

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates 14 – 15 February 2007

Question: aet112

Topic: Financial Advice - issuing of communiqués, agreements or understandings

Hansard Page: E114-115

Senator SHERRY asked:

For example, if a real estate agent is recommending the sale of a property and points out the virtues of the garden and other aspects of the house, that is property advice. But if they say, ‘Invest in this property for your retirement’—which is a fairly common line—that would be financial advice?

Mr Murphy—No. I am talking about the Corporations Act financial services. It would have to be actually a financial service.

Senator SHERRY—Okay. Has this been the subject of some sort of memorandum communiqué?

Mr Murphy—It has been discussed a number of times and it is discussed in other forums. It could be discussed in the Commonwealth-state consumer forum. Mr French might be able to help there.

Senator SHERRY—Yes.

Mr French—This matter has been discussed in the context of the Ministerial Council on Consumer Affairs.

Senator SHERRY—Has there been a conclusion reached?

Mr French—No. There has been work examining the options. Ruth Smith would know more about the ins and outs of the current state of that. Some of the issues you have been raising are the root of the difficulty in working out what to do in this area, because you have got states regulating in the area of real estate and the Commonwealth in the area of financial services. The difficulty is coming to an option which appropriately covers these issues; it would be quite difficult to come to grips with.

Mr Murphy—As a practical matter what you would find is the real estate agent may refer a person to a financial planner—they may even have them in the premises—and those people become clients, if you like, of the financial planner.

Senator SHERRY—Also, presumably they could refer them to a mortgage broker or another financial institution?

Mr Murphy—Yes.

Senator SHERRY—Just to make sure I understand, there has been no formal agreement on division of responsibilities, if you like, at this stage?

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates 14 – 15 February 2007

Mr Murphy—The states are fully aware of the Commonwealth's position that, if they wish to seek to further regulate people who are not caught under Commonwealth legislation—the Corporations Act—as providing a financial service, it is a matter for them.

Mr French—There has been a working party of the Standing Committee of Officials on Consumer Affairs which has been looking at the issue, and work has been undertaken on regulatory impact assessment.

Senator SHERRY—I understand that. Take this question on notice, because I have to finish: has there been the issuing of any sort of formal communiques, agreements or understandings in this area to date?

Mr French—There have been. We can take that on notice, but there have been a number of statements by the ministerial council as it relates to the progress of that work.

Answer:

The Ministerial Council on Consumer Affairs (MCCA) established a working party, to be led by Queensland, to consider the issue of property investment advice at their 1 August 2003 meeting. That working group has been preparing a regulation impact statement on the issue.

Property investment advice was discussed, and outcomes included in the formal MCCA Communiqué, at the MCCA meetings on: 1 August 2003; 27 August 2004; 22 April 2005; 2 September 2005; 16/17 May 2006; and 15 September 2006.