

14 November 2001 Review of Certain Superannuation Legislation Productivity Commission PO Box 80
Belconnen ACT 2616

RE: Additional Submission to Draft Report of Certain Superannuation Legislation

I am raising two further issue regarding the future of the Superannuation Complaints Tribunal.

If the Superannuation Complaints Tribunal (SCT) were to go then I invite the Commission to consider the following issues :

1. Superannuation complaints received by the Australian Competition and Consumer Commission (ACCC) are referred on to either the Australian Securities and Investment Commission (ASIC) or SCT. The draft report has not, as I am aware, discussed the role of ASIC and how it differs from SCT in regards to superannuation complaints. On contacting ASIC I have been told they will also consider superannuation complaints and at the same time as the SCT. ASIC is concerned if superannuation companies do not disclose their rules to people on joining a superannuation fund. I am not sure yet, but it may be possible that the role of the SCT can also be performed by ASIC and this is a better way to resolve superannuation complaints. A superannuation industry complaints body, if set up by the industry, could handle a complaint, but a person should ' by law, still be able to further complaint to ASIC if the complaint was not resolved satisfactorily.

2. The Administrative Appeals Tribunal (AAT) used to resolve superannuation complaints before the SCT was established (I think, at least cases are listed prior to 1993). The advantage of returning to the AAT to resolve complaints over the SCT is that the AAT is established in each city in Australia rather than just Melbourne. I t is frustrating not to have direct access to the organization when making complaints.

The other advantages of the AAT over the SCT is that all details are listed in each case and their is not the secrecy found in SCT where the applicant and the respondent are not named. Secrecy in the SCT is such that under section 38(3) of the Superannuation (Resolution of Complaints) Act 1993 (SRC) the Tribunal may give a direction prohibiting or restricting the disclosure of documents or information relating to a Review Meeting. Under Section 38(6) of the SRC a refusal to comply with the SCT carries a financial penalty. No such secrecy requirements and penalties exist in the AAT legislation as I am aware and I think secrecy regarding superannuation matters is not necessary and I am surprised that these requirements are even lawful.

In addition the AAT requires reconciliation between the applicant and respondent in complaint cases while with the SCT one party can decline reconciliation and proceed straight to review.

I hope this information can be considered. I also hope that it is recommended that laws requiring the secrecy of superannuation issues between applicants and respondents can be repealed.

Yours sincerely
Dr Thomas Horr