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2018–19 FEDERAL BUDGET

Pre-budget submission to the Treasury

ABOUT US

Set up by consumers for consumers, CHOICE is the consumer advocate that provides Australians with information and advice, free from commercial bias. By mobilising Australia's largest and loudest consumer movement, CHOICE fights to hold industry and government accountable and achieve real change on the issues that matter most.

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CONTENTS

INTRODUCTION	3
1. Reducing health costs	5
The 2017-18 Budget should contain rising healthcare costs	5
A data driven approach to curb rising health costs.....	5
Junk health insurance policies	6
Recommendations.....	7
2. Housing affordability	8
The 2017-18 Budget should address renters' concerns	8
Recommendations.....	8
3. Improving Australia's airline market.....	9
A flight delays and compensation scheme	9
Establishing an airline ombudsman	10
Recommendations.....	11

INTRODUCTION

Australians are under stress as living costs rise.

A 2018-19 Budget has the opportunity to make a positive impact on consumers, who are the largest single group impacted by economic decision making.

The 2018-19 Budget would best serve consumers by reducing the cost of health care and ensuring consumers are getting value for money from their private health insurance. Budget measures should increase Australians' equitable access to quality healthcare. Out-of-pocket health costs remain a major concern for Australian households, with the majority of people worried about the cost of medication, medical services including GP visits, or health insurance. The Budget should prioritise measures that will reduce these growing costs for people with private health insurance as well as provide greater clarity to people as they seek treatment. . Another clear pathway to increasing the overall value of private health insurance to consumers would be to address the issue of 'junk insurance' – very low value health insurance and public hospital insurance products. These junk policies should be removed from the Australian Government Private Health Insurance Rebate and no longer provide exemptions from the Medicare Levy Surcharge. This would provide consumers with clearer signals about which products provide adequate cover and represent value for money.

The 2018-19 Budget should also address a problematic market that is failing consumers and costing them substantial amounts of money; the airline market. While air travel is more affordable and accessible now than it has been in previous decades, problematic practices are developing and need to be checked. Half of Australia's travellers experienced a problem while travelling in 2017, with over one third of these travellers experiencing a problem with their flights. In particular, delayed and cancelled flights are a major source of complaints. Despite this, the majority of travellers who faced delay in 2017 told CHOICE that the airline they travelled with took no action to remedy their problem. However, few protections are available to Australian consumers when they do face a problem with their airline. The 2018-19 Budget could improve problems in Australia's domestic airline industry by providing funding for two regulatory impact statements, one on the feasibility of a flight delays and cancellations compensation scheme and the other on the establishment of an independent, adequately resourced airline ombudsman.

Housing is the third issue that the 2018-19 Federal Budget should address, given that the majority of renters (77%) and people with a mortgage (68%) are concerned about housing

costs.¹ Renters in particular are feeling the pressure, being more likely than other groups to find it difficult to live on their current income.² The 2017-18 Federal Budget recognised that housing is a major concern, and set aside funding for a comprehensive plan to address housing affordability.³ This is laudable, but in 2018-19 it is past time to address the other primary element of housing stress – renters and their concerns. The 2018-19 Federal Budget should set aside funding to enable the development of a national framework for renters’ rights, simplifying a system that is currently confusing and inconsistent across States and Territories. The same approach taken with the consumer law reforms that commenced in 2011 resulted in a streamlined, consistent law that is easier to understand and apply. Multiple State and Territory-based laws were replaced with the Australian Consumer Law, and this has resulted in a better system where consumers are more able to assert their rights, and businesses are better aware of their responsibilities. The same approach could be taken in relation to renters’ rights, creating a clearer system for renters and home owners alike.

¹ CHOICE Consumer Pulse January 2018. This data is based on a survey of 1,029 Australian households. Quotas were applied for representations in each age group as well as genders and location to ensure coverage in each state and territory across metropolitan and regional areas. Fieldwork was conducted from the 3rd to 15th of January 2018. Of the overall sample size, 325 respondents identified as renters, and 363 respondents identified as mortgage holders.

