

6 February 2014

The Hon. Joe Hockey MP
Treasurer
c/o - Budget Policy Division
Department of the Treasury
By email: prebudgetsubs@treasury.gov.au

Dear Minister,

2015-16 Pre-budget submission: funding for consumer regulators

CHOICE, the Consumer Action Law Centre and Financial Rights Legal Centre welcome the opportunity to submit pre-budget comments to Treasury.

Consumers are the single largest group impacted by economic decision making. While recognising that the government is operating in a challenging fiscal environment, it is important that savings do not come at the expense of consumer protections. Consumers need adequately resourced regulators to protect their interests and to ensure they can benefit from genuinely competitive markets.

In light of the efficiency dividends made in the last financial year which resulted in reduced resources for most government bodies, we recommend that the Government makes no further cuts to bodies with a mandate to protect consumers. This includes the Australian Communications and Media Authority (ACMA), Food Standards Australia and New Zealand (FSANZ) and government supported ombudsman schemes. Key consumer regulators, the Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC), should be considered for additional funding.

Recommendation one:

- That government bodies with a mandate to protect consumers incur no additional reductions in funding in the 2015-16 budget.

The Australian Securities and Investments Commission (ASIC)

For a number of years international bodies and government reports have called for ASIC to receive an increase in funding. In 2012 an International Monetary Fund report concluded that ASIC has earned its reputation as an effective regulator but “is hampered in its ability to fully carry out proactive supervision because of the lack of budgetary resources. A significant amount of ASIC’s funding is non-core funding earmarked for specific projects, and the share of non-core funding has been increasing in the last few years.”¹

¹ IMP, Australia: Financial System Stability Assessment, IMF Country Report no. 12/308, November 2012 pp 25-26.

We are concerned that without increased funding that ASIC will be unable to adequately protect consumers or provide appropriate information and warnings to consumers of financial products.

In 2014-15 ASIC's budget was reduced by \$120 million over four years, in addition to an efficiency dividend of \$47 million over the same period.² ASIC has made clear that cuts to its operating budget will result in substantially reduced surveillance of financial and banking activities.³

There is currently limited regular surveillance, even in high-risk sectors. For example, ASIC has calculated that with current resources the top fifty licensees able to provide personal financial advice could be covered by surveillance activities between every 0.7-0.8 years. The remaining 3,341 licensees would only be investigated through reactive surveillance. Significant portions of the financial advice industry have consistently demonstrated non-compliance with regulations, placing consumers at significant risk of harm.⁴ Given this, it is alarming that less than 2% of licensees are subject to proactive surveillance. Similarly with 35 staff allocated to the Deposit-takers, credit and insurers team, the big four banks will be reviewed annually but the remaining 164 banks in Australia will only be subject to surveillance every 13 years.⁵

Our assessment is that community expectations of ASIC do not match the level of funding allocated.

Both the Financial System Inquiry (FSI) and the Senate Economic References Committee have called for increased funding for ASIC through a user-pays model.⁶ These recommendations recognise that the revenue collected by the Government from certain sectors of the finance and banking industries are not commensurate with ASIC's cost of regulating these sectors.⁷ Our understanding is that a user-pays model of funding for ASIC is being considered by Government as part of a full response to the FSI. Consideration and possible implementation will take some time.

As the government prepares its response to the FSI final report we recommend that ASIC's funding is increased to restore the operating budget to pre-2013-2014 levels with consideration given for inflation. Additional funding should consider, at a minimum, funds necessary to restore staffing levels to 2013-14 capacity (as staffing reductions occurred proactively in the lead up to the 2014-15 budget) and conduct increased surveillance activity.

² ASIC (2014) Annual Report 2013-2014, <http://asic.gov.au/about-asic/corporate-publications/asic-annual-reports/> p.4

³ Ibid.

⁴ Ibid p. 22.

⁵ Ibid.

⁶ See Financial System Inquiry: Final Report (2014), Recommendation 29, p. 253. Senate Economic References Committee (2014), Report on the Performance of the Australian Securities Investment Commission, Commonwealth of Australia, Canberra p 23-24.

⁷ See ASIC (2014), *Senate Inquiry into the Performance of the Australian Securities and Investments Commission: Supplementary submission on a better funding model for ASI*, pp. 3-5.

Unlocking the power of consumers

57 Carrington Road Marrickville NSW 2204

Phone 02 9577 3333 | Fax 02 9577 3377 | Email ausconsumer@choice.com.au | www.choice.com.au

The Australian Consumers' Association is a not-for-profit company limited by guarantee. ABN 72 000 281 925 ACN 000 281 925

Recommendation two:

- That ASIC's core funding is increased while consideration is given to a user-pays system of funding.

The Australian Competition and Consumer Commission

While funding for the ACCC has not been reduced, the agency has been subject to a 12.5% reduction in staff as part of the efficiency dividend measures. This leaves the ACCC with noticeably reduced resources. Given the scope and importance of the ACCC's work, we recommend that the Government considers an increase in funding and staff levels for the ACCC to 2013-14 levels.

Recommendation three:

- That the ACCC receives additional funding to increase staff levels to 2013-14 levels.

Should you have any further questions about this submission please contact eturner@choice.com.au

Yours sincerely,



Alan Kirkland, CEO
CHOICE



Gerard Brody, CEO
Consumer Action Law Centre



Karen Cox, Coordinator
Financial Rights Legal Centre

Unlocking the power of consumers

57 Carrington Road Marrickville NSW 2204

Phone 02 9577 3333 | Fax 02 9577 3377 | Email ausconsumer@choice.com.au | www.choice.com.au

The Australian Consumers' Association is a not-for-profit company limited by guarantee. ABN 72 000 281 925 ACN 000 281 925