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Sent: Friday, 22 February 2008 2:54 PM

To: Irvine, Jill

Subject: Productivity Commission Supplementary Submission to Draft Report - Consumer Policy Framework -Response to Vero/HIA and M.Stokes Submissions re Builders Warranty Insurance

Dear commissioners ,I only found out after the event that there were further public hearings on 11/2/08 in Melb .

Possible to give verbal evidence from a consumer perspective at this late date . I can detail HIA/MBA shenanigans /roting of consumers under the public guise of being champions of consumers dating back to the late 60's to the current time mainly re Victoria but also in NSW and Tasmania

I would appreciate it if this submission is also posted on the P.C web site uncensored . In any case it is going out to my extensive mailing list as a public document

The critical submission on builders warranty insurance [BWI]to the P.C is the one by Mr Michael Stokes [your website Id - DR 145]which demonstrates the deliberate public lies being peddled re the economic viability of the defunct HGF and the current Qld Building Services Authority .The QBSA is just a superior version of the old HGF in Vic .

This fact is well known to the HIA /MBA hierarchy as the HGF was formed by amalgamating 2 prior public companies limited by guarantee , first established in 1971 under government legislation and each owned 100% by the HIA and MBA .The HGF was wholly owned by HIA/MBA ,splitting the directorships 50/50 .

The HGF inheriting HIA/MBA staff ,being also a public company limited by guarantee and effectively owned by the HIA/MBA .The HGF directors were appointed by HIA/MBA on amalgamation of the 2 previously private companies ,subject to ministerial approval . The HIA effectively dominated the senior HGF staff selection process by being substantially the larger body previous to the merger into the HGF

The submissions by Suncorps/Vero of 5/2/08 [your website Id - DR 171 Pages 9 to 12]and HIA [your website Id - DR 160] are a load of self serving nonsense

Take Vero's submission ,on builders warranty insurance . It relays on a questionable past inquiries and omits to mention the inquiries to which they did not submit submissions and whose reports are not favourable to their position .It should be noted that they made no submission to the early P.C request for submissions and that the current submission is based on generalities and contains no hard data that can be subject to analysis or verify the question , 'is BWI Vero style consumer protection ' . The limited evidence in the public domain is that the answer is a resounding NO

The Australian Consumers Association [ACA] described on the ABC 7.30, Report of 11/1/07 Vero's builders warranty insurance as JUNK insurance and a mockery of consumer protection

Vero's submission is a nonsense in that it provides no evidence that can be the subject of critical analysis

Vero's reliance on the Grellman report is meaningless unless they produce in the public domain all the evidence they submitted to that inquiry and incorporate it in their current submission including their financial modelling of BWI. The reason for requesting this evidence is that Vero then goes on to rely on the Victorian Competition and Efficiency Commission [VCEC] report on building regulation April 2006

The problem with the VCEC report is that it recommends that BWI Vero style was the ultimate ants pants, rolls royce ,world beating consumer protection solution that was misunderstood by consumers who required further education to love the unlovable .

This conclusion was based on portions of Vero's TOP SECRET submissions to VCEC which were never made public

VCEC report on BWI has all the hallmarks of a captured investigation in search of a plausible justification for its conclusions .Vero's public submission to VCEC included the implied threat that its my ball and bat ,12 year old brat syndrome .So if you do not do as I say I will take the bat and ball and go home . Is there a undertone of that in the current 3 pages devoted to BWI

There is some circumstantial evidence in the Vic Hansard as to what some of the withheld information may have been [MLC , Noel Pullen ,Hansard Sept 05]that was given to VCEC in confidence .e.g av premiums coming down and in the 700's .

On that basis I suspect that the information VCEC accepted as valid is the same sort of nonsense as the figures now posted on the NSW Office of Fair Trading [OFT] website purporting to give an overview as to its financials on a industry basis in NSW as at 31/3/07 and 30/6/07 .

Vero is the industry in that post 1/7/02 it had 90% of the market and its stooge Reward Insurance run by a ex HGF stalwart with HIA antecedents had the balance .A monopoly would not look good . Recently Vero is claiming only 70% or so and NSW OFT hints at one provider having in excess of 50% market share on its website.

Must be financially painful for Vero ,in the space of 12 to 18 months its gone from 90% to maybe just over 50% . I doubt it, the market is to inelastic and the ties that bind builders to an existing insurer are not easily severed thru the bonding requirement to lodge various financial instruments and other forms of security for up to 10 years to obtain the insurance cover whose run out is potential up to 10 years in the future .

