences the type of product recommended by the agent. The Committee agrees that the level of commission has the potential to influence the marketing strategy employed by some agents and that a greater openness by agents, and an expectation on the part of consumers to be made aware of all relevant costs associated with the sale of superannuation plans, would virtually eliminate this bias.

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<sup>27</sup> LIFA, sub no 114, p 27; Australian Lifewriters Association, sub no 49, p 2 and submission to TPC, pp 3-4.

3.43 In conducting its inquiry, the TPC commissioned a number of consumer surveys and a series of analytical studies, one of which was conducted by the investment adviser, Mr Daryl Dixon. Mr Dixon's research made conclusions about the quality of decisions for a sample of recent purchasers. He found that on a five point ranking scale ranging from 'excellent' to 'very poor' that 81 per cent of recent purchasers made average or better decisions while 18 per cent made poor or very poor decisions.

3.44 The TPC compared Mr Dixon's ratings with the information provided to customer data (see table 3.4) and concluded that:

there appeared to be a strong relationship between the quality of the purchase decision and being 'told' about commission arrangements. Those who were told about commission arrangements made an 'excellent' decision three times more often than those who recorded 'didn't mention'<sup>28</sup>

#### *Australian Law Reform Commission Report No 59*

3.45 The Australian Law Reform Commission (ALRC) report No. 59 on *Collective Investments: Superannuation* concluded that disclosure of commissions 'will assist people to be aware when buying a policy of any sort, what the benefit is to the seller'. The ALRC therefore recommended that life agents selling superannuation should be subject to the same disclosure requirements as the Corporations Law which provides for disclosure to the client by the adviser of any interest which may be capable of influencing a recommendation, and of any benefit which may flow to the adviser from the recommendation.<sup>29</sup>

#### *Definitions of 'Commission' and 'Disclosure'*

3.46 The view that commissions should be disclosed was generally supported by consumer groups. It was suggested that the disclosure of commissions would help consumers make rational and informed choices as to the appropriate product for their individual circumstances. For example, the ACA recommended disclosure of commissions at both pre-contractual

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<sup>28</sup> Op cit, Trade Practices Commission, p 98.

<sup>29</sup> ALRC, *Collective Investments: Superannuation*, 1992, p 8.

and contractual stages.<sup>30</sup> It was also suggested that disclosure would allow comparisons between different products and with other products of a similar type.

3.47 LIFA stated that greater disclosure of fees and charges 'would assist potential superannuation fund members make as informed decision as possible'.<sup>31</sup> During the inquiry LIFA further contended that it:

does not believe that a potential policy holder or superannuation fund member needs to know what the agent or sales person receives by way of remuneration in order to make an informed decision.<sup>32</sup>

3.48 A difficulty with commission disclosure is in its definition as commissions paid to agents can take many forms. For example, LIFA stated:

does it [commission disclosure], for instance, include non-cash remuneration, which is not uncommon in many industries including the life insurance industry. If, for disclosure purposes, commission was defined in purely cash terms, the potential for avoiding disclosure by remunerating agents with non-cash benefits is patently obvious. Even where an agent's remuneration is in cash, this often takes many different forms such as retainer plus commission, office allowance etc.<sup>33</sup>

A further difficulty is the complexity in calculating commissions for products other than single premium policies.

3.49 These problems can be directly addressed by the inclusion in legislation of a definition of 'commission' sufficiently broad so as to encompass these variations and establish the relationship between companies and agents. For this initiative to be successful, it is essential that the ISC and the industry liaise and strike an appropriate outcome.

3.50 The *Issues Paper* noted that current guidelines require disclosure of fees and charges for some life products. The requirements provide that regular premium products must state the effect of all charges, including

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<sup>30</sup> ACA, sub no 227, para 4.1.

<sup>31</sup> Sub no 114, p 31.

<sup>32</sup> *ibid*, p 32.

<sup>33</sup> *ibid*

commissions, on policy benefits<sup>34</sup>. However the ISC guidelines do not require commissions to be identified separately.<sup>35</sup> In responding to the Issues Paper, the ISC reaffirmed its policy that regular premium products must state the effect of all charges including commission. The ISC further submitted that it was examining the issue of commission disclosure and that it was participating in the TPC inquiry.<sup>36</sup>

3.51 The position of LIFA, whilst it is under review, is that 'all fees and charges will be disclosed, as well as the effect thereof on benefits'.<sup>37</sup> The Committee believes that, whilst this regime is a sound one in respect of giving consumers information about the products being sold, it falls short of allowing them to make independent and informed judgements about the motives of the agent selling the product and the cost of the financial advice prior to sale. The latter point is one which the Office of Fair Trading (UK) also holds. It believes that commission disclosure, or 'price transparency', will enhance competition on price and quality amongst financial advisers.<sup>38</sup>

3.52 In view of the unequal bargaining regime between life offices and consumers as illustrated in the case studies in Chapter 2 and analysed in paragraphs 3.33 to 3.51 the Committee believes that additional disclosure is necessary.

**Recommendation 3.4:**

The Committee recommends that life insurance agents disclose both orally and in writing the amounts of commission, as well as other benefits that accrue to them, as a consequence of the sale of personal and group superannuation products.

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<sup>34</sup> ISC Circular 276

<sup>35</sup> Sub no 151, p 35.

<sup>36</sup> Submission No 151, Additional material of 17 November 1992, p 17.

<sup>37</sup> See Appendix F, p 84.

<sup>38</sup> Op cit, London Economics, p 1.



3.53 But any moves towards increased disclosure should only be made after appropriate consultation between the industry and the regulator, the ISC. The regime which is promulgated should not place insurance agents in a position whereby they are the only party in the superannuation industry with a duty to disclose the cost of their services. In this regard all providers of superannuation products will also need to disclose costs which materially affect the price and returns of the product and/or the way in which it is marketed.

3.54 The Committee believes that the fluidity of the superannuation industry is such that new product types will be developed with a view to avoiding this new commission disclosure regime. The role of the industry watchdog, the ISC, will be critical in ensuring that new growth products reflect both the spirit and the letter of the new requirements thereby ensuring that high standards of consumer welfare are upheld.

3.55 Any new and more detailed disclosure regime should be regularly reviewed by the ISC and reported to the Parliament for examination by an appropriate parliamentary committee.

**Recommendation 3.5:**

The Committee recommends that any new commission disclosure scheme applying to life insurance agents be reviewed by an appropriate Senate Committee within three years.

3.56 The Committee stresses that, whilst, commission disclosure by agents and other parties is an important issue, it is not the only issue and it has at times distracted attention from more fundamental considerations of critical long term importance.

### **Disclosure Standards Consistent With Agency Relationship and Statement of Relationship**

3.57 In its submission to the Committee, the Attorney General's Department stated that:

Consumers often complain that subsequently they discover that they have been sold products which are inappropriate to their circumstances because the sales person was either swayed by influences such as commissions rather than their needs or lacked the professional skills to provide adequate advice.<sup>39</sup>

3.58 Similarly the ACA stated that it was very hard for consumers to assess the independence and appropriateness of the 'advice' they receive which meant that they 'are very susceptible to exploitation and that the role of the intermediary is critical'.<sup>40</sup> Because existing guidelines do not require disclosure of the nature of the agency relationship, consumers can be confused as to the status of agents when they are described as 'independent' advisers.

3.59 In the Australian market place, there are four types of agency relationships: sole agent, first option, multi-agent and life broker. It should be noted that current guidelines do not require the agent to provide information regarding the type of agency relationship he or she has with the life office. However, as was pointed out by the Attorney General's Department<sup>41</sup> and Mr Michael Petch<sup>42</sup> the non disclosure of a commission by an agent selling superannuation products to a principal (client) would be an offence under the secrets commission provisions of the criminal codes in the States and Territories.

3.60 The Attorney General's Department submission took care to point out that these provisions do not apply to situations where the person receiving a commission is the agent only of the provider of the superannuation package. These provisions do not, therefore, comprehensively cover the disclosure of fees, charges and commissions, as the greater majority of personal superannuation sales involve agents who have life office principals.<sup>43</sup>

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<sup>39</sup> Sub no 107, p 32.

<sup>40</sup> Sub no 227, Attachment, p 5.

<sup>41</sup> Submission no 107, Supplementary material of 19 August 1992.

<sup>42</sup> Submission no 228.

<sup>43</sup> Op cit, Attorney General's submission, p2.

### *Sole Agents*

3.61 Typically a sole agent represents only one life office. Although the sole agency agreement requires the agent not to hold an agency with any other life office, the agent may offer products sourced from the parent company or its subsidiaries or other approved companies. The Trade Practices Commission estimates that 50% to 60% of regular premium insurance is distributed through the agency system.

### *First Option Agents*

3.62 First option agencies allow the agent to offer products from other companies at the agent's discretion but there is usually a requirement that they not offer other products which compete with those of their principal life office.

### *Multi-Agents*

3.63 Multi-agents have agency agreements with several life offices. The advantage of the multi-agent arrangement for the agent is that it allows the agent to select from products offered by a wider range of companies. The number of multi-agents grew rapidly in the 1980's mainly as a result of decisions of some of the smaller life offices to move away from the sole agency approach to marketing.

### *Life Brokers*

3.64 The majority of life brokers operate in the corporate market where they arrange group life and managed funds for corporate superannuation schemes. They play only a small role in the regular premium superannuation market. Life brokers charge a fee for advice provided.

### *Towards Increased Disclosure of Agent-Principal Relationships*

3.65 The Committee agrees with the ACA that agents should disclose their agency relationship at the outset 'as either a sales representative or an independent adviser and which company [or companies] they represent as required in the UK.'<sup>44</sup>

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<sup>44</sup> Sub no 227, para 7.7.

3.66 These disclosure requirements will ensure that consumers are aware of the agents' status and relationship with life offices. The statement of agency relationship should be included at the beginning of the 'needs analysis' to verify that the consumer was informed as to the particular agency arrangement.

