



<p><b>Productivity Commission Inquiry into Default Superannuation Funds in Modern Awards</b></p>
--

# **Supplementary Submission of Unions NSW**

**1 August 2012**

**Submission by:**

Unions NSW  
Trades Hall Building  
Level 3, 4 Goulburn Street  
Sydney NSW 2000  
T: 02 9881 5999  
F: 02 9261 3505  
E: [mail@unionsnsw.org.au](mailto:mail@unionsnsw.org.au)

## **Unions NSW**

Unions NSW welcomes the opportunity to make a supplementary submission to the Productivity Commission's inquiry into Default Superannuation Funds in Modern Awards.

### **Information Request – Options for Reforming Existing Arrangements**

#### **Option 2**

Unions NSW notes that having developed four options to reform the way in which default superannuation funds are added to Modern Awards the Productivity Commission has expressly ruled out options one and two.

Consistent with Unions NSW's original submission, Unions NSW does not believe that any additional superannuation funds should be added to modern awards at this point in time and, that if changes need to be made to awards to add or remove a default superannuation fund, the current process for amending awards is sufficient. Consequently Unions NSW endorses the Productivity Commission's Option 2.

Unions NSW believes that the choice of default superannuation funds, like all other entitlements, is a matter that should be determined through bargaining between the relevant parties to an industrial instrument.

#### **Option 3**

Contingent on the exclusion of Option 2 Unions NSW advocates Options 3, that an expert panel should be established within Fair Work Australia, and not as a separate expert body independent of Fair Work Australia as proposed in Option 4.

Of options 3 and 4 this option requires the least amount of regulatory burden for the parties and the least amount of start-up resources.

Further, Unions NSW believes that it is desirable that decisions on superannuation not be made in a vacuum, removed from Fair Work Australia and its corporate knowledge of industrial relations, superannuation and industrial parties.

The matter at hand is selecting the right default funds for working people - this is not purely a financial or regulatory issues and therefore should not be entirely separated from the existing industrial relations process.

Unions NSW also submits that Option 4 would seemingly run contrary to the intention of government to establish Fair Work Australia as the 'one stop shop' consolidated single entity that deals with industrial matters.

It is important to note that the role of the expert panel/body as discussed in options 3 and 4 is not to regulate the funds themselves which requires a highly technical and fundamentally different skillset

to that of selecting the appropriate default superannuation funds for working people that do not exercise superannuation choice.

Recommendation: That the Productivity Commission's adopt 'Option 3' as their official recommendation in their final report.

### **Criteria for the Selection of Default Superannuation Funds**

Unions NSW rejects the recommendation of the Productivity Commission that MySuper product authorisation is a sufficient eligibility criterion to protect the interests of working people.

Unions NSW notes the Productivity Commission's adoption of factors for consideration at a second stage and suggests that these factors be made additional eligibility criteria for the selection of default superannuation funds for awards.

It is particularly important to ensure that the profit motive and the obligations of retail funds to their shareholders do not negatively affect investment decisions and fee decisions.

### **The Ability of an Employer to Choose Non Listed Funds**

Unions NSW believes that this recommendation more than any other listed in the Productivity Commission's Draft Report threatens to compromise the interests of working people that do not exercise choice in superannuation.

Employers being able to choose a fund that is not listed in an award provided that the can demonstrate upon request that their employees are no worse off would at best create an incredible amount of work relating to compliance and enforcement and at worse would see the future retirement savings of many unrepresented, disengaged workers placed in jeopardy.

There is no nexus between the benefits to employees and the benefits to employers of default superannuation funds. Employers would choose funds based upon their own financial interests, potentially including incentive payments or discounts and cross-subsidies for other financial services for the business. This would do nothing to encourage competition that is beneficial to working people and is runs entirely contrary to the stated aim of the Draft Report to "promote the best interests of members".

### **Conclusion**

Unions NSW supports the retention of the existing system for the listing of default superannuation funds in Modern Awards and as such believes Option 2 is the best model for reform.

Given the Productivity Commission's stated preference for Option 3 or Option 4 Unions NSW advocates for the adoption of Option 3 as the formal recommendation of the commission. It is in the interest of working people to have matters relating to superannuation being decided upon within Fair Work Australia.