Security held for cost recovery purposes is held as commercial prudence dictates till the effluxion of time for claims expires .That is 10 years

The NSW OFT website BWI figures are a nonsense that do not even qualify for the statistical epithet, ' lies , dam lies and statistics ' . These figures are deliberately concocted to deceive and mislead the public and probably also any genuinely professional actuary who attempts to unscramble the omelet and determine the simplest issue ,the gross premiums paid by consumers in NSW per annum to the insurers .Not some fictitious net figure that excludes on costs ,including statutory on costs as is the case for the 31/3/07 data

In the 31/3/07 figures for instance the av premium was given as one that excluded all on cost including govt imposts. Thus the given figure is a low \$700 when Vero rate cards [category 3],believed to cover 90% of builders ,indicate a starting figure of \$3000 plus ,plus on costs such as builders margin

The only correct figure is the final all inclusive cost to the consumer including builders margin ,which I suggest is in the order of \$3600 plus in NSW .The comparable maximum figure in Qld would be capped at \$2000 if in both instances we assumed a 10% builders margin

A \$1600 difference in housing affordability

Vero and the other insurers are able to pedal this deception in part because of capture of the State Regulators and Corporate Regulation 7.1.12[2] effective as of 11/3/02 which excludes ASIC ,APRA and the ACCC from regulating BWI

Its interesting to note that Vero did not make any submissions to the NSW legislative council inquiry in 06 or 07 ,which reported Dec 07

To quote Vero on page 9 ' compulsory BWI does represent genuine value to consumers ' . It seems this statement is based in part on VCEC's report of 06 . O.K were is the evidence in the public domain .If Vero cannot substantiate that sweeping statement in the public domain by releasing the supporting financial data then that statement is false ,deceptive and misleading and must be rejected .In fact they should be prosecuted by the various Regulators if they do not produce the financial data to the P.C to substantiate that broad generalisation

I suggest the criteria the financial data must meet as a minimum is a equivalent level of claims payout to consumers that Suncorps pays out in AAMI based on gross premium income or better still the 80% of gross premiums that in some overseas jurisdictions is a minimum payout level required for consumer protection insurance

Its interesting to note ,its been put to me that the only adverse media reporting in recent years re insurance issues affecting consumers has been largely confined to Promina Group subsidiaries AAMI/Vero, since March 07 owned by Suncorp .Is there a systemic issue ?

I suspect based on back of the envelope calculations on the skimpy financials in the public domain that if the gross national BWI premium pool is \$100 million as claimed by Vero ,then the payout ration is a miserly 1 to 5% and if as more likely the gross national BWI premium pool is \$400 million ,then the corresponding payout is a still more Scrooge like 0.25 to 1.25% .

In any case such minuscule claim payment ratio's if correct are a disgrace and a fraud on consumers

This is a public policy fraud on consumers and as stated in the Tasmanian Hansard by Mr Kim Booth M.P ,its a fraud ,no qualification

So on the evidence in the public domain , Vero claim that BWI is a consumer protection product is a deliberate falsehood,deceptive and misleading . It is not ,it is in fact a ' professional indemnity ' policy and always has been since day one as the submission's contact and probable author Paul Jameson in a burst of candour on one only know public occasion admitted [Afr 8/1/07]

Professional Indemnity Insurance is not consumer protection and this is supported by ACA in describing the product as JUNK

In support of the junk proposition Mr Robert Siebert's case history [your website Id - DR 117,181 and 182] clearly demonstrates that even if a consumer diligently follows the full Vero claims process and is successful ,he still loses .Maybe you could ask the QBSA to put this consumers claim purely as a comparison exercise thru there claims procedure and Mr Jameson for the public record could comment on the differences in claims outcome .I would venture to say that time wise and financial for a lower premium cost the QBSA model would produce a far superior outcome for Mr Siebert

I would also venture to say that the QBSA does not as standard commercial practise in resisting claims and defending its model use the threat of defamation ,against consumers ,builders and critics .

Having been so threatened myself by Mr Jameson and having called his bluff in that if he proceeded the first order of business would be discovery of the true financials of the BWI product ,not the nonsense now published by NSW OFT, I request that the full transcripts and documentation of any meeting with the P.C and Suncorps/Vero/Mr Jameson be published on the public record

HIA [P.C. website Id - DR 160] ,there recommendation one supports my suggestion that the claimant case study that I suggest be undertaken for comparative purposes

I have already mentioned that the HIA and MBA are familiar with the Qld model based on there pre mid 90's experience with the Victorian HGF and that also applies to the previous NSW Builders Services Corporation [BSC].