3.67 This approach flows from the concept of 'polarisation' of the type of agent providing the advice. The *Issues Paper* suggested that to ensure that agents or advisers provide impartial, objective financial advice it would be necessary for agents to identify clearly whether they are 'tied' to a life insurance company/office or are independent agents. The concept of the polarisation of agents already operates in the United Kingdom.<sup>45</sup>

**Recommendation 3.6:**

The Committee recommends that, to distinguish the role of the different types of agents and life brokers, agents should be required to disclose:

- the organisations with which the agent holds agency agreements;
- whether the agent is acting for the life office(s) with which the agent holds agency agreements and the nature of the fiduciary relationship with the life office;
- whether the agent is remunerated in whole or in part by commission on behalf of the life offices for selling the companies' life products;
- whether the commission will be paid from charges imposed by the policy; and
- the manner in which early surrender charges will be calculated.

<sup>45</sup> G. Moon, sub no 123, p 21.

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## Amortising Commissions

3.68 In the *Issues Paper*, the Committee stated that:

To overcome the problem of high up-front commissions dissolving contributions in instances of early termination, and to ensure that agents provide on-going service to clients, it could be prescribed that commissions should be amortised or spread across the life of products, or a set period, say, ten years.<sup>46</sup>

Indirectly, the proposal would also mean that life companies would take greater responsibility for the activities of their agents.

3.69 While this proposal would be effective in restricting the expense 'penalties' a life office can charge on early termination, these charges or expenses would fall unevenly as between discontinuing and continuing policyholders. As the ISC stated:

... there would be a fundamental trade off in amortising commissions in that continuing policyholders would pay for terminating policyholders. This is particularly relevant in mutual insurance companies (which dominate the industry) where any cost imposed on the company falls on the policyholders. It may be seen as unfair to consumers to impose on long-term policyholders costs which have arisen from the decision of other policyholders to terminate a contract early.<sup>47</sup>

3.70 The ISC also indicated that there is a trend to flatter commission payments as life offices reduce the emphasis on initial commissions as a form of agent remuneration.<sup>48</sup> The Committee notes that the ISC opposed compulsory changes to the pattern and timing of commission payments. The Committee believes that greater disclosure, including level of commissions and the nature of the agency relationship, will be the key determinant in driving a competitive trend towards the spreading of commissions.

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<sup>46</sup> pp 63-64. The joint submission of 5 March 1993 from the Australian Society of CPAs and the Institute of Chartered Accountants, whilst not arguing for prescription, also supported this objective.

<sup>47</sup> Sub no 151, Supplementary material, p 17.

<sup>48</sup> *ibid*, p 18.

## Capping Fee Levels

3.71 In response to the evidence of alleged excesses in fee levels, the *Issues Paper* discussed whether it would be appropriate to impose a ceiling on the fees and charges set by life companies. The paper concluded that this and other proposals to restrict the level of fees:

were not supported by any detailed analysis of how restricted fee levels would be determined, who would determine them, how they would be monitored ... and, more importantly, how this sort of direct regulation would impact on the industry'.<sup>49</sup>

3.72 Addressing the specific proposal to set fee levels, the ISC highlighted its potential to distort market forces and reduce competition:

There are a number of problems with attempting to impose a cap on fee levels in industries as diverse and competitive as the life insurance and superannuation industries. A major problem with capping fee levels, as with most forms of artificial price fixing, is that it will reduce competition and distort market forces. In the long run, this is likely to lead to higher charges as companies will tend to charge the fee scale approved by the Government. In capping fee levels, the Government will be relying on signals from companies, who will pressure the Government to increase fee levels in times of rising costs but not to decrease in times of decreasing costs. Another problem with capping fees is that consumers will not be able to use the price of a product when attempting to make a judgment on its value relative to other comparable products.<sup>50</sup>

3.73 In a competitive market such fees and charges – the costs of managing an investment – reflect the type, quality and extent of the services provided. While placing a ceiling on fees would have the initial effect of stimulating demand for life products if fees were set at an artificially low level, restricted fee levels may lead to cross-subsidisation between product types and consumers which would, in the longer term, outweigh any of the immediate benefits.

3.74 The Committee accepts that life offices and superannuation funds should be free to set appropriate fees and charges but that such fees need

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<sup>49</sup> *Issues Paper*, op cit, p 61.

<sup>50</sup> Sub no 151 (Supp), p 11.

to be monitored independently to ensure that the fees and associated charges are in relation to the services provided to consumers.

**Recommendation 3.7:**

The Committee recommends that the Prices Surveillance Authority closely monitor the level of fees, charges and commissions applying to superannuation products and report on its activities in this area in its Annual Report to Parliament.

## 14-Day Cooling-Off Period

3.75 Current ISC guidelines provide for a minimum 14-day cooling-off period<sup>51</sup>. This is designed to allow consumers the opportunity to cancel a new policy within the 14-day period without any financial penalty. In its supplementary submission the ISC commented that:

The introduction of the 14-day 'free look' period into the Insurance Contracts Act arose out of a key recommendation in the Law Reform Commission report (No.20) on Insurance Contracts' and that it is intended to strike a balance in meeting the interests of insurers in that they need to finalise their administrative arrangements quickly, and the interests of policyholders in that they have 14 days in which to consider the policy.<sup>52</sup>

3.76 While the *Issues Paper* highlighted the high rate of discontinuance [30 per cent according to the Rice-Kachor Research, *Investment Account Analysis*] and early terminations, the industry did not believe that a higher proportion of consumers would rescind a contract if the 14-day period were extended to 28 days. LIFA noted that:

at least one life office offers a 21 day free-look period and there is no evidence to suggest that a vastly greater number of consumers take advantage of the extended 'cooling off' period.<sup>53</sup>

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<sup>51</sup> ISC Circular 276 para 4.5 (a)

<sup>52</sup> Sub no 151 (Supp), p 14.

<sup>53</sup> LIFA, Comments on *Issues Paper*, p 7.

3.77 In practice, the 14-day cooling-off period commences once the consumer receives the policy document and, in most cases, he or she will have had time to consider whether or not to proceed with the policy before receipt of the contract. As the ISC stated, 'this amounts to more than 14 days after a decision to purchase a contract at which time the policy holder receives a disclosure statement'.<sup>54</sup>

3.78 The Committee believes that the placement of the 14-day cooling off notice should take prominence on the disclosure document and be clearly and simply expressed. In addition, in the interest of having greater standardisation of consumer terminology the term 'free-look' period which is found in the *Insurance Contracts Act* should be termed more appropriately the 'cooling-off' period.

**Recommendation 3.8:**

The Committee recommends that the *Insurance Contracts Act* be amended such that the term 'free look period' is replaced by 'cooling off period' and made to apply to all personal superannuation products.

## Dispute Resolution

3.79 In its first report *Safeguarding Super: The Regulation of Superannuation*, the Committee recommended the development and publication of internal dispute resolution procedures and the establishment of an external review body comprising an authority chaired by an ombudsman to examine disputes where these could not be resolved satisfactorily through internal mechanisms.<sup>55</sup> The rationale for an external disputes body to examine consumer complaints was to ensure transparency and independence in the handling of complaints. A further advantage of an independent body was that it would provide strong consumer involvement in the management of the dispute process.

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<sup>54</sup> Sub no 151 (Supp), p 14.

<sup>55</sup> Supplementary Submission, op cit, p 143.



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3.80 New dispute resolution arrangements were announced by the Treasurer in October 1992. These arrangements will apply to occupational and personal superannuation products as follows:

75. Each fund will, as a condition of compliance, develop appropriate internal arrangements for the handling and consideration of queries and complaints in a timely manner (that is, within 90 days). The fund will also be required to notify these procedures to members on entry and annually.

76. It will also be a condition of compliance that a fund be a party to the external dispute resolution arrangements. Under these arrangements, decisions will be made by a Tribunal chaired by a statutory office holder. In addition to the statutory office holder, the Tribunal will comprise two other persons, drawn by the Chair from a panel of fund trustees, consumer representatives and other people with appropriate experience. These arrangements will apply to all types of superannuation products, including those offered by life offices.<sup>56</sup>

3.81 The need for government intervention in the dispute resolution process is even more important now that superannuation is compulsory in the workplace. It follows, therefore, that the proposed dispute resolution tribunal should be given the responsibility of adjudicating on disputes arising out of contracts entered into after 1 July 1992, the date of commencement of the superannuation guarantee legislation.

3.82 The majority of complaints will still be resolved through internal dispute resolution arrangements. In this regard, LIFA has instituted a centralised, three-tiered complaints system. The procedure involves policyholders taking their complaints initially to the company's complaints officer. If a satisfactory outcome cannot be achieved the complaint is then considered at a more senior level within the company. Finally, the complaint can be referred to LIFA's Complaints Review Committee. The Review Committee's decision is binding on the company but not on the policyholder.

3.83 According to LIFA the most common complaints relate to alleged misrepresentation by agents followed by alleged administrative errors. These two categories account for around 83 per cent of all complaints. This would

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<sup>56</sup> John Dawkins, *op cit*, p 51. Legislation giving effect to these proposals was introduced into Parliament in December 1992 and withdrawn but was reintroduced on 27 May 1993 in the form of the Superannuation (Resolution of Complaints) Bill 1993.

confirm that a major difficulty in resolving complaints is verifying the information and advice given by agents, especially if the agent gave advice which was contrary to any promotional and written material provided by the company. The potential for confusion by consumers about policy information was raised by the ACA when it submitted that:

when a consumer is approached by an insurance intermediary it will often be the first contact he or she has ever had with investment products, life insurance or superannuation'.<sup>57</sup>

3.84 While the enhanced disclosure of information will reduce the reliance on oral advice in the selling process, agents should also promote consumer awareness of dispute resolution procedures (see recommendation 3.1).

3.85 The Committee considers a small minority of consumer complaints are so serious that they constitute serious and wilful malpractice on the part of a very small number of participants in the industry. Accordingly, in dealing with disputes retrospective legislation is justified.

**Recommendation 3.9:**

The Committee reiterates its recommendation in *Safeguarding Super* that an external review body be established to adjudicate on superannuation disputes.

The Committee further recommends that Government's proposed dispute resolution tribunal adjudicate on consumer complaints arising out of personal superannuation contracts entered into after 1 July 1992 where these have not been satisfactorily resolved at the company or industry level.

## Consumer Protection Initiatives

3.86 Product knowledge and competition among life offices and funds is the most effective way of ensuring that fees and charges are not excessive.

