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Review of Australia's Consumer Policy Framework  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

**By email:** [consumer@pc.gov.au](mailto:consumer@pc.gov.au)

Response to Draft Report:

Further to my verbal submission to the enquiry last year I would firstly like to congratulate the commission in recognising the fundamental flaws that exist in the administration of privatised last resort Builders Warranty Insurance (PLRBWI).

The productivity commission has admitted what State Governments have been in denial about for nearly 6 years and that is that PLRBWI is in major need of reform.

This clearly makes the case that if PLRBWI is in such need of reform, then it is probably not meeting the needs of consumers and is therefore an ineffective tool for genuine consumer protection.

While the conclusions made in Section 5.5 of your report have been self evident to everyone who has researched PLRBWI over the last few years, it is also obvious that the forgotten victims of this product are the good and decent builders that rely on excellent customer loyalty and referrals for their very livelihood.

PLRBWI was established and is administered on the assumption that all builders are inherently 'dodgy' and that they all pose significant financial risks to their clients. PLRBWI, together with adversarial dispute resolution mechanisms (ie: courts) provide an expensive and largely ineffective means of solving genuine consumer concerns with their builder and/or building project.

In fact, the very nature of PLRBWI is that it is an insurance of 'last resort' which means that it is only triggered when all litigious avenues have been exhausted AND the builder has died, disappeared or become insolvent.

The bar has therefore been raised so high that virtually no consumer has been able to jump it, which was evident in the recent Tasmanian Government press release advising that they have now decided to scrap PLRBWI, largely it appears on the basis of your recommendations.

However, even though the insurance companies have prepared a product that, to paraphrase the Tasmanian Government, is virtually inaccessible to consumers, every builder is still subject to a horrendous regime of financial reviews and restrictions because of the continued perception of 'risk' they pose.

Fortunately for insurers, the presumed mass of claims has so far not materialised since the introduction of PLRBWI, however financial reviews, restrictions, deeds of indemnity and guarantees still exist – all of which have the net effect of hobbling of our lawful and legitimate right to entrepreneurial business activity. There is no other sector of any other industry any where in the world that suffers such restraint of trade as we do under this sort of regime.

Therefore, while I commend and applaud the stance you have taken for our customers, I also implore you to see this problem from our perspective as well. Builders are also consumers here, as we are forced to purchase this insurance under sufferance and extreme pressure, sometimes even from our own industry groups who, unfortunately for many builders, have a significant financial interest in the marketing of PLRBWI.

Also, builders are powerless to effect any change or gain traction on any PLRBWI complaint made to the statutory authorities as it had been reclassified as a 'wholesale' product immediately prior to its release in June 2002. This reclassification ensures that APRA, ASIC and the ACCC are all virtually powerless to investigate and/or act upon any builder (or consumer) complaint in relation to PLRBWI, its agents or insurers.

The only recourse left is to throw ourselves at the mercy of compassionate politicians. (Thankfully one has emerged being the Tasmanian Attorney General Mr Steve Kons) It is my hope that your final report will address this problem for builders and recommend changes to particular ASIC and/or other regulations to ensure that PLRBWI comes under proper ethical and moral scrutiny as does EVERY other insurance product sold in Australia.

I ask you to remember that PLRBWI was ONLY created in the first place as a consumer protection device, but it remains the single form of insurance that is itself exempt from any consumer protection scrutiny. This is quite astounding to say the least. Again, it is my expectation that your final report will properly address this anomaly.

Again, I commend you on your work on the draft report and with thanks I submit this brief response.

I look forward to reading your final report with great interest and expectation.

Kind regards,

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