RAINMAKER INFORMATION

INDUSTRY INTELLIGENCE

Parliamentary Joint Committee on Corporations and Financial Services

Inquiry into the structure of the superannuation industry

Submission by Rainmaker Information Pty Ltd

13 September 2006

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About Rainmaker Information Pty Ltd

Rainmaker Information, founded in 1992, is a leading media, publishing and research firm operating in the Australian financial services market. In particular we pioneered super fund research in Australia, developed Australia's first super fund benchmarking reports and launched Australia's first quality assessment system for superannuation funds. Rainmaker is also wholly Australian owned and operated.

Our product set includes:

- Information decision making tools comprising the desktop computer application Rainmaker Workstation and the web-based Rainmaker Marketplace software;
- Industry research, reports and statistical services including Rainmaker Roundup, the Rainmaker Benchmarking Series, and Rainmaker Advantage;
- SelectingSuper – a superannuation information and comparison centre for employers, consumers and financial advisers. It comprises an annual handbook (now in its 5th edition) that is distributed free of charge to 5,000 employers each year, a website packed with information and comparative information about superannuation and super funds, consulting services, and of course super fund quality assessments;
- SelectAdviser – a consumer service dedicated to helping consumer find a financial adviser;
- Financial Standard – a fortnightly investment and superannuation industry newspaper and daily news service comprising industry news, opinion, managed fund ratings, economic research, feature analysis and interviews;
- Rainmaker*iTV* – web-based investment industry internet broadcasting;
- Conferences and seminars; and
- Custom publishing.

From our orgins as an information company, we produce strategic, tactical, and analytical information about the financial services markets for investment managers, asset consultants, superannuation (ie pension) funds, portfolio analysts, sales & marketing executives, strategic planners, analysts, employers, consumers and financial advisers.

Rainmaker is well respected in the Australia financial services market as a leading information provider, opinion leader and agenda setter. We regularly appear in the trade, business, mainstream and consumer media, while our information is often integrated into university graduate courses. Rainmaker also has active and constructive relationships with most industry associations and relevant Government agencies.

Alex Dunnin, the author of this submission, is also the author of the best-selling book "Australia's Top Super Funds", now in its 2nd edition.

Addressing the Terms of Reference

While the Inquiry has 15 separate Terms of Reference, Rainmaker will address only those that we believe we are qualified to usefully comment upon.

1 Whether uniform capital requirements should apply to trustees

Rainmaker declines comment upon this Term Of Reference except to say the more important question is not uniformity of capital requirements but their appropriateness. In this sense, trustees from particular market segments should not be discriminated against and anti-competitive and artificial barriers should not be imposed. We are of course committed supporters of the trustee-based governance system for super funds.

2 Whether all trustees should be required to be public companies

Rainmaker also has no explicit views regarding the veracity or otherwise of super fund trustee companies needing to be public companies. However, we are passionate advocates for transparency, disclosure and simplicity regarding all aspects of superannuation. This means we are more concerned that trustee companies should themselves very transparently disclose their operating and ownership details just as their super funds are required to.

Indeed the Committee may be surprised to know that even Rainmaker can sometimes find it very difficult to ascertain precisely who is sponsoring particular super funds without directly contacting the Board of the fund or senior executives. This of course doesn't imply wrongdoing, but it unnecessarily creates ambiguity.

With this in mind, Rainmaker suggests the core issue is not so much the legal structure of trustee companies but rather how well fund members understand who their super fund's trustees are and how accountable they are to their members.

For example, it is essential that it is clearly explained to members and prospective members who are the trustees of their super fund, or in the case of trustee companies, who the director's of that trustee company are, how they were chosen, and what organisations might these directors directly or indirectly represent.

Reflecting these concerns, and as part of the SelectingSuper Fund Quality Assessment program conducted by Rainmaker, we place considerable emphasise upon the strength and corporate experience of the organisation underpinning a particular super fund. But because these details can be difficult to find for some super funds, Rainmaker suggests the Committee consider introducing requirements that super funds very explicitly disclose, or be willing to point members to, information regarding who their trustees are and how they operate.