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<sup>57</sup> Sub no 227, Attachment, p 5.

The disclosure of fees, charges and commissions and other relevant product features will ensure that consumers are fully aware of these in making comparisons between different products offered by life offices. Working in tandem with this initiative there needs to be an ongoing campaign by key participants in the superannuation industry to ensure that consumers know the 'basics' of retirement incomes arrangements. This campaign (as one submitter correctly points out) should be the responsibility of both the government and the private sector and, ultimately, has the potential to achieve more desirable outcomes than legislation alone.<sup>58</sup>

3.87 The Committee notes that under its previous charter the ISC was 'industry-oriented' and did not discharge any substantial consumer responsibilities. Under its enhanced budget and statutory responsibilities in the superannuation education area, the ISC will be in a position to make considerable advances to benefit consumers.

**Recommendation 3.10:**

The Committee recommends that the ISC and key superannuation industry groups representing the interests of consumers and providers, combine to develop and implement a five year superannuation consumer education strategy for implementation in early 1994.

3.88 The provision of consumer counselling services for personal superannuation products would further ensure that consumers purchasing superannuation products will have added protection against the information provided verbally during the selling process.

**Recommendation 3.11:**

The Committee recommends that consumer counselling services be provided by the ISC in each of the capital cities and major regional centres.

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<sup>58</sup> Joint CPAs submission, op cit, p 15.

## Licensing of Agents

3.89 The Committee received a range of views concerning the licensing of agents. For example, the ACA wanted all life insurance agents to be registered with the ISC, but it did not support licensing on the grounds that this would give life agents a status which they do not deserve, and would thereby entrench consumers' problems'. However ACA supported the need for agents and advisers to be adequately trained.<sup>59</sup> On the other hand, LIFA favoured a system of agent identification and registration and greater regulatory powers for the ISC, although the costs and benefits of such regulation would need to be carefully evaluated. LIFA stated that it is:

anxious to minimise unscrupulous selling practices by agents as much as possible. Accordingly, the industry has announced the development of a self-regulatory mechanism for life office agents which will involve the establishment of an agent registration system. This will comprise an agent register, a code of practice for agents and the establishment of minimum training and education standards for agents. Improvements will also be made to agent recruiting and supervisory practices. These measures are aimed at maintaining adequate supervision of agents by life offices as well as appropriate levels of competence and professionalism on the part of intermediaries'.<sup>60</sup>

3.90 The development of these proposals was outlined by Mr I Chalmers of the Australian Lifewriters Association (ALA) during the Super Consumer Seminar:

Since May 1992, LIFA has joined ALA in working towards an effective co-regulatory scheme ... This co-regulatory scheme is intended to apply to all intermediaries, not just life insurance agents, who are involved in the sale and servicing of life insurance products. The proposed licensing scheme is expected to be based on the achievement of a mandatory minimum training qualification, annual professional development requirements and adherence to a prescriptive code of conduct ... It is anticipated that there will be an independent board comprising representatives of insurers, intermediaries, government and consumers. The scheme is intended to be self-funded.<sup>61</sup>

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<sup>59</sup> Submission No 227, Additional Material, (Recommendation 7.3).

<sup>60</sup> Comments on the *Issues Paper*, p 10.

<sup>61</sup> *Proceedings of the Super Consumer Seminar*, 4 November 1992, pp 95-6.

3.91 In reaching a conclusion about the need for agent licensing the Committee has had to consider a number of finely balanced arguments. On the one hand the Committee believes that, under a compulsory superannuation regime, governments have a responsibility to ensure that those selling superannuation products should be 'fit and proper' persons demonstrating the highest ethical standards. On the other hand, a licensing system controlled by government has the potential to create a barrier to entry for new agents which could result in excessive fees and charges and entail the creation of another small, yet costly, bureaucracy.

3.92 The Committee believes that the appropriate balance could be struck using a mix of ISC supervision and industry self regulation and registration whereby the industry, in close consultation with the ISC, could set minimum education and qualification standards, establish an agent code of practice and maintain a register of agents.

**Recommendation 3.12:**

The Committee recommends that the industry establish and maintain an agent registration system, together with a code of conduct to be approved by the ISC.

3.93 The matter of agent registration is of central importance to improving the quality of advice given to consumers. Accordingly, the Parliament should maintain a close interest in developments in this area.

**Recommendation 3.13:**

The Committee recommends that the ISC report annually on developments in the area of agent registration and that in three years an appropriate Senate committee inquire into and report on this matter.

## **Towards a Balance in Decision-Making – Will Disclosure Improve the Quality of Consumers' Decisions?**

3.94 The question that has been raised repeatedly in this report is what impact will disclosure have on the nature of the investment decisions, that is, how important is disclosure to the quality of consumers' decisions. The research commissioned by the TPC found that a high proportion of consumers who had recently purchased a life product – 18 per cent according to the Roy Morgan Research Centre survey – had made poor decisions. Further, the survey found that 37 per cent of respondents who had discontinued their policies had made a loss on their investment as a result of early termination. Professor Fels, Chairman of the TPC, referred to this problem in his pre-conference address to the Super Consumer Seminar opining:

I believe as a result of our research on the written documentation provided to consumers that inadequate written disclosure is one part of the cause for these poor decisions. I am pleased to note that the industry also accepts this view ... and has made a number of constructive proposals to address it.<sup>62</sup>

3.95 The Committee believes that enhanced disclosure standards will directly address these problems at the stage before an investment decision is made. It is critical to recognise the need for an appropriate balance in decision-making, that is, the balancing of risks between the risk the consumer wishes to bear, as his or her personal circumstances change over time, and the risks inherent in portfolio investment. From a consumer's perspective the risks he or she is assuming are not the same as those of an investment portfolio. The purchase of a superannuation product is not a one-off decision but is a dynamic and ongoing occurrence and in most cases consumers are not told of the risks they are assuming when they make the investment. Informed choices by consumers will redress this imbalance.

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<sup>62</sup> *ibid*, p xix.

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## **Conclusion — Disclosure As A Means of Promoting Competition**

3.96 During the period of the inquiry the Committee has observed considerable overall progress towards making personal superannuation more competitive and open. However, whilst in some areas there has been substantial improvement, other areas still require fundamental reform. If this reform does not occur, it is likely that consumers will continue to have unequal bargaining power.

3.97 The Committee believes that the consumers of personal superannuation products must be empowered through knowledge. That knowledge should include comprehensive information about the costs of both advisory services and superannuation products per se, as well as knowledge about the precise contractual obligations that the agent has in relation to the life office promoting each product.

3.98 The Committee has constructed a detailed and integrated package of empowerment for the consumer which will go a long way towards redressing the gross imbalances which currently exist in the personal superannuation industry.

3.99 This report recommends that consumers be provided with simply-worded policy literature which will allow product-by-product comparison. It supports the conclusions of the TPC and ALRC reports which call for disclosure of agent commissions and relationships. It agrees with the Government's decision to set up an external low cost dispute resolution mechanism to hear consumer complaints, and it makes a number of other recommendations which strengthen and enhance the package of reforms.

3.100 When fully implemented these reforms will promote greater competition and efficiency and will ensure that all members of the workforce will be able to participate effectively in the new superannuation arrangements in Australia which aim to increase significantly the level of self provision for retirement.<sup>63</sup>

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<sup>63</sup> TPC, *Life Insurance and Superannuation 1992*, TPC, p 92.





## MINORITY REPORT - Senator Cheryl Kernot

In my view there is one area of the report which needs further expansion. This is the section concerning Capping Fee Levels (paras 3.71 - 3.74).

I do not dissent with recommendation 3.7, although this is, of itself, not an adequate response to the problem of customers being subject to large and unreasonable charges under whatever guise.

I accept that many of the excesses of the past have been discontinued, and that the industry is adopting fairer practices. However, this encouraging trend does not remove the need for a 'safety net'.

My aim in calling for limitations on fees, charges and commissions is simply to ensure that ordinary people are not 'ripped off'. The promotion of competition is supported and the enhancement of the competition by adequate disclosure is strongly supported - but we must also ensure that unreasonable charges are illegal.

There are three areas which need to be separately regulated - the fees and commissions charged by agents, the on-going administrative charges of the funds themselves and the fees levied by investment managers. Merely forcing the disclosure of these imposts will not guarantee that consumers are adequately protected.

The monitoring of the Prices Surveillance Authority (PSA) will assist competition. I am of the view that this body will be most likely to uncover unfair and/or excessive fees. **Consequently, the PSA should also be given a power to recommend to the Treasurer that a particular fee cap be imposed on any of the three areas mentioned above.**

I do not propose this additional recommendation in order to attack the industry. I am concerned that consumers are not disadvantaged by an unscrupulous minority. This is particularly the case where contracts contain provisions allowing fees or charges to be introduced without notice during the term of the contract.

In addition to the case studies detailed in Chapter 2 of the report, the Committee has received much evidence from casual and itinerant workers that, in some cases, the total amount of superannuation in a fund is being absorbed by administration charges. This inequity has a big effect on the opinions of the affected people as to whether superannuation is worthwhile. Consequently, it can be argued that allowing 'ripoffs', even if they only occur in a minority of cases, undermines the Government's push to increase national superannuation savings.

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## APPENDIX A: TERMS OF REFERENCE

On 5 June 1991 the Senate established a Select Committee on Superannuation to inquire into, and report on, the following matters:

- (a) the constitutional arrangements governing superannuation;
- (b) the taxation arrangements which apply to superannuation;
- (c) the adequacy of prudential control arrangements applying to superannuation funds;
- (d) the implications for the financial system of the expected growth in superannuation fund assets;
- (e) the investment of moneys by superannuation funds;
- (f) the ownership of surpluses in defined benefit superannuation funds;
- (g) the level and structure of fees and commissions charged in relation to superannuation fund membership and asset management;
- (h) the information available to members of superannuation funds;
- (i) the representation of fund members in trustee structures of superannuation funds;
- (j) the dispute resolution mechanisms available to members of superannuation funds;
- (k) the rules applying to contributions and the vesting and preservation of benefits;
- (l) the appropriate means of providing adequate superannuation for part time and casual employees and the feasibility of providing superannuation for people outside the workforce;

- (m) the rate of employer non-compliance with superannuation awards;
- (n) the possibilities for simplifying superannuation;
- (o) the feasibility of providing improved benefits to superannuation arrangements in lieu of increased contributions under superannuation awards in appropriate circumstances;
- (p) the need for an appropriate target and timetable for the achievement of adequate levels of superannuation; and
- (q) any other relevant matters, including superannuation arrangements existing in other countries.

