

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Securities and Investment Commission

Question: BET 324 - 327

Topic: - ASIC Powers

Reference: written - 15 June 2015

Senator: Dastyari, Sam

Question:

ASIC has (repeatedly) asked for increased powers for product intervention, the right to deny financial licence applications, and to prosecute managers who fail to properly supervise their employees.

- 324. Presumably ASIC supports the FSI recommendations that it should have greater powers to take a more proactive approach to product intervention? (Y/N)
- 325. Does the Minister support the FSI recommendations?
- 326. Does ASIC have a view about products that might be subject to such a power?
- 327. Could this power deal with products that are considered poor value for consumers (like funeral insurance or consumer credit insurance)?

Answer:

- 324. Yes
- 325. The Government has established a consultation process led by Treasury before it makes decisions on the Inquiry recommendations.
- 326. ASIC considers that the power should generally be available across the retail financial services market.
- 327. ASIC considers that the power could be used to address situations of market failure producing widespread poor consumer outcomes. ASIC cited a number of examples of such market failures in its submissions to the Financial System Inquiry. Whilst the power would not be available just because a product was 'considered to be poor value', a product being poor value for money often coincides with such market failures and the two can be causally linked.

For example, in the period prior to the Inquiry, ASIC undertook focussed work on funeral insurance because the problems with marketing, disclosure and product design meant that for many consumers it ended up being very poor value for money and did not meet their needs. Consumers could and did pay significant amounts in premiums without realising that if they ceased paying they would no longer have cover for their funeral. They also did not realise that their premiums would increase as they aged such that when the product was most likely to be needed, they might not be able to afford to maintain cover in place. And where purchasers could not maintain cover, they got no benefit from payments made to the point in time when cover lapsed, which could involve significant amounts of money.

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However, ASIC could not easily address the problems with funeral insurance. Whilst we had power over advertising that was legally misleading, addressing that would not solve the broader problems and we could not of our own accord generate a change to product design. Whilst in practice, exposing the issues, moral suasion and a consumer group campaign did produce some change, that was a very indirect, slow and uncertain route to obtain necessary adjustments to the way the product was designed and marketed. A product intervention power would allow ASIC to intervene more directly and effectively in such situations.