Rainmaker would however like to emphasise that super funds have significantly improved their transparency in this regard in recent years, but as this is a key issue about many super funds we believe all super funds should be encouraged to continue improving their efforts in this area.

3 The relevance of APRA standards

Rainmaker declines comment upon this Term Of Reference.

4 The role of advice in superannuation

When superannuation was reformed in the 1980s, most super funds had only one investment option and they were primarily sold to members solely through centralised workplace – often award-based - distribution.

However, as super funds have evolved with the introduction of investment choice and fund members becoming more experienced and increasingly comfortable making investment decisions, even low-cost super funds now very often have up to 40 or more investment options spanning all manner of investment choices. Indeed some super funds have up to 1,000 investment choices and even some industry super funds now offer direct share access as part of their super fund.

This evolution of investment choices within super funds has consequently prompted Rainmaker, as part of our role as an “explainer” of superannuation to the industry itself and to consumers, to increasingly highlight that one of the most important things people should consider when choosing a super fund is to understand their fund’s investment menu.

This is because research by Rainmaker repeatedly confirms that the fundamental fee differentiator among super funds is the investment menu whereby low cost funds are associated with simple direct-sell super funds and high cost funds are associated with more flexible investment menus. Of course other factors impact pricing as well, but these are among the most pivotal drivers.

Crucially, this evolution of ‘investment choice’ in superannuation is why so many super funds – even industry funds who are sometimes seen to be critical of financial advisers – now offer their members financial advice either directly by internally appointed advisers or in concert with external advisers with which they have a strategic association.

Reflecting this, fee research conducted by Rainmaker each year confirms that the flexibility of the investment option menu, and therefore the need for financial advice, are the primary determinants of super fund fees. Note that Rainmaker considers that whether a fund is “commercial” or “not for profit”, while useful to know, is not fundamental.

This paradigm has even prompted Rainmaker, through our SelectingSuper service, to develop terminology that focuses explicitly upon this parameter. This is why we now call super funds with a limited number of investment choices ‘value choice’ funds, while we call funds with a medium number of investment choices ‘deluxe choice’ funds, and we call funds with lots of choices and flexibility ‘premium choice’ funds.

The Committee may perhaps be interested to know that when Rainmaker presents information about super funds in this regard we have found it to be very easily understood, eg when we presented a series of consumer seminars at the 2005 Money Expos in Melbourne and Sydney. Ironically perhaps, Rainmaker, these more practical segments have been adopted as we sought to learn the lessons the banking and motor vehicle industry learned decades ago.

While most value choice funds are in-house corporate, government or industry funds, and most deluxe or premium choice funds are master trusts, it is useful to point out that we are now seeing some industry funds start to offer more investment choices and so cross the line into being deluxe choice funds.

The implications of this paradigm is that when choosing between industry funds and master trusts, consumers are really choosing between how simple or sophisticated they want their investment menu to be.

Consequent to this, it is also no surprise that as consumers choose super funds with more investment options they will probably find themselves working more closely with financial advisers for the simple reason that the more choices they have usually the more help and advice they are likely to need to take full advantage of these available options.

Interestingly, while value choice funds are usually the lowest cost super funds and premium choice funds are usually the highest cost, some premium choice funds will offer fee deals to some employers and some members so that they can sometimes get a premium choice fund for a value choice price. Deluxe choice funds are usually a little cheaper than premium choice funds, but not by as much as you might think.

For these reasons Rainmaker believes absolutely that advice is becoming more and more important to super fund members, hence why even low-cost super funds not traditionally associated with providing advice, are increasingly exploring ways to cost effectively deliver more, better and appropriate advice to their super fund members.