² Ibid.

³ See 2017-18 Federal Budget Fact Sheet 1.1, ‘A Comprehensive Plan to Address Housing Affordability’, available via http://www.budget.gov.au/2017-18/content/glossies/factsheets/html/HA_11.htm

1. Reducing health costs

The 2017-18 Budget should contain rising healthcare costs

Health and medical costs, including out-of-pocket expenses and private health insurance, remain a major cost of living concern for a large group of consumers. In January 2018, 78% of people were concerned about the cost of private health insurance, making it the second largest concern after electricity costs.⁴ A majority of people, 64%, said they are worried about general health and medical costs, including the cost of seeing a General Practitioner (GP) or paying for medicines.⁵

People with private health insurance have faced high cost increases over the past few years with no or unclear gains. Long term analysis shows that the cost of private health insurance to Australian consumers has resulted in a 70% cumulative rise in premiums since 2009, including the 3.95% increase in 2018.⁶

While costs are increasing, people do not believe the value of private health insurance is similarly increasing. Only 31% of private insurance holders surveyed by CHOICE in January 2018 think they receive good value for money, while 28% believe that the policies they hold are poor value for money.⁷

People need equitable, affordable access to quality healthcare. CHOICE strongly cautions against any budget measure that will result in additional costs for medical services, medications or health insurance for consumers in the public or private health care systems.

A data driven approach to curb rising health costs

The Federal Government should fund policy solutions that foster genuine competition in the private healthcare market. Encouraging competition should drive down costs and empower consumers to make a real, informed choice between practitioners. Consumers would benefit from new policy approaches that:

⁴ CHOICE Consumer Pulse January 2018.

⁵ Ibid.

⁶ Graham, D., 18 January 2018, 'Private health premium increases announced', CHOICE, available at <https://www.choice.com.au/money/insurance/health/articles/health-premium-hikes-on-the-horizon-131115>

⁷ CHOICE Consumer Pulse January 2018, based on 563 respondents.

- Enable 'shopping around', where consumers can easily and affordably seek quotes from multiple specialists at the earliest possible point when they're seeking treatment.
- Encourage greater transparency of specialist pricing for common procedures.
- Assist general practitioners to understand the private healthcare market and help their patients make the best decisions about their healthcare based on their health needs and ability to absorb out of pocket costs.

User choice needs to be encouraged, and consumers should be empowered to:

- Seek out best or better performing providers (best outcomes and lowest waiting times); and
- Enable choice between providers (hospitals) to increase competitions (in locations with multiple hospitals).

Funding should be allocated to scope and implement an approach where information on specialist pricing and waiting times is provided directly to GPs and their patients. This will ensure more options for specialist referrals are available to GPs and patients.

In addition, specialists' average pricing should be more transparent. Average prices for common procedures should be publicly available to consumers, including online and over the phone. A CHOICE mystery shop, conducted in October 2017, found that surgery costs for common surgeries are difficult to obtain before an initial consultation with a specialist.⁸ Funding should be allocated to create a public register of specialist's average prices for common procedures. A transparent, accessible register will ensure patients are able to judge the cost of a procedure with a particular surgeon, relative to other surgeons in the market.

Junk health insurance policies

Consumers need action to help them better identify quality health insurance products. This can partially be achieved by ensuring that poor value products are not eligible for health insurance rebates. CHOICE considers two types of policies as 'junk':

- Very low cover health insurance policies covering less than ten Medicare Benefit Schedule (MBS) items (often including accident cover); and

⁸ See <https://www.choice.com.au/money/insurance/health/articles/how-to-avoid-out-of-pocket-health-expenses#mystery%20shop>

- Public hospital policies that only cover procedures in public hospitals (although some items are fully excluded).