**APPENDIX B**  
**TABLE OF COMPLAINTS**

<b>NUMBER</b>	<b>NAME</b>	<b>PROVIDER</b>	<b>COMPLAINT ALLEGES</b>
8	N E Renton	Westpac	Fee increased arbitrarily - no mention in contract (in evidence, not submission).
9	Kingsley Siebel	Not Given	\$3 000 exit fee on premiums of \$19 000 over 8 years
13	David McJannet	National Mutual	High management charge, 4% penalty on switch.
15	Phillip R Garrett	Guardian Royal Exchange Insurance	Excessive fees in early years.
17	David Schwarz	MLC	Exit fees. Obscure language.
22	Julian Lucas	General Comment	Fees excessive.

NUMBER	NAME	PROVIDER	COMPLAINT ALLEGES
24	Graeme Hearn	MLC	Non-disclosure of excessive fees and commissions. Misleading information e.g. exclusion of fees and taxes from calculation of future benefits. Confusing jargon in documentation.
47	Brendan Fisk	General	Commissions inhibit independent financial advice. Admin/management fees too high.
54	Peter Chamen	General	Super returns poor. Fees should be based on earnings, not assets.
70	Mrs M Belshaw	(1) Super Trust of Australia (2) Colonial Mutual	Fees and taxes excessive - may (with tax) absorb whole contribution - even leave a member in debt.
90	Jacques Martin		Quantifies impact of various levels of fees on final benefits.
97	Taxpayers' Association of Tasmania	Nexis (National Mutual) BUS (Jacques Martin)	Complaints about freedom of choice.

NUMBER	NAME	PROVIDER	COMPLAINT ALLEGES
99	Jack Foley	National Mutual	<p>11 documented case studies:</p> <p>A Employment of NM employees as trustees breaches the independence requirement.</p> <p>B Members of NM super plans, who contribute 74% of premium income, should have voting rights.</p> <p>C NM had used incorrect information to further its takeover of T and G and had introduced retrospective exit fees without notification or amendment of policies.</p> <p>D Inadequate disclosure of fees; excessive transfer fees; undisclosed fees; administrative inefficiency.</p> <p>E NM acted on verbal request of employer to withhold refund of contributions to a terminating employee on grounds of alleged debt to employer.</p> <p>F NM had been negligent in not ensuring remittance to fund of contributions withheld from wages.</p>

NUMBER	NAME	PROVIDER	COMPLAINT ALLEGES
			<p>G Low standard of information on administration costs and contributions tax.</p> <p>H Inefficiency in carrying out payment instructions, causing higher fees and taxes.</p> <p>I NM followed employer's instructions in preference to those of employee re choice of fund.</p> <p>J Death and disability cover sold as super.</p> <p>K Processing delays, at employer's request, on fund commencement deprived employees of death/disability cover.</p>
123	Gillian Moon	General	Comprehensive analysis of arguments re full disclosure.
131	L De Visser	Mercantile Mutual	Errors in statement cost \$950.
139	AFCO	General	Total disclosure essential.
145	Trade Practices Commission		Generally relevant on all consumer issues.



NUMBER	NAME	PROVIDER	COMPLAINT ALLEGES
153 159 160 161	Gary Crawford A J Weijers W Foster Lech Gierczycki	WA State Super Fund	No vesting or preservation. Very poor retrenchment/resignation benefits.
162	H Ramakrishnan	CSS	No vesting on resignation.
179	W J Armstrong	National Mutual	High fees/charges. Low surrender value.
180	Arthur Rutter	NSW State Super	Poor investment returns.
184	Mike Taylor	WA Government Employees Super	Same as submission no. 160. Plus vulnerability of benefits to arbitrary reduction.
193	Errol Grace	CSS	Poor earnings.
200	Mark Ellis	General	Fees and commissions excessive.
213	W H Blanchard	T & G	Misleading sales information - aggressive selling.
215	R L H Wilson	National Mutual	Excessive fees.
216	C A Banner	MLC	Policy compulsorily paid out by MLC under Reg 5AC(2) and (11). Early surrender charge of \$2300 deducted from \$8000 benefit.

NUMBER	NAME	PROVIDER	COMPLAINT ALLEGES
217	Rosalie Cogger	National Mutual (BP)	Main complaint is at BP trustees for tardiness and wrong decision on deceased member benefit. NM criticised for investment policy and failure to communicate.
220	J P Toohy	AMP	Imposition of "adjustment index" fee on lump sum policy - no mention either verbally or even in small print. Agent had never heard of it.
224	Ian Craig	National Mutual	Excessive fees, poor returns.
226	A T Kenos	Zurich Australia	Excessive early cancellation fee.
228	Michael Petch	Scottish Australia/Colonial Mutual	Excessive cancellation fee.
230	Ron Kain	AMP	Adjustment Factor Index (see sub no. 220)
234	Keith M Sayers	Colonial Mutual (advised verbally)	High exit fees. Inadequate pre-sale information. Refusal to provide further information.
238	Les Sadowsky	National Mutual	Excessive exit fees. False information on sale.
245	Alan Wilson	Australian Eagle	Ordinary life policy sold as super.

NUMBER	NAME	PROVIDER	COMPLAINT ALLEGES
246	Mediterranean Shipping Company	National Mutual	<ol style="list-style-type: none"> <li>1) High exit/rollover fee. Not mentioned until 3 years after purchase.</li> <li>2) Misunderstanding of, or misleading information on, meaning of "capital guaranteed".</li> <li>3) Poor administration.</li> <li>4) Conflict of interest - NML were trustees and fund managers.</li> </ol>
265	N M Davidson	National Mutual	<ol style="list-style-type: none"> <li>1) Excessive fee on transfer - <ul style="list-style-type: none"> <li>. Premium paid \$3 000</li> <li>. Transfer value \$262</li> </ul> </li> <li>2) Failure to respond to written and verbal queries.</li> </ol>
266	Sonia Nolan	NCR Super / National Mutual	Disagreement over total and permanent disability claim.
268	J Morris	Telecom Super Scheme	Delay in paying benefits involved substantial loss of interest.
270	Condon's Business Centre	AMP	Asset Adjustment Index Factor (see sub no. 220). Charged on withdrawals. No prior notice or inclusion in documentation.
273	G L & G L Woodley	National Mutual	Rollover fee of \$3 500 on fund value of \$14 000. Not foreshadowed in sales literature.
274	H A New	Scottish Australian	95% rollover fee to new fund.

NUMBER	NAME	PROVIDER	COMPLAINT ALLEGES
292	Nicol & Nicol	National Mutual	Excessive fees on rollover to new fund.

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## APPENDIX C : LIST OF SUBMISSIONS RE ON-GOING INQUIRY

### – IN NUMERICAL ORDER

<b>Sub No</b>	<b>Name</b>
No 1	Gynn, W J
No 2	Fisher F
No 3	Newman, C A
No 4	Liquor Trades Union, The
No 5	Perry, K F
No 6	Walsh, A
No 7	Buildings Union Superannuation
No 8	N E Renton & Associates
No 9	Serendip Publications
No 10	InterData Pty Ltd
No 11	Correspondence only
No 12	Trau, Dr J
No 13	McJannet, D
No 14	Davies, D
No 15	Garrett, P R
No 16	Samson, S W
No 17	Schwarz, D
No 18	Restuccia, V
No 19	Downs, B
No 20	Clayton Utz
No 21	Adams, G
No 22	Lucas, J M
No 23	Cartledge, O
No 24	Hearn, G
No 25	Foley, E
No 26	Civil Service Association of WA
No 27	Owens, E S & Co
No 28	Independent Schools Superannuation Trust
No 29	Burns, W G
No 30	<b>In camera</b>

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No 31	ACT Council of Social Service Inc
No 32	Hughes, D
No 33	Shell Superannuation Rights Committee
No 34	Australian Salaried Medical Officer Association
No 35	Australian Council of Social Service
No 36	Belshaw, W J
No 37	Smith, B
No 38	Boffa, G
No 39	Arthur Andersen & Co
No 40	Williams, T
No 41	Prudential Life Underwriters Association (NSW)
No 42	Nipper, M R G and Weeks, P L
No 43	Prudential Assurance Company Ltd
No 44	Retired Associate Members' Branch Public Service Association of NSW
No 45	Myuna Pty Ltd
No 46	du Cros, N
No 47	Fisk, B
No 48	Trustee Companies Association
No 49	Australian Lifewriters Association
No 50	Australian Small Business Association
No 51	Long, P D
No 52	Knox, Professor D
No 53	Tribunal on Homosexuals and Discrimination
No 54	Chamen, P
No 55	Metal Trades Industry Association of Australia
No 56	National Association of Nursing Homes & Private Hospitals Inc
No 57	Duesburys
No 58	Morgan Stockbroking Ltd
No 59	IOOF Australia
No 60	Non-Government Schools Superannuation Fund
No 61	Alexander Consulting Group, The
No 62	Metal Manufacturers Limited
No 63	National Australia Bank
No 64	Women's Action Alliance (Australia)
No 65	Chamber of Commerce & Industry of WA
No 66	Melbourne Metropolitan Board of Works (MMBW) Employees' Superannuation Fund
No 67	Yann, R N
No 68	Secondary Colleges Staff Association
No 69	Ulverstone Chamber of Commerce