But Rainmaker must also point out to the Committee that it also needs to be recognised that providing advice to super fund members in the detail required by the FSR reforms can at times be very costly and consideration therefore needs to be made to simplifying some of the so-called ‘general advice’ provisions so super funds and advisers can provide more flexible advice solutions to fund members for a price members can realistically afford. Indeed it is the complexity of some of the compliance aspects of FSR that has necessarily forced many advisers to avoid super fund members until these members have built up considerable assets to justify the paying of the required professional fees.

Table: Different types of investment menus

Number of options	Menu type	Segments covered	Choice of strategy	Choice of manager	Overall Fees
1-15	Value	Mainly industry funds	Yes	No	Low-medium
16-80	Deluxe	Mainly master trusts	Yes	Limited	Medium-high
More than 80	Premium	Master trusts only	Yes	Extensive	Medium-high

Source: Rainmaker Information

5 The meaning of member investment choice

Following on from Term of Reference 4, a major aspect of explaining to fund members how their super fund works is explaining how their fund's investment menu operates. In doing this, Rainmaker has also developed an approach to explain to fund members how they can easily navigate around their investment menu.

In doing this we first and foremost highlight that the investment menu is simply the full list of all the fund's investment options or choices. We then highlight how the key navigation points concern each option's investment strategy, who manages the money, and how many options does the fund member really need.

Regarding investment strategy we refer to the type and mix of assets a fund member may wish to use. For example, do they wish to spread investments across lots of different classes of assets — shares, property, bonds, cash — or do they want to invest only into specific asset classes? If they want to spread their money across several asset classes, this is a 'diversified' investment strategy. If they want to focus upon a single asset class, this is a 'specialist' investment strategy. Diversified options can also be called 'multi-sector' options, while specialist asset class options can also be called just 'sector' options.

We then introduce the concept of growth or defensive investing. This is because investment strategies are usually categorised by how much money is placed into 'growth' assets and how much is placed into 'defensive' assets. By growth assets, we mean shares and property, and by defensive assets we mean bonds and cash. Bonds are also often called 'fixed interest'.

In making these distinctions, Rainmaker always tries to highlight the normal rule of thumb that the more growth assets in an investment portfolio, the better the chances of making more money over the long term nothwithstanding that the trick is also understanding that returns from growth assets may jump around more from year to year.

Rainmaker also uses the following categorisations to classify diversified investment options: "Growth" funds generally have more than 75 per cent in growth assets, "Balanced" funds generally have between 55 and 75 per cent in growth assets, "Capital stable" funds generally have between 35 and 55 per cent in growth assets, and "Capital guaranteed" funds generally have less than 35 per cent in growth assets.

We then highlight who the fund member wants to have managing their money, eg, do they want to use just one investment manager, or do they want their money spread across several investment managers?

In highlighting this issue we explain to fund members that in the same way that diversifying across several asset classes helps them balance investment risk, they can also help balance investment risk by spreading their money across several investment managers. Investment options that do this are called 'multi-manager' options, while 'single-manager' options are those that give all the member's money to just one investment manager.

Importantly, most investment options available through in-house corporate, government and industry funds are really multi-manager investment options because the fund trustees pick several investment managers to run each investment option. Master trusts, on the other hand, usually offer a larger mix of multi-manager and single-manager investment options. Remember, this is one of the major aspects that makes master trusts different – note we say "different" not better or worse.

The final question is how many investment options a fund member may need. Do they want only a limited number of choices, a medium number of choices, or lots of choices? This question is very important because the more choices and flexibility a fund member wants (or has in their fund) the higher the super fund's fees will probably be. Rainmaker consequently argues that one of the major challenges faced by members is not so much finding the 'best' fund, but finding a fund that actually matches their real needs.

How the menu type impacts investment returns

According to Rainmaker's SelectingSuper fund performance surveys for June 2006, industry funds averaged 14.9 per cent during 2005-06 and master trusts averaged 12.6 per cent.