Mr Dwyer of the builders collective can make available a Qld MBA report of 02? in which the Qld MBA concludes that that the existing Qld model is superior to Vero's then proposed model and they cannot support its introduction into Qld

The HIA support for the Vero model is based on self interested greed

It took a senate inquiry 04? to elicit from the HIA that they were in receipt of undisclosed commissions from the sale of Vero's BWI product .

Since then the HIA position seems to oscillate from its a not for profit exercise to provide a service ,to a little profit to not denying media reports of \$20 to \$30 million income stream per annum .In any case if we accept its not profitable then the HIA has a problem in explaining its acquisition in recent years of substantial wealth .

Acquisition of such wealth in some overseas jurisdiction elicits a please explain from the regulators . I understand Mr Dwyer of the builders collective has a view on this .His calculations indicate an income in excess of \$30 million accumulating to the HIA since 1/7/02 .That is since the introduction of the current Vero BWI product.

It is also alleged that this commission skimming practise dates from mid 90's privatisation of HGF/BSC ,thou i have not been able to verify this

In any case ,whatever the true figure HIA receives in commission ,said to be 15% of the policy value, on the basis of my calculations and the figures re HIA commissions revealed in the public domain the HIA annual commissions with out any doubt substantially exceed the sums paid out to claimants annually by Vero

This same ambivalence by HIA extends to explaining how HIA personal like Dr Silberberg have board positions on companies that are perceived to be related to HIA and that receive income from BWI commissions .The P.C may consider following the personnel and money trail of these interwoven relationships and place then on the public record so that any undeclared conflicts of interest ,or should it be mutual interests ,are declared on the public record

Its interesting to note that ' under no evidence of market failure ' ,the HIA accuses the P.C of being a evidence free zone and request that the commission undertake various cost benefit analysis in the expectation that the Vero product will win .

I presume HIA expect to win the premium debate on the basis that the Qld model 's gross premiums ,that is premiums detailed on the public record with no commissions to 3rd parties will be more costly than \$700 premiums excluding all on costs on NSW OFT website .Yes, the maximum Qld premium is \$1640 before builders margin

I will accept the HIA proposition of premium costs to consumers when the HIA produces the lucky consumer winner who paid only the \$700 and ' no on costs ' .That is presumably with Vero and HIA paying all the on costs and had a claim outcome superior to what the QBSA would have paid on the same facts .

Lets call this the HIA litmus test implicit in their submission

If the HIA and their business partner cannot produce this consumer even as a hypothetical then the HIA submission is a intellectually nonsense and derelict in its representation of builders who they purport to democratically represent and based on there company structure is a questionable proposition .

The HIA is run by a self renewing management elite ,that is not accountable to anybody in that even the directors as is usually the case with public companies are not subject to a stakeholder vote of builders for election to that public office

.Elevation to national directorship of HIA is opaque ,non transparent and non accountable ,The real question is who do this apparently self perpetuating clique represent as the rank and file builders are excluded from this process.

The gadfly shareholder activist Stephen Mayne can nominate for election to the BHP Billiton board but if he was a HIA member ,he could not even access a nomination paper because of the very nature of the company's articles of association

So the question is who apart from the management has captured the HIA and to what purpose .Certainly the HIA provides services to builders but service provision is not the same as claiming to represent an industry's view's based on rank and file membership as the HIA publicly does.

It is my understanding that the State HIA Branch in Victoria has several regional sub branches and that the volunteer officers of these sub branches have to serve loyally for a period of time to gain elevation to higher office .Yet even these rank and file representatives I understand have no access to there sub branch membership lists and thus all their activities are vetted and controlled by the State office which can determine and impose policy .BWI being a classical example

Vero submission must also in the public domain pass the HIA litmus test above for either submission to have a modicum of validity .As it stands both submissions are intellectually dishonest and best characterised as self serving nonsense

Another demonstration of HIA deliberate deception and nonsense is there claim on page 6 ' when state governments in NSW and Vic ran ' consumer protection in the building industry .Well the widely criticised HGF in Vic as the HIA puts it was run by the HIA assisted by the MBA .Both the HIA and MBA appointed senior notables drawn from there state directors pool and the chief executive officer's work background is pure HIA .A similar situation prevailed in NSW were the MBA had effectively captured the Builders Services Corporation .

Further on the claim of ' poor [HGF] financial management ' the public record shows in the published a/c's as tabled in State Parliament and Mr Stokes submission that in fact the HGF was a 'nice little earner ' to quote that BBC TV comedy spiv character Arthur Daley or the Australian comedy equivalent ,the Dodgy Brothers .