Junk policies can cover less than 1% of services available in hospital and do not cover treatment for some of the most serious illnesses, such as cancer treatments.⁹ Junk insurance is problematic as consumers are often unaware that their policy excludes the vast majority of treatments and may only become aware when attempting to access treatment. Because of the extreme limitations of cover of these policies they do not reduce strain on the public healthcare system.

Given the very low value of these policies, and their inability to reduce strain on the public healthcare system, they should not be considered eligible for the Private Health Insurance Rebate. This will lead to budget savings in the short-term through a reduction in the amount paid through the rebate. In the long-term, savings should be expected through a change in the make-up of the health insurance market with more consumers holding cover that genuinely relieves pressure on the public healthcare system.

Recommendations

- That no budget measure leads to additional out-of-pocket costs for consumers for medical services, medications or health insurance.
- Funding is allocated to develop data on the average cost of services and expected wait times to GPs and patients exploring options for specialist treatment.
- Funding is allocated to create a publicly available register of specialist's average prices for common procedures.
- Very low value health insurance policies and public hospital policies are removed from the Australian Government Private Health Insurance Rebate.

⁹ See <https://www.choice.com.au/money/insurance/health/articles/junk-health-insurance>

2. Housing affordability

The 2017-18 Budget should address renters' concerns

Housing, and particularly renting, is a matter of major concern to consumers, with a majority of renters concerned about the cost of rent (77%).¹⁰ The number of Australians renting instead of owning their own home is increasing and representing long-term or life-long housing for an increasing number of people. However, current policy settings are letting this group of consumers down.

The 2018-19 Federal Budget should set aside funding to enable the development of a national framework for renters' rights, simplifying a system that is currently confusing and inconsistent across states and territories. The same approach taken with the consumer law reforms that commenced in 2011 resulted in a streamlined, consistent law that is easier to understand and apply. Multiple state and territory-based laws were replaced with the Australian Consumer Law, and this has resulted in a better system where consumers are more able to assert their rights, and businesses are better aware of their responsibilities. Responsibility for enforcing the regime remains split between states, territories and the Federal Government. The same approach could be taken in relation to renters' rights, creating a clearer system for renters, home owners, investors and property managers.

To adequately address consumer concerns, a nationally consistent framework for renters' rights should include the introduction of mandatory minimum property standards, removing 'no reason' eviction notices, reforming unjust tenancy database practices as they exist in different states and territories, allowing reasonable modifications, creating incentives and enforceable responsibilities around repairs, and introducing a 'reasonableness test' for all evictions.

Recommendations

- Funding should be provided to explore the option of implementing a national legislative framework for renters' rights.

¹⁰ CHOICE Consumer Pulse January 2018.

3. Improving Australia's airline market

Half of Australia's travellers experienced a problem while travelling in 2017, with over one third of these travellers experiencing a problem with their flights. In particular, many Australian travellers faced problems with delayed and cancelled flights and 62% of travellers who experienced a delay reported that no action was taken by their airline to remedy the problem.¹¹

CHOICE recommends the Government conduct regulatory impact studies into two measures to improve the consumer experience in Australia's domestic airline industry:

- Establishment of a flight delays and cancellation compensation scheme; and
- Establishment of an independent airline ombudsman.

A flight delays and compensation scheme

CHOICE has been calling for a number of years for the establishment of a fixed compensation scheme for passengers whose flights had been delayed or cancelled.¹²

Passengers travelling in the European Union are entitled to fixed dollar compensation when a flight is delayed or cancelled and this delay or cancellation is within the control of the airline. The scheme is the most comprehensive and clear-cut passenger compensation scheme in the world. Passengers whose flight arrives three or more hours after schedule can claim up to 600€ and meals, accommodation and telephone calls in compensation.¹³ This compensation is applied when the delay is not the result of extraordinary circumstances, such as a major weather event or natural disaster, but is within the control of the airline. A similar scheme in Australia would reduce the confusion around airline delays and cancellations and would end the ad hoc distribution of compensation, such as 'compensation' provided in the form of frequent flyer points or upgrades.

