

Answer to question on notice:

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE ASIC ANNUAL REPORT (SECOND REPORT) 2019

ASIC29QON

Member: Wilson

Reference: Hansard, 23 October 2020, p. 32

CHAIR: There are a couple of matters—and I've raised this previously with the stood-aside chair, Mr Shipton—about the use or misuse of ad words in the context of superannuation funds. We raised a particular example from 2014 where ASIC issued a fine to BT for misleading, or seeming to have misled, regarding its advertising. I'd like to table with the secretariat, to be submitted to ASIC, material from some funds that have also been doing the same thing and using misleading terms. We can put that as a question on notice. Would you investigate that? Is that something you're prepared to do?

Ms Chester: Chair, can I intervene just for one moment, please, and ask if we could extend the professional courtesy now of excusing Mr Shipton from the proceedings, given he's answered the questions that you had related to the ANAO matter.

CHAIR: Yes, I think that's fair. You are excused, Mr Shipton. My apologies.

Ms Chester: Thank you. Chair, on the matter that you've raised, I'll hand across to my commissioner colleague Danielle Press.

Ms Press: Yes, we'd be happy to look at any instances of funds where you believe that there has been misrepresentation.

The Chair has provided the questions asked of superannuation funds in relation to their use of Google Ad Words and an example of a possible breach of standards previously imposed by ASIC: please see Attachment A

Answer:

ASIC issued an infringement notice to BT for including the words “Industry Super Australia” in the headlines of its advertisements published on search result pages generated via www.google.com.au (Google) from 29 October 2014 to 17 November 2014. ASIC was concerned that BT misled consumers into believing that BT had an affiliation with Industry Super Australia (ISA), an organisation which manages collective projects on behalf of fifteen industry super funds. BT has never had an affiliation with ISA.

In the case of BT, the misleading material was contained in the advertisement itself.

This is distinguishable from advertising appearing on Google in response to a set of key words or key terms (Google Ad Words) for which an entity purchases or ‘bids’.

The Committee has provided us with two examples of advertisements on Google by AustralianSuper and HESTA that appeared until November 2019 when the term “retail super

transfer” was searched. The term “retail super transfer” is capable of a number of meanings. It may refer to a transfer of funds from, or to, a retail superannuation fund. Absent other material, ASIC would not consider the purchase of Google Ad Words “retail super transfer” by an industry superannuation fund misleading or deceptive conduct.

ASIC is reviewing the material provided by funds to the Committee in respect of the use of Google for advertising.