While this is a very big gap between the segments, much (but definitely not all) of it is explained by industry funds having generally much lower fees than master trusts because they usually direct-sell, meaning members can usually only join them by contacting them directly or through their workplace.

This in-turn reinforces the fee advantage of industry super funds as for most fund members they generally do not require the support of financial advisers. Conversely however it also means that if a member needs help understanding their super fund they will probably have to engage an adviser separately for help.

But another reason industry funds are generally much cheaper is because they are usually much simpler and easier to understand funds, and being simpler means its not as complex for the operators to run them and this of course lowers the costs and therefore the fees members have to pay.

Of course being simpler also reinforces why they do not require the support of financial advisers nearly as much as more complex retail super funds. These headline results however really only mean something if members leave the investment decisions up to their super fund's trustees by choosing only their default investment option, which is usually a balanced or a growth option.

For example, members who chose all Australian share investment options averaged 23 per cent during 2005-06 rather than just 14.9 per cent, with the message that choosing the right investment strategy and investment option is often more important than which super fund per se they chose.

For example, fund members investing in growth options averaged 16.6 per cent last year, while investors who took the more conservative capital stable route averaged only 7.6 per cent. Meanwhile, international share options averaged 18 per cent, property options averaged 14.4 per cent, and Australian bonds averaged only a paltry 2.2 per cent. The implications is that as soon as fund members decide they want to get a little more active and start choosing investment sectors themselves, they will quickly find the choice of super fund is really one of choosing the right investment menu.

Table: Returns in each asset sector, to 30June 2006

		Returns after all fees, pa		
Category	Sector	1 yr	3 yrs	5 yrs
Diversified	Growth	16.6	15.0	6.5
	Balanced	13.1	12.4	6.5
	Capital stable	7.6	7.7	5.4
	Capital guaranteed	5.6	4.8	4.1
Specialist	Aust shares	22.6	21.6	10.6
	International shares	18.2	12.2	-0.7
	Property	14.4	13.6	12.6
	Aust bonds	2.3	3.2	3.8
	International bonds	1.5	4.5	5.0
	Cash	4.4	4.2	3.9
	Other	8.7	9.6	6.0

Source: Rainmaker Information

As discussed earlier in this submission, this paradigm of choosing super funds with an eye upon their investment menu also serves to circumvent the intense focus on whether fund members should be choosing, for example, industry or master trusts. This is because these questions blur with the decision of whether a fund member wishes to use a super fund with a simple menu or one with a more complex menu.

For this reason Rainmaker always argues that the focus should be upon the fund member's actual investment needs rather than upon the fund's specific market segment. Indeed, the SelectingSuper performance tables show that the top performing balanced super fund options usually reside within industry funds while the top performing sector specialist options usually reside within master trusts.

Table: Best performing super funds for default and specialist sector options, 30 June 2006