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No 70	Belshaw, M
No 71	Wilson, The Hon Ian, MP
No 72	Crouch, W G
No 73	ANZ Bank
No 74	Independent Insurance & Superannuation Agencies
No 75	Cooley, L M
No 76	Australian Finance Conference
No 77	Northern Territory Superannuation Office
No 78	Lee, W A
No 79	Mercer Campbell Cook & Knight Inc
No 80	Noble Lowndes
No 81	Commonwealth Department of Industrial Relations
No 82	Klumpes, Dr P J M
No 83	National Farmers Federation
No 84	WA Government Employees Superannuation Board
No 85	Australian Government Employees Superannuation Trust
No 86	Smith, A W J
No 87	Turner, M
No 88	White, B
No 89	Association of Superannuation Funds of Australia Ltd, The
No 90	Jacques Martin
No 91	CSA Consulting Group
No 92	Mansfield, G
No 93	Civic Securities Pty Ltd
No 94	Australian Retirement Fund
No 95	Australian Chamber of Manufactures
No 96	AM Corporation Ltd
No 97	Taxpayers' Association of Tasmania, The
No 98	County NatWest
No 99	<b>In camera</b>
No 100	National Mutual
No 101	Chifley Superannuation Services
No 102	Commonwealth Funds Management Ltd
No 103	Coles Myer Ltd
No 104	National Association of Personnel Consultants Ltd
No 105	Bankers Trust Australia Limited
No 106	Australian Council of Trade Unions
No 107	Commonwealth Attorney-General's Department
No 108	Institute of Actuaries of Australia, The
No 109	Retirement Benefits Office
No 110	Motor Inn & Motel Association of Australia, The

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No 111	Langley-Bates, D
No 112	NSW Farmers' Association
No 113	Motor Trades Association of Australia (MTAA) Superannuation Fund
No 114	Life Insurance Federation of Australia Inc
No 115	WA Minister for Productivity and Labour Relations
No 117	Metway Corporation
No 118	NSW Minister for Industrial Relations
No 119	Australian Society of Certified Practicing Accountants and The Institute of Chartered Accountants in Australia (joint submission)
No 120	AMP
No 121	Hanson, Mr J H
No 122	SA Minister of Finance
No 123	Moon, G
No 124	Taxation Institute of Australia, The
No 125	Australian Pensioners & Superannuants Federation and Combined Pensioners & Superannuants Association of NSW
No 126	Women's Economic Think Tank
No 127	Commonwealth Department of Social Security
No 128	Qld Director-General, Office of the Cabinet
No 129	Davey & Associates
No 130	Women's Electoral Lobby Australia Inc
No 131	de Visser, L
No 132	Westpac Banking Corporation
No 133	Griffin, P
No 134	Australian International Pilots Association
No 135	State Insurance Office of Victoria (SIO) Consumer Appeals Centre
No 136	Australian Friendly Societies Association
No 137	Whittimore-Hull, J
No 138	Trades and Labor Council of Western Australia
No 139	Australian Federation of Consumer Organisations
No 140	Victorian Automobile Chamber of Commerce
No 141	Rothschild Australia Asset Management Limited
No 142	Federated Ironworkers' Association of Australia
No 143	Jacques Martin - Reply to Tasmanian Taxpayers
No 144	National Association of Nursing Homes & Private Hospitals Inc
No 145	Trade Practices Commission
No 146	Shell Australia Contributory Pension Fund
No 147	Smith, Dr G F
No 148	Australian Association of Permanent Building Societies
No 149	Docker, A R
No 150	University of NSW Superannuation Economics Research Group



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No 151	Insurance and Superannuation Commission
No 152	Commonwealth Department of Community Services & Health
No 153	Crawford, G J
No 154	Investment Funds Association of Australia Limited
No 155	Australian Taxation Office, Commissioner of Taxation
No 156	Langfield-Smith, I
No 157	Health Employees Superannuation Trust Australia
No 158	National Mutual - Nexis Proprietary Limited
No 159	Weijers, A J
No 160	Foster, W
No 161	Gierczycki, L M
No 162	Ramakrishnan, H
No 163	Permanent Trustee Company Limited
No 164	Industry Research and Development Board
No 165	Health Employees Superannuation Trust Australia Ltd (HESTA)
No 166	Shell Superannuation Rights Committee
No 167	Shell Australia Contributory Pension Fund
No 168	Unity Action Group for Retired Persons
No 169	Crome, I
No 170	Campbell, B G
No 171	Knight, Dr J
No 172	Australian Council on Smoking and Health
No 173	Commonwealth Bank of Australia
No 174	Clothier, D P
No 175	Australian Government Employees Superannuation Trust
No 176	<b>In camera</b>
No 177	Selstay Pty Ltd
No 178	Mulhallen, J G & Sons (Vic) Pty Ltd
No 179	Armstrong, W J
No 180	Rutter, A
No 181	Australian Workers' Union
No 182	Sly and Weigall
No 183	<b>In camera</b>
No 184	Taylor, M
No 185	SA Employers' Federation
No 186	Australian Securities Commission
No 187	Grey, P
No 188	Pacific Industrial Investments
No 189	CIG Employees' Superannuation Fund
No 190	Reserve Bank of Australia
No 191	Aitkin, J

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No 192	Harrower E
No 193	Grace E
No 194	University of Melbourne, Dr Graham Smith
No 195	Commonwealth Treasury
No 196	SBC Dominguez Barry Ltd
No 197	Financial Planning Association of Australia
No 198	Commercial and International Finance Consultants Pty Ltd
No 199	Australian Eagle Superannuation
No 200	Ellis, M
No 201	Moore, E J
No 202	Morley, B
No 203	Tindal, B
No 204	Shell Australia Limited
No 205	Tasmania Treasury
No 206	Mathews, S R
No 207	Humann, D
No 208	Human Rights and Equal Opportunity Commission
No 209	<b>In camera</b>
No 210	Colonial Mutual Investment Management
No 211	Pollard, D
No 212	Advance Bank
No 213	Blanchard, W
No 214	Moore, A
No 215	Wilson, R
No 216	Banner, C
No 217	Cogger, R
No 218	Poole, R
No 219	Kelberg, J
No 220	Toohey, J P
No 221	Tickner, B C
No 222	Ushay, F
No 223	C S Superannuation Pty Ltd
No 224	Craig, W
No 225	Voeth, K
No 226	Kenos, Dr
No 227	Australian Consumers Association
No 228	Petch, M
No 229	Norrish, Rex M & Associates
No 230	Kain, M
No 231	Richardson, G D & H D
No 232	Browne, T J

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No 233	Australia Post Superannuation Scheme
No 234	Sayers, K
No 235	CBA Financial Services
No 236	Shilton, N
No 237	Gorringe, K
No 238	Sadowsky, L
No 239	Peppin Financial Centre
No 240	Skinner, A
No 241	Vere, P
No 242	ABCI
No 243	Abrahams, B
No 244	Intech Management Pty Limited, Mr Schaffer
No 245	Correspondence only
No 246	Mediterranean Shipping Company
No 247	Bailey, R
No 248	Dewar, L
No 249	Greco, L
No 250	Mulray, K
No 251	Stevens, H
No 252	Negus, K
No 253	Brown, I
No 254	Ashfield, R
No 255	Greco, A
No 256	Allcock, L
No 257	Dukas, E
No 258	Jones, G
No 259	Emmenick, C
No 260	Friar, A
No 261	Pittaway, M
No 262	Housing Industry Association Limited
No 263	Allen Consulting Group
No 264	Cartledge, D
No 265	Davidson, N M
No 266	Nolan, S
No 267	Matusek, P
No 268	Morris, J
No 269	Trotter, Mrs K; The Gap P&C Association
No 270	Condon's Business Centre
No 271	Financial Counselling Services (QLD) Inc
No 272	Kaye, Captain C
No 273	Woodley, G L & G L

No 274	New, H A
No 275	<b>In camera</b>
No 276	Equity Life Limited
No 277	AM Corporation Ltd
No 278	Queensland Arts Council
No 279	<b>In camera</b>
No 280	Department of Social Security
No 281	Wilson, B
No 282	Jasprizza & Co, E A
No 283	Williams, V D (not available)
No 284	Watterson, D K and B I
No 285	Tones, D
No 286	Richards, H.J.
No 287	Moss, G.L. (The Enterprise Council Inc.)
No 288	Dixon, Mr Daryl
No 289	Dearson, Mr C J T
No 290	Hanson, Mr Chris
No 291	<b>In camera</b>
No 292	Nicol & Nicol
No 293	<b>In camera</b>
No 294	Institute of Chartered Accountants
No 295	McGuire, Ms Beverly
No 296	Simsoms, Mr Gundars
No 297	Hollowell, Mr M K
No 298	<b>In camera</b>
No 299	<b>In camera</b>
No 300	Bennett, Mr Ron
No 301	Barton, Mr I W
No 302	Jarvis, Ms Dorothy

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## APPENDIX D : LIST OF SUBMISSIONS RE ON-GOING INQUIRY

### – IN ALPHABETICAL ORDER

<b>Sub No</b>	<b>Name</b>
No 242	ABCI
No 243	Abrahams, B
No 31	ACT Council of Social Service Inc
No 21	Adams, G
No 212	Advance Bank
No 191	Aitkin, J
No 61	Alexander Consulting Group, The
No 256	Allcock, L
No 263	Allen Consulting Group
No 96	AM Corporation Ltd
No 277	AM Corporation Ltd
No 120	AMP
No 73	ANZ Bank
No 179	Armstrong, W J
No 39	Arthur Andersen & Co
No 254	Ashfield, R
No 89	Association of Superannuation Funds of Australia Ltd, The
No 233	Australia Post Superannuation Scheme
No 148	Australian Association of Permanent Building Societies
No 95	Australian Chamber of Manufactures
No 227	Australian Consumers Association
No 172	Australian Council on Smoking and Health
No 35	Australian Council of Social Service
No 106	Australian Council of Trade Unions
No 199	Australian Eagle Superannuation
No 139	Australian Federation of Consumer Organisations
No 76	Australian Finance Conference
No 136	Australian Friendly Societies Association
No 85	Australian Government Employees Superannuation Trust
No 175	Australian Government Employees Superannuation Trust

