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Review of Australia's Consumer Policy Framework
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

Dear Productivity Commission (the Commission)

Please accept this letter and the attached documents as a brief submission to the Review of Australia's Consumer Policy Framework (the Review).

Please also note that I would be more than happy to appear before the Commission to give evidence and make an oral submission should the Commission feel that would be useful.

My comments are aimed specifically at matters that have already been heard by the Commission in relation to the ongoing crisis that surrounds the scheme, described as 'junk insurance' by Choice's Indira Naidoo, that is referred to in the Commission's Draft Report Volume 2, as Home Builders Warranty Insurance (HBWI) or as referred to in my documentation as Home Owners Warranty (HOW)

My comments and evidence relates most pertinently to point 3 of the Scope of the Inquiry

'3. any areas of consumer regulation which are unlikely to provide net benefits to Australia and which could be revised or repealed;'

and I fervently support the Draft Recommendation 5.5 in the Draft Report Volume 2,

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DRAFT RECOMMENDATION 5.5

Australian Governments should take early action to provide better and uniform protection for those having a home built or renovated. Specifically, this should entail:

- guaranteed access for consumers to alternative dispute resolution mechanisms;***
- provision of greater scope to de-register builders who do not meet appropriate performance standards; and***
- a revamping of compulsory builders' warranty insurance to ensure that it is of genuine value to consumers and that consumers understand the product.***

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I believe that the compulsory, yet virtually worthless, insurance known as HBWI is an area of consumer regulation which not only does not deliver a net benefit to consumers but in fact could be argued, causes a net adverse impact on the builders who are forced to factor into their costs this 'junk' insurance and to the home owners, who, in the unfortunate case of having to make a claim, find that the insurance they paid thousands of dollars for is worth almost nothing if the builder they have a complaint against hasn't died, disappeared or become insolvent.

On page 102 of the Report it is stated *“However, this inquiry indicates that, even in the absence of an insurance ‘crisis’, there is still inadequate consumer protection in most jurisdictions, and that changes are required.”*

The evidence that has been presented to me through dealing with constituents whose lives and financial security have been severely undermined if not destroyed by the complete failure of the HBWI system, supports the finding that the 'crisis' that has eased in the provision of insurance has now shifted to the many desperate home owners in all states of Australia bar Queensland, that find themselves forced to live in defective, crumbling houses with no recourse to the compulsory insurance they assumed would save them from poor workmanship and unscrupulous behavior.

Prior to my becoming a parliamentarian in the House of Assembly in Tasmania I was involved in the building industry and observed first hand the calamitous impact of the collapse of HIH which resulted in many builders losing their livelihoods through an inability to gain insurance cover.

Unfortunately this situation appears to have been capitalized upon by the insurance industry and building industry groups such as the HIA, who filled the vacuum with a plan to create a compulsory home owners warranty system which they stood to benefit from through enormous profits via compulsory insurance, whilst delivering a scheme where effective cover for defective building work was virtually non-existent, with any consumer needing to be lucky enough for their builder to die, disappear or become insolvent, before any hope of a payout was forthcoming.

In one tragic case I have been involved in as a parliamentarian, the builder is very much alive and well (but has left the industry) and his legacy is a couple who in their late middle age, find themselves with a house that is seriously defective, enormous bills from attempting to seek redress through arbitration and the ex-builder now pursuing them through the courts for the last of their savings.

It is reprehensible that in a modern democracy the farce of HBWI should still continue as it does in most states of Australia.


In Tasmania I am pleased to say, after five years of lobbying, (see attached documents 1 – 8) the state government has seen fit to largely scrap the compulsory HOW system (see attached media release Jan 17 2008) however there is still further to go.

Compulsory HBWI is a classic case of corporate capture of the regulatory system by those who benefit from the regime against the interests of consumers and building practitioners right across the industry. As a result building prices have gone through the roof and consumer protection is virtually non-existent.

This issue requires considered, but urgent, attention to ensure that some measure of integrity is restored to the chain of responsibility and regulation that governs the home building industry.

This must happen as a matter of urgency to better protect consumers, put the spotlight on the extraordinary profits being made by the insurance industry and industry bodies such as the HIA, and to weed out the few unscrupulous operators who are causing such immense pain to consumers.

Yours sincerely,



Kim Booth MP
Member for Bass
Greens Opposition spokesperson for Building Matters

List of documents attached in PDF form

- (1) Hansard Housing Indemnity Act 2003, Oct 28 2003**
- (2) Hansard Housing Indemnity Act 2003 In Committee part 1, Oct 28 2003**
- (3) Hansard Housing Indemnity Act 2003 In Committee part 2, Oct 29 2003**
- (4) Building Industry Public Meeting Motions July 7 2004**
- (5) Media Release, Greens Unite With Builders on Insurance, Dec 8 2005**
- (6) Media Release, Home Owners Warranty Exposed, April 15 2006**
- (7) Media Release, Owner Builders On The Rise Due To HOW, Jan 23 2007**
- (8) Media Release, HOW Reform Welcome, Jan 17 2008**