The HIA claims that the HGF /QBSA models are more expensive but based on Vero's category 3 rate card applicable to probably 90% of builders it can be very easily demonstrated that the Qld /HGF alternate is cheaper and provides greater consumer protection coverage .

In fact I put it to HIA/Vero that if the same total premiums paid in 07 for BWI in Victoria was paid to a Qld model scheme,like the HGF then the funds could be paid out to consumers for defects on a similar principle to that the used by the Victorian Traffic Accident Commission [TAC]. That is it pays claims to home owners first on a no fault basis and no cost recover from the builder.or owner except in exceptional circumstances . I suspect this no fault principle at a premium rate of 1% of the average contract value will resultant embarrassing financial surplus to boot

As I recall the HGF charged about half a percent of the average contract price in terms of total premium income and a figure of about 3/4s of a % is currently bandied around for the QBSA .The Rolls Royce TAC model based on HGF claims history would have excessive funding if it charged a flat 1% of contract value on average . I suspect conservatively that Vero's BWI premium charges is in the order of 1% of the average contract value

It has been put to me that the private insurer premiums work out in fact at around 1.25 %,, maybe even a fraction more of the average contract value for substantially less consumer benefit .In fact for little or no consumer benefit in terms of value for money based on the case study of Mr Siebert

HIA page 9 to 12 ,disputes resolution issue ,sure there are always deficiencies in dispute mechanisms ,but what the HIA position boils down to is a partial return to arbitration and similar mechanisms to enrich 3rd parties be they the usual court participants arguing the arcane issue is it a contract or a defect to delay or derail ,the voluminous consultants and experts witnesses ,many being on past form HIA members or HIA associates or the discredited guns for hire arbitrators in whatever disguise they may reappear who being senior semi retired HIA/MBA personalities in the 80's abused the arbitration process under contract to such an extent that in NSW and Vic the business was banned by legislation which forbid in domestic building contracts arbitration clauses in all there nefarious forms and its practise per se

This practise of abuse of the judicial system via arbitration under contract is still practised in Tasmania. Ms Janine Bransden a victim of this legal abuse has submitted a submission [P.C website Id - DR 192]

But the real intent of pages 9 to 12 is via a judicial process to re create the judicial effect of arbitration under contract as previously practised in NSW and Vic which was based on the Scot v Avery arbitration clause ,in which the builder invariable succeeded and there was subsequently no further claim possible against the HGF/BSC or in this case read Vero and the other private insurers as a result of the arbitration .

This was a deliberate outcome imposed in Vic by the HIA/MBA to minimise valid claims as a result of the original legislation setting up the HIA and MBA guarantor bodies in 1971 and which merged to form the HGF in 1984 with the underlying legislative principles unchanged .

The HIA/MBA arbitrators rorted the judicial system in the past in Vic/NSW and still do today in Tasmanian and I have not checked but maybe in other jurisdictions also still as of today

The HIA/MBA have a long history of rorting consumer protection in the domestic building industry and it is valid to read there current submission in that context .The current rort use by date may be soon over so in the name of consumer protection a new rort has to be promoted and accepted by government .

Let there be know doubt the HIA/Vero well know that a voluntary BWI product is a dead duck in the market place as the Regulators would be free of the current political restraints preventing their public criticism of the product

The reason for merging the separate HIA and MBA controlled guarantor bodies in 84 was an accountants report to the govt detailing financial mismanagement within both companies ,with pending insolvency for the MBA body within months and the HIA controlled body within a year to 18 months

In comparison we have Mr Stokes submission a senior insider who tells us that the HGF was a profitable organisation no matter what is said to the contrary and who worked in this area pre and post the HIH collapse .

Based on Mr Stokes evidence alone the Vero /HIA submissions have no substance or veracity and the Qld model thru the COAG process should become the norm thru out all the states .

The Qld model as was the case with the HGF and I suspect but never addressed the issue was the case also with the NSW BSC ,they all self insure and are /were profitable at a lower premium to the private insurer product we now have on the basis of the average contract price of the time and all have/had substantially superior consumer protection outcomes and benefits

The thing that distinguishes Qld from the HGF and BSC is that it has an independent professional management which excludes the HIA and MBA from its sanctums and eliminates there self interested meddling ,thus presenting them with no opportunity for rorting the system for the benefit of the HIA

Mr Stokes submission is the foundation stone of strengthening the P.C current recommendations in this area and directly supporting the Qld model

Yours Andris Blums 21/2/08

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