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No 134	Australian International Pilots Association
No 49	Australian Lifewriters Association
No 125	Australian Pensioners & Superannuants Federation and Combined Pensioners & Superannuants Association of NSW
No 94	Australian Retirement Fund
No 34	Australian Salaried Medical Officer Association
No 186	Australian Securities Commission
No 50	Australian Small Business Association
No 119	Australian Society of Certified Practising Accountants and
No 155	Australian Taxation Office, Commissioner of Taxation
No 181	Australian Workers' Union
No 247	Bailey, R
No 105	Bankers Trust Australia Limited
No 216	Banner, C
No 301	Barton, Mr I W
No 70	Belshaw, M
No 36	Belshaw, W J
No 300	Bennett, Mr Ron
No 213	Blanchard, W
No 38	Boffa, G
No 253	Brown, I
No 232	Browne, T J
No 7	Buildings Union Superannuation
No 29	Burns, W G
No 223	C S Superannuation Pty Ltd
No 170	Campbell, B G
No 264	Cartledge, D
No 23	Cartledge, O
No 235	CBA Financial Services
No 65	Chamber of Commerce & Industry of WA
No 54	Chamen, P
No 101	Chifley Superannuation Services
No 189	CIG Employees' Superannuation Fund
No 93	Civic Securities Pty Ltd
No 26	Civil Service Association of WA
No 20	Clayton Utz
No 174	Clothier, D P
No 217	Cogger, R
No 103	Coles Myer Ltd
No 210	Colonial Mutual Investment Management
No 198	Commercial and International Finance Consultants Pty Ltd

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No 107	Commonwealth Attorney-General's Department
No 173	Commonwealth Bank of Australia
No 152	Commonwealth Department of Community Services & Health
No 81	Commonwealth Department of Industrial Relations
No 127	Commonwealth Department of Social Security
No 102	Commonwealth Funds Management Ltd
No 195	Commonwealth Treasury
No 75	Cooley, L M
No 245	Correspondence only
No 11	Correspondence only
No 98	County NatWest
No 224	Craig, W
No 153	Crawford, G J
No 169	Crome, I
No 72	Crouch, W G
No 91	CSA Consulting Group
No 129	Davey & Associates
No 14	Davies, D
No 131	de Visser, L
No 289	Dearson, Mr C J T
No 280	Department of Social Security
No 248	Dewar, L
No 288	Dixon, Mr Daryl
No 149	Docker, A R
No 19	Downs, B
No 46	du Cros, N
No 57	Duesburys
No 257	Dukas, E
No 200	Ellis, M
No 259	Emmenick, C
No 276	Equity Life Limited
No 142	Federated Ironworkers' Association of Australia
No 271	Financial Counselling Services (QLD) Inc
No 197	Financial Planning Association of Australia
No 2	Fisher F
No 47	Fisk, B
No 25	Foley, E
No 160	Foster, W
No 260	Friar, A
No 15	Garrett, P R
No 161	Gierczycki, L M

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No 237	Gorringe, K
No 193	Grace E
No 255	Greco, A
No 249	Greco, L
No 187	Grey, P
No 133	Griffin, P
No 1	Gynn, W J
No 290	Hanson, Mr Chris
No 121	Hanson, Mr J H
No 192	Harrower E
No 157	Health Employees Superannuation Trust Australia
No 165	Health Employees Superannuation Trust Australia Ltd (HESTA)
No 24	Hearn, G
No 297	Hollowell, Mr M K
No 262	Housing Industry Association Limited
No 32	Hughes, D
No 208	Human Rights and Equal Opportunity Commission
No 207	Humann, D
No 273	Woodley, G L & G L
No 275	<b>In camera</b>
No 274	New, H A
No 184	Taylor, M
No 238	Sadowsky, L
No 279	<b>In camera</b>
No 246	Mediterranean Shipping Company
No 209	<b>In camera</b>
No 183	<b>In camera</b>
No 99	<b>In camera</b>
No 30	<b>In camera</b>
No 268	Morris, J
No 270	Condon's Business Centre
No 266	Nolan, S
No 265	Davidson, N M
No 228	Petch, M
No 176	<b>In camera</b>
No 230	Kain, R
No 291	<b>In camera</b>
No 292	Nicol & Nicol
No 298	<b>In camera</b>
No 293	<b>In camera</b>
No 299	<b>In camera</b>



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No 74	Independent Insurance & Superannuation Agencies
No 28	Independent Schools Superannuation Trust
No 164	Industry Research and Development Board
No 108	Institute of Actuaries of Australia, The
No 294	Institute of Chartered Accountants
No 151	Insurance and Superannuation Commission
No 244	Intech Management Pty Limited, Mr Schaffer
No 10	InterData Pty Ltd
No 154	Investment Funds Association of Australia Limited
No 59	IOOF Australia
No 90	Jacques Martin
No 143	Jacques Martin - Reply to Tasmanian Taxpayers
No 302	Jarvis, Ms Dorothy
No 282	Jasprizza & Co, E A
No 258	Jones, G
No 272	Kaye, Captain C
No 219	Kelberg, J
No 82	Klumpes, Dr P J M
No 171	Knight, Dr J
No 52	Knox, Professor D
No 226	Kenos, Dr
No 156	Langfield-Smith, I
No 111	Langley-Bates, D
No 78	Lee, W A
No 114	Life Insurance Federation of Australia Inc
No 4	Liquor Trades Union, The
No 51	Long, P D
No 22	Lucas, J M
No 92	Mansfield, G
No 206	Mathews, S R
No 267	Matusek, P
No 295	McGuire, Ms Beverly
No 13	McJannet, D
No 66	Melbourne Metropolitan Board of Works (MMBW) Employees' Superannuation Fund
No 79	Mercer Campbell Cook & Knight Inc
No 62	Metal Manufacturers Limited
No 55	Metal Trades Industry Association of Australia
No 117	Metway Corporation
No 123	Moon, G
No 214	Moore, A

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No 201	Moore, E J
No 58	Morgan Stockbroking Ltd
No 202	Morley, B
No 287	Moss, G.L. (The Enterprise Council Inc.)
No 110	Motor Inn & Motel Association of Australia, The
No 113	Motor Trades Association of Australia (MTAA) Superannuation Fund
No 178	Mulhallen, J G & Sons (Vic) Pty Ltd
No 250	Mulray, K
No 45	Myuna Pty Ltd
No 8	N E Renton & Associates
No 56	National Association of Nursing Homes & Private Hospitals Inc
No 144	National Association of Nursing Homes & Private Hospitals Inc
No 104	National Association of Personnel Consultants Ltd
No 63	National Australia Bank
No 83	National Farmers Federation
No 100	National Mutual
No 158	National Mutual - Nexis Proprietary Limited
No 252	Negus, K
No 3	Newman, C A
No 42	Nipper, M R G and Weeks, P L
No 80	Noble Lowndes
No 60	Non-Government Schools Superannuation Fund
No 229	Norrish, Rex M & Associates
No 77	Northern Territory Superannuation Office
No 112	NSW Farmers' Association
No 118	NSW Minister for Industrial Relations
No 27	Owens, E S & Co
No 188	Pacific Industrial Investments
No 239	Peppin Financial Centre
No 163	Permanent Trustee Company Limited
No 5	Perry, K F
No 261	Pittaway, M
No 211	Pollard, D
No 218	Poole, R
No 43	Prudential Assurance Company Ltd
No 41	Prudential Life Underwriters Association (NSW)
No 128	Qld Director-General, Office of the Cabinet
No 278	Queensland Arts Council
No 162	Ramakrishnan, H
No 190	Reserve Bank of Australia

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No 18	Restuccia, V
No 44	Retired Associate Members' Branch Public Service Association of NSW
No 109	Retirement Benefits Office
No 286	Richards, H.J.
No 231	Richardson, G D & H D
No 141	Rothschild Australia Asset Management Limited
No 180	Rutter, A
No 185	SA Employers' Federation
No 122	SA Minister of Finance
No 16	Samson, S W
No 234	Sayers, K
No 196	SBC Dominguez Barry Ltd
No 17	Schwarz, D
No 68	Secondary Colleges Staff Association
No 177	Selstay Pty Ltd
No 9	Serendip Publications
No 167	Shell Australia Contributory Pension Fund
No 146	Shell Australia Contributory Pension Fund
No 204	Shell Australia Limited
No 33	Shell Superannuation Rights Committee
No 166	Shell Superannuation Rights Committee
No 236	Shilton, N
No 296	Simsoms, Mr Gundars
No 240	Skinner, A
No 182	Sly and Weigall
No 86	Smith, A W J
No 37	Smith, B
No 147	Smith, Dr G F
No 135	State Insurance Office of Victoria (SIO) Consumer Appeals Centre
No 251	Stevens, H
No 205	Tasmania Treasury
No 124	Taxation Institute of Australia, The
No 97	Taxpayers' Association of Tasmania, The The Institute of Chartered Accountants in Australia (joint submission)
No 221	Tickner, B C
No 203	Tindal, B
No 285	Tones, D
No 220	Toohey, J P
No 145	Trade Practices Commission

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No 138	Trades and Labor Council of Western Australia
No 12	Trau, Dr J
No 53	Tribunal on Homosexuals and Discrimination
No 269	Trotter, Mrs K; The Gap P&C Association
No 48	Trustee Companies Association
No 87	Turner, M
No 69	Ulverstone Chamber of Commerce
No 168	Unity Action Group for Retired Persons
No 194	University of Melbourne, Dr Graham Smith
No 150	University of NSW Superannuation Economics Research Group
No 222	Ushay, F
No 241	Vere, P
No 140	Victorian Automobile Chamber of Commerce
No 225	Voeth, K
No 84	WA Government Employees Superannuation Board
No 115	WA Minister for Productivity and Labour Relations
No 6	Walsh, A
No 284	Watterson, D K and B I
No 159	Weijers, A J
No 132	Westpac Banking Corporation
No 88	White, B
No 137	Whittimore-Hull, J
No 40	Williams, T
No 283	Williams, V D (not available)
No 281	Wilson, B
No 215	Wilson, R
No 71	Wilson, The Hon Ian, MP
No 64	Women's Action Alliance (Australia)
No 126	Women's Economic Think Tank
No 130	Women's Electoral Lobby Australia Inc
No 67	Yann, R N