The Government should conduct a regulatory impact statement to assess whether a similar fixed compensation scheme in Australia would:

- Provide consumers with an appropriate and consistent remedy in the case of flight delays and cancellations.

¹¹ CHOICE, December 2016, 'Fare play? Terms and conditions in Australia's airline industry – super complaint', via www.choice.com.au/fareplay

¹² Ibid.

¹³ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1476179175834&uri=CELEX:32004R0261>

- Improve the efficiency with which consumers can access compensation for flight delays and cancellations.
- Act as an incentive to airlines to improve on-time departures.

Establishing an airline ombudsman

CHOICE and the ACCC have identified numerous issues with airline complaints handling, including restrictions on the ability for consumers to seek remedies when something goes wrong.¹⁴ CHOICE conducted research into the travel problems of Australian consumers in 2017 and found that most passengers do not complain when they encounter a travel problem, and only 34% are satisfied with the response they received from the airline.¹⁵

The main reasons passengers do not make a complaint are because they doubt that complaints will achieve anything (37%) and there is a perception that the complaint process is a hassle (34%).¹⁶

When a consumer exhausts all complaint pathways with their airline, they can approach the Airline Customer Advocate. The Advocate is funded by its participating airlines (Qantas, Jetstar, Virgin, Tiger and Rex), and acts independently of its members, but it “does not have independent power to make decisions that affect the participating airline’s response” to a complaint.¹⁷ Additionally, the Advocate can only represent consumers with complaints about the participating airlines.

Consumers who wish to resolve an airline problem through the legal system face significant barriers to accessing justice. Cases are unable to be heard in Civil and Administrative Tribunals, as demonstrated in *Ivanovic v Qantas [2016]*:

“Any claim for damages that Mr Ivanovic may have against Qantas for the non-functioning inflight entertainment system on flight QF127 can only be bought under the Montreal Convention if at all. By reason of the *Civil Aviation (Carriers Liability) Act 1959* (Cth) any such claim can only be bought in a Court that is vested with the judicial power of the Commonwealth. This Tribunal does not fit that description.”¹⁸

¹⁴ See www.choice.com.au/fareplay and <https://www.accc.gov.au/system/files/Airlines%20Terms%20and%20Conditions%20Report.pdf>

¹⁵ CHOICE, September 2017, ‘Australian Consumers in the Travel Market – Annual travel trends report – phase 4 of the CHOICE travel project’, available at <https://www.choice.com.au/consumer-advocacy/policy-submissions>

¹⁶ Ibid.

¹⁷ See <http://www.airlinecustomeradvocate.com.au/General/AboutUs.aspx>

¹⁸ *Ivanovic v Qantas Airways Limited* (Civil Claims) [2016] VCAT 2202 (23 December 2016).

It is prohibitively expensive for consumers to make small claims in the Federal Court. A filing in the NSW Civil and Administrative Tribunal would cost a consumer \$49, whereas filing in the Federal Court costs thousands of dollars. A consumer is unlikely to make a claim due to the financial burden of filing in the Federal Court system. The introduction of an industry-specific ombudsman would be an appropriate measure to ensure travellers can access the remedies they are entitled to under the Australian Consumer Law and the *Civil Aviation (Carriers Liability) Act 1959* without any significant financial barriers to doing so.

CHOICE believes that an airline ombudsman, instead of an advocate, would give consumers appropriate and efficient access to justice. This could be an industry-funded body with independent governance, similar to ombudsman models in the telecommunications and financial services industries. A regulatory impact statement should be undertaken to identify the feasibility, costs, and benefits of an airline ombudsman.

Recommendations

- A regulatory impact statement is conducted to determine the cost benefit of a fixed airline compensation scheme for delayed and cancelled flights; and
- A regulatory impact statement is conducted to determine the feasibility, costs, and benefits of an airline ombudsman.