## APPENDIX E: LIST OF WITNESSES RE ON-GOING INQUIRY

WITNESS	Date of Appearance
Actuarial Consultant, Tribunal Working Group	21 February 1992, SYDNEY
Alexander Consulting Group Ltd	19 February 1992, SYDNEY
AM Corporation Limited	18 February 1992, SYDNEY
AMEV Life Assurance	10 April 1992, CANBERRA
Association of Superannuation Funds of Australia	21 February 1992, SYDNEY
Association of Superannuation Funds of Australia	18 February 1992, SYDNEY
Attorney-General's Department	24 February 1992, CANBERRA
Australian Society of Chartered Public Accountants	20 February 1992, SYDNEY
Australian International Pilots Association	19 February 1992, SYDNEY
Australian Pensioners Superannuants Federation	18 February 1992, SYDNEY
Australian Council of Social Service	6 March 1992, CANBERRA
Australian Small Business Association, NSW Division	19 February 1992, SYDNEY
Australian Finance Conference	20 February 1992, SYDNEY
Australian Securities Commission	6 March 1992, CANBERRA
Australian Lifewriters Association	10 April 1992, CANBERRA
Australian Federation of Business and Professional Women	25 March 1992, CANBERRA
Australian Federation of Consumer Organisations	10 April 1992, CANBERRA
Australian Banking Ombudsman	10 April 1992, CANBERRA
Australian Taxation Office	15 April 1992, CANBERRA
Australian Friendly Societies Association	25 March 1992, CANBERRA
Australian Council on Smoking and Health	10 March 1992, PERTH

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Australian Association of Permanent Building Societies	6 March 1992, CANBERRA
Australian Workers Union	9 March 1992, ADELAIDE
Australian Retirement Fund Pty Ltd	11 February 1992, MELBOURNE
Bankers Trust Australia Ltd	19 February 1992, SYDNEY
Dr Owen Cartledge	6 March 1992, CANBERRA
Chamber of Commerce and Industry	10 March 1992, PERTH
Chifley Superannuation Services	18 February 1992, SYDNEY
Civil Service Association of WA Inc.	10 March 1992, PERTH
Clayton Utz Solicitors	18 February 1992, SYDNEY
Combined Pensioners and Superannuants of NSW Inc.	18 February 1992, SYDNEY
Superannuation Financial Services	
Commonwealth Bank of Australia	19 February 1992, SYDNEY
Commonwealth Funds Management Limited	6 March 1992, CANBERRA
Commonwealth Funds Management Limited	6 March 1992, CANBERRA
Mrs Lorna Cooley	13 February 1992, HOBART
County NatWest Australia Investment Management	10 February 1992, MELBOURNE
Mr Gary Crawford	10 March 1992, PERTH
Mr John Dermody	6 March 1992, CANBERRA
Federation of Industrial, Mechanical and Engineering Employees Comalco	13 February 1992, HOBART
Mr John Foley	1 April 1992, CANBERRA
Former Redundant Employees from West Australian Newspapers	10 March 1992, PERTH
Actuary, Godwins Australia Pty Ltd, and Consultant Metal Trades Industry Association of Australia	20 February 1992, SYDNEY
Government Employees Superannuation Board	10 March 1992, PERTH
Professor Robert Gregory	10 April 1992, CANBERRA
Mr Denis Hanley	10 April 1992, CANBERRA
Mr Graeme Hearn	10 March 1992, PERTH
Health, Housing and Community Services, Department of	10 April 1992, CANBERRA
HEST Australia Ltd	9 March 1992, ADELAIDE
Host-Plus	9 March 1992, ADELAIDE
Independent Schools Superannuation Trust	9 March 1992, ADELAIDE
Industrial Relations, Department of	25 March 1992, CANBERRA

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Institute of Chartered Accountants in Australia	20 February 1992, SYDNEY
Institute of Actuaries of Australia	10 February 1992, MELBOURNE
Insurance and Superannuation Commission	30 March 1992, CANBERRA
Investment Funds Association of Australia Ltd	10 April 1992, CANBERRA
IOOF Australia	10 February 1992, MELBOURNE
Associate Professor David Knox	19 February 1992, SYDNEY
Mr Ian Langfield-Smith	10 February 1992, MELBOURNE
Mr Langley-Bates	12 March 1992, MELBOURNE
Mr William Lee	21 February 1992, BRISBANE
Life Insurance Federation of Australia	11 February 1992, MELBOURNE
Lifewriters Association	10 April 1992, CANBERRA
Liquor Trades Union	9 March 1992, ADELAIDE
Mr Julian Lucas	11 February 1992, MELBOURNE
Mr Garth Mansfield	6 March 1992, CANBERRA
Mercer Campbell Cook & Knight	10 February 1992, MELBOURNE
MMBW Employees Superannuation Fund	11 February 1992, MELBOURNE
Ms Gillian Moon	20 February 1992, SYDNEY
Motor Trades Association of Australia	10 April 1992, CANBERRA
Industry Superannuation Fund Pty Ltd	10 April 1992, CANBERRA
Motor Inn, Motel and Accommodation Association	20 February 1992, SYDNEY
Mr Clifford Newman	18 February 1992, SYDNEY
Myuna Pty Ltd	10 March 1992, PERTH
National Mutual Life Association of Australia	11 February 1992, MELBOURNE
National Mutual Life Association	1 April 1992, CANBERRA
National Superannuation Group, Arthur Andersen & Co.	21 February 1992, BRISBANE
National Association of Nursing Homes and Private Hospitals Inc.	19 February 1992, SYDNEY
National Farmers Federation	6 March 1992, CANBERRA
New South Wales Superannuation Office	19 February 1992, SYDNEY
Nexis Pty Ltd	13 February 1992, HOBART
Noble Lowndes Superannuation Consultants Ltd	11 February 1992, MELBOURNE

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Occupational Health and Safety Training Unit Trades and Labor Council of Western Australia	10 March 1992, PERTH
Productivity and Labour Relations, Department of	10 March 1992, PERTH
Provident Fund, Comalco	13 February 1992, HOBART
Prudential Life Underwriters (NSW)	19 February 1992, SYDNEY
Prudential Assurance Co. Ltd	20 February 1992, SYDNEY
Public Service Association of New South Wales	20 February 1992, SYDNEY
Queensland Government Superannuation Office	21 February 1992, BRISBANE
Mr Nicholas Renton	10 February 1992, MELBOURNE
Reserve Bank of Australia	10 April 1992, CANBERRA
Retail, Commonwealth Bank of Australia	19 February 1992, SYDNEY
Retirement Benefits Office	6 March 1992, CANBERRA
Rothschild Australia Asset Management Ltd	10 February 1992, MELBOURNE
Mr Siegfried Samson	13 February 1992, HOBART
SBC Dominguez Barry Limited	19 February 1992, SYDNEY
SBC Dominguez Barry Ltd	10 April 1992, CANBERRA
School of Economics, University of NSW	20 February 1992, SYDNEY
Shell Australia Contributory Pension Fund	18 February 1992, SYDNEY
Shell Superannuation Rights Committee	18 February 1992, SYDNEY
Social Security, Department of	4 March 1992, CANBERRA
South Australian Superannuation Fund Investment Trust	9 March 1992, ADELAIDE
South Australian Treasury	9 March 1992, ADELAIDE
South Australian Employers Federation Inc.	9 March 1992, ADELAIDE
Superannuation Office, NT Government	10 March 1992, PERTH
Taxation Institute of Australia	20 February 1992, SYDNEY
Taxpayers Association of Tasmania	13 February 1992, HOBART
Trade Practices Commission, the Commissioner	4 March 1992, CANBERRA
Dr Jerzy Trau	18 February 1992, SYDNEY
Treasury, Department of the	15 April 1992, CANBERRA



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Trustee Companies Association of Australia	11 February 1992, MELBOURNE
Mrs Margaret Turner	13 February 1992, HOBART
Victorian Automobile Chamber of Commerce	11 February 1992, MELBOURNE
Westpac Banking Corporation	18 February 1992, SYDNEY
Mrs Beverley White	13 February 1992, HOBART
Mr Trevor Williams	9 March 1992, ADELAIDE
Honourable Ian Wilson, MP	9 March 1992, ADELAIDE
Women's Action Alliance	10 February 1992, MELBOURNE
Women's Economic Think Tank	20 February 1992, SYDNEY
Women's Electoral Lobby, Australia	25 March 1992, CANBERRA



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## APPENDIX F: LIFA STATEMENT ON REFORMS

### ADDRESS BY THE LIFA CHAIRMAN TO THE LIFA ANNUAL DINNER THURSDAY, 13 MAY 1993 HYATT HOTEL CANBERRA

#### Introduction

Ladies and gentlemen.

The life insurance industry has long formed part of the financial fabric of this country. Providing both insurance cover and investment opportunities for millions of Australians.

During this time, the industry has adjusted to a great variety of social, political and economic change.

The industry is very competitive and prides itself on its responsiveness to the market in general and to its consumers in particular.

It was in the interests of these consumers and to be responsive to their changing needs and expectations that, twelve months ago at our last annual dinner, we announced our "Position Statement on Consumer Issues".

This policy statement represented a genuine attempt by the industry to address the major criticisms and concerns being expressed by government, the ISC and consumers.

I want to emphasise that the LIFA position statement was not a "knee jerk" reaction to the demands of the consumer lobby groups and it substantially predated the reports of the Trade Practices Commission. The report was the outcome of our own detailed investigations.

The statement committed the industry to initiate a number of reforms:

- a greater level of disclosure,
- development of a licensing system for agents,
- simplification of life office documentation, and
- greater independence and more resources for the industry's inquiries and complaints system.

It gives me pleasure this evening, to report that considerable progress has been made in developing these important initiatives.

It seemed fitting that I should report progress to you at this annual dinner.

In developing our proposals, we have kept in mind the various consumer observations and, more recently, the recommendations of the TPC report, many of which have been adopted. We have also had on-going discussions with the Insurance and Superannuation Commission, the Australian Lifewriters Association, consumers and other interested groups.

But, essentially, what I will outline this evening represents what the industry considers appropriate to ensure consumers are provided with sufficient information to make informed choices and to ensure their interests are properly protected.

Initially, we believed that our proposals should be implemented in a self-regulatory way. However, we have come to recognise that this may not be possible given the nature of the reforms and the desirability of having them apply across the board. Accordingly we were pleased when the ISC indicated that it would deal with some of the issues through regulation.

With those introductory remarks, let me now report progress.

### **Disclosure**

First, disclosure.

Consumers are already provided with an explanatory document at point of sale, a policy information statement at point of policy issue and an annual statement.

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We have consolidated and enhanced these and have added many of the TPC'S recommendations on disclosure and more of our own disclosure initiatives.

The result is as follows:

- The reworked existing disclosure requirements will make it easier for consumers to compare products.
- All fees and charges will be disclosed, as well as the effect thereof on benefits. This will be done in a generalised way at point of sale and in a contract specific way at point of policy issue.

We have not changed our views about the usefulness to the consumer of commission disclosure for its own sake. However, in recent discussions, representatives of the consumers and the TPC expressed the view that disclosure was primarily needed to expose any bias in advice provided. Concern about commission quantum has largely been addressed by our willingness to fully disclose all fees and charges. In the light of this, and in the spirit of resolving the issue, we are actively seeking to find a satisfactory approach and have arranged to have discussions with the ISC about this matter shortly.

- A "client needs analysis" will be undertaken by agents and written recommendations will have to be made and filed with the application for insurance for future reference. The agents written recommendation will be set down in a document to be known as a "Fact Finder".

In this way, a paper trail will be created, which will be of assistance in resolving consumer complaint which may arise subsequently.

Not only will the agents recommendations have to be disclosed in writing, but they will have to be conveyed to the consumer verbally as well.

Life offices will be required to randomly monitor compliance and an agent found lacking in this regard, will have all his recommendations for the past twelve months audited.

- All agents will be required to identify the capacity in which they are acting. Steps will be taken to prevent agents claiming to be providers of independent advice where this does not apply.

While agents cannot, strictly speaking, provide independent advice, because they act for the life office they represent they must and do provide quality advice. Our reforms are designed to facilitate the provision of such quality advice.

- Standard "health warnings" will be included in life office disclosure documents, such as alerting consumers to the disadvantages of surrendering their policies early and entering into long-term contracts if they have short-term needs or horizons.

### **Agent Regulation**

The second area of major reform is in the area of agent regulation.

The need for life offices to assume greater responsibility for the regulation of their agents is clearly the rationale behind the LIFA proposal for an agent licensing system.

We initially considered the possibility of having agents individually licensed by a separately constituted agent licensing board.

However, the model that has since proven more acceptable and which has now been endorsed by LIFA is what might term a "proper authority" system.

This "proper authority" system, under which life offices will formally authorise agents to sell particular products, certainly places more responsibility for agent regulation at the door of the life office.

While the *Agents and Brokers' Act* already does much of this, our proposal introduces more stringent requirements:

- For instance, our "proper authority" proposal will be underpinned by a comprehensive code of conduct requiring agents to act responsibly and ethically.
- Minimum competency standards on an industry wide basis, will also be prescribed for agents.
- We believe a register of agents should be established and maintained by the ISC, which life offices would have to consult prior to engaging an agent who had previously worked in the industry.

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Essentially, the proposals we have developed will result in agents being better trained and equipped to sell life insurance and superannuation and better regulated by life offices.

For their part, life offices will become even more accountable and responsible for the actions of their agents.

Greater professionalism and transparency, all round will be the result.

### **Documentation**

The third area of reform is in the area of documentation.

I would have to say that life insurance documents are often complex and sometimes difficult to understand. It is incumbent on the industry to address this issue and to present information to consumers in a form they can more readily understand.

While some life offices have already taken steps to simplify their documentation, LIFA believes that the issue should also be tackled on an industry-wide basis.

To assist us in this area, we have established a special documentation task force and retained the services of an "expert" on plain English, Professor David Kelly, a former Chairman of the Victorian Law Reform Commission.

Professor Kelly has already provided LIFA with one report, which is a general examination of the need for the industry to simplify substantially its documents.

At its April meeting, the LIFA Board approved significant funding for Professor Kelly to prepare a second report, in which he will examine four products, namely:

- regular premium superannuation,
- insurance bonds,
- disability incomes, and
- allocated pensions.

Plain English model documents will be produced, the intention being that these will be put forward as guides or models for the industry to follow.

While clearer and better information is required, it must be information which is:

- meaningful to the average person;
- focussed on salient features;
- fair, that is, capable of assisting comparisons with competing products without distortion; and
- economic, in meeting consumer needs at reasonable cost.

It is also very important, to balance the needs of the consumer for information against the costs and benefits of its provision.

This is a complex issue and it will take some time to effect widespread change but a good start has been made.

### **Inquiries and Complaints System**

While the industry's policyholder complaints resolution system does not enjoy the full support of some consumer groups, I believe I can say quite legitimately that it is functioning effectively.

That is not to say change or refinement is unnecessary and an early response is to promote the system more widely so that it is as accessible to policyholders as it should be.

The response time in resolving policyholders complaints are not satisfactory and consumers probably need more assistance in formulating and pursuing their complaints.

Last year, we appointed an independent executive officer for the system and that appointment has enabled us to provide a better service.

More resources and further refinements are required. However, we have been awaiting the outcome of a major review of our system before committing additional resources and making further changes to our system.



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That review, undertaken by an independent consultant, Issues Australia, has now been completed and many recommendations for change have been put forward.

LIFA is presently working through these recommendations and those which will make our complaints resolution system better will be adopted.

We will be having discussions with the Insurance Industry Complaints Council, which is responsible for overseeing our system, and with the ISC in the next few weeks.

I am sure the outcome will be that the industry will:

- promote the service more widely,
- commit more resources to the system,
- provide greater assistance to complainants to pursue their complaint,
- work strenuously to reduce the time taken to deal with complaints, and
- make the system more transparent by making more information available to interested groups.

The industry wants and needs a credible complaint resolution system, but one which involves both conciliation and, if that fails, arbitration.

I am confident we will achieve this objective by the end of the year, following implementation of many of the recommendations contained in Issues Australia's report.

### **Conclusion**

Ladies and gentlemen, these are major reforms on which we have been working for twelve months.

In developing them we consulted widely and, I believe they will be generally acceptable.

As I said earlier, they represent what the industry considers appropriate to ensure consumers are provided with adequate information and to ensure their interests are properly protected.

We now have a consultative document which we can formally discuss with our regulator, the ISC.

And, further consultation with other interested groups will be undertaken as soon as possible.

It would be remiss of me if I did not take this opportunity to thank the Australian Lifewriters Association for its support and assistance.

LIFA and the ALA are increasingly working together and co-operating for the good of the whole industry and there is every reason to be confident that this partnership will continue.

It is now imperative, for the changes to be implemented as quickly as possible. There is a great deal of uncertainty in the market place, which will only be dispelled when the change and reforms are put into place and people know exactly what the rules are and where they stand.

It remains to be seen whether our proposals are accepted by the ISC and the extent to which they will be implemented in a regulatory or self-regulatory way is not clear at this stage.

What is clear, however, ladies and gentlemen, is that the reforms we have crafted to meet the needs and expectations of consumers will undoubtedly provide them with a greater degree of protection and assistance than has hitherto been the case.

Much is made today of the need to avoid discriminatory practices and to achieve level playing fields.

While the spotlight has, of late, been on the life insurance industry, it should not remain there. It needs also to be directed to other sectors of the financial industry, otherwise there will be an unlevel playing field.

I said at the Annual General Meeting this afternoon, the Chinese curse, "may you live in interesting times", is our lot today.

Ours is a dynamic industry and over the last few years, the life insurance industry has been subjected to continuous change.

The ability to adapt, change and to meet the ever-changing needs and expectations of consumers have been traditional hallmarks of the life insurance industry.

We believe we have met, or gone a very long way to meeting, the consumer challenge and we now look forward over the next few months to working with the ISC and others to implement the reforms I have outlined this evening.

Thank you.



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## APPENDIX G: GLOSSARY

Approved Deposit Fund (ADF)	A tax-effective method of investing a member's ETP. The lump sum payment and the earnings on it remain tax free while in the fund. An ADF has to be withdrawn by age 65.
Award Based Contributions (or Award Superannuation)	Contributions determined by an Industrial Tribunal paid by the employer to a superannuation plan for all eligible employees.
Capital Guaranteed Fund	The original capital and sometimes declared investment return are guaranteed.
Capital Stable Fund	These funds have slightly more risk than capital guaranteed funds because, in addition to low risk fixed interest assets, they often include investments in low risk equities or shares.
Eligible Termination Payment (ETP)	Any lump sum payment (or a payment in instalments, not regarded as income) made in respect of a taxpayer, other than directly to a dependant of a deceased taxpayer, in consequence of termination of the employment or death of the taxpayer (including a payment from a superannuation fund, rollover, deferred annuity or ADF). An amount paid to a taxpayer, to the dependants or estate of a deceased taxpayer or to other persons in commutation of an annuity or a superannuation pension, or as the residual capital value of such an annuity or pension, is also an ETP.

Equities	Stocks and shares not bearing fixed interest.
Life Office	A firm which sells life insurance and other insurance products, for example, life cover, superannuation bonds, annuities and superannuation.
Life Policy	A contract of insurance agreed to when a person purchases life insurance.
Lost Member	The classification given to a member of a superannuation fund whose current postal address is not available.
Lump Sum Benefit	A benefit paid out in a single cash payment.
Master Trust	A trust arrangement which allows a single trustee appointed by the promoters of funds to administer and manage the superannuation funds of a number of employers.
Occupational Superannuation	Pension or retirement benefit arising from an employment contract.
Portability	Allowing a superannuation plan to be transferred from one fund (or one employer) to another.
Preservation	Maintenance of a member's entitlements in a superannuation fund until a specified minimum age (usually at least 55).
Rollovers	When a member changes jobs and takes an ETP from a superannuation fund, ADF or DAF, this lump-sum can be transferred to other schemes without losing the tax advantage.

Securities	Financial instruments which are evidence of debt or of property. Bonds, certificates of stock and shares are documents which indicate the existence of a security.
Superannuation Fund	Fund designed to produce retirement benefits for members. To attract concessions, it must have these characteristics: (a) be indefinitely continuing and (b) be maintained solely for following purposes: provision of benefits for fund members, or for dependants of each member in the event of death, or any other purpose allowed by the Insurance and Superannuation Commission in writing.
Trust	A fiduciary relationship in which one person (the trustee) holds the title to property for the benefit of another (the beneficiary).
Trust Deed	Formal document setting out rules governing how a fund operates.