			Crediting rates						SelectingSuper
	Segment	Public offer	1 yr %	rank	3 yr %pa	rank	5 yr %pa	rank	Quality Rating
Best default investment options									
MTAA Super Fund - Balanced	Industry fund	Yes	18.9	1	17.3	1	11.0	1	AAA
SERF Super - Growth	Industry fund	No	18.3	2	16.9	2	8.1	16	
Australian Meat Industry Super Trust - Balanced	Industry fund	No	15.8	15	16.2	3	9.9	2	
Super SA - Triple S Scheme - Balanced	Government fund	No	17.6	4	16.1	4	8.8	9	
Local Super - Defined Benefit and Growth	Government fund	No	15.0	28	15.7	5			
STA - Balanced	Industry fund	Yes	18.1	3	15.5	6	8.9	8	AAA
Health Super Fund - Long-Term	Industry fund	No	17.1	6	15.5	7	6.8	39	AAA
ARF - Balanced Investment Option	Industry fund	Yes	17.0	7	15.0	8	9.4	5	AAA
VISSF - Balanced	Industry fund	No	16.4	10	15.0	9			
Telstra Super - Balanced	Corporate fund	No	16.9	8	14.9	10	8.3	13	
Rainmaker benchmark			14.0		13.2		7.0		
Best asset sector investment options									
Integra Super (Corporate) - ING Emerg Co's Trust	Master trust	Yes	19.2	212	32.3	1	12.0	50	AAA
OneAnswer Personal Super - ING Emerging Companies	Master trust	Yes	19.1	226	32.1	2	12.0	51	
AMP Flexible Lifetime Super - Small Companies	Master trust	Yes	26.3	19	30.8	3			AAA
Fiducian Corporate Super - Australian Smaller Co's Share Fund	Master trust	Yes	21.8	93	27.0	4	17.5	2	
IOOF PS Corporate Super - IC IOOF/Perennial Growth Shares Trust	Master trust	Yes	29.1	12	26.1	5	11.0	64	AAA
Intrust Super Fund - Australian Shares	Industry fund	Yes	24.6	29	25.8	6	14.6	12	
WA Local Government Super - Select Shares	Government fund	No	26.4	18	25.7	7	13.3	23	
Colonial FirstChoice Personal Super - FirstChoice Australian Small Companies	Master trust	Yes	21.9	88	25.3	8			
Telstra Super - Australian Shares	Corporate fund	No	24.8	26	24.6	9	13.6	18	
IOOF PS Personal Super - IOOF MIM Boutique Australian Equities Fund	Master trust	Yes	23.1	50	24.4	10	12.3	47	
Rainmaker benchmark			12.3		11.7		6.0		

Source: Rainmaker Information

6 The responsibility of the trustee in a member investment choice situation

Given the importance of investment menus, the obvious implication is that trustees, as they are responsible for overseeing their super fund, must construct investment menus that are high quality and well balanced and which match the investment needs of the fund members likely to select that particular super fund.

A by-product of this responsibility is of course that trustees must have a reasonable, fully transparent and well documented procedure for appointing investment managers and their investment options that is totally free of biases and conflicts of interest.

For example, inducement payments by investment managers, whether they be called "shelf space fees", "preferred sponsorships" or whatever, should only be permitted if these are guaranteed not to lower the quality of the investment managers appointed to a super fund's investment menu. Regardless, they should be fully disclosed, especially if they materially impacted how an investment manager was appointed by the super fund.

Conversely, super funds must not restrict themselves to only using investment managers they are "friendly" with or who do not themselves have products that compete with the super fund.

Rainmaker expresses these concerns because so much has been done to remove conflicts of interests from financial advisers and it would a complete tragedy if these conflicts of interest we merely transferred 'up the line' deeper inside super funds and how they appoint their investment managers.

Reflecting these views, Rainmaker supports the spirit of APRA's comments earlier this year in some Circulars that super fund trustees should take care when designing investment menus. However we also contend that provided trustees have properly constructed their investment menus that it is not the trustees role to scrutinise every fund member's investment choice. This is because we argue that the trustees' job is to properly run the fund rather than to also be running and overseeing every member's response to the fund.

Note however that Rainmaker has no particular view that fees paid by investment managers to be included on super fund menus are problematic provided these fees are designed to be only of a 'cost recovery' nature and not motivated by profit.

7 The reasons for the growth in SMSFs

One of the hottest superannuation segments is SMSFs – small self managed super funds. These funds are small personal funds usually with very high average balances where the members are the trustees.

These funds are such a powerful market force because while they account for only 6 per cent of super fund members they nonetheless account for a whopping 23 per cent of all superannuation assets. The growth rate of these SMSFs has been nothing short of phenomenal and without a major shock to the superannuation system, eg they are banned outright, their spectacular growth should not be expected to slowdown anytime soon.

Rainmaker continues to believe that under super choice the birth and growth rates for SMSFs should if anything be expected to surge. This is because if employers begin agreeing to pay super contributions into these SMSFs then one of their major hindrances that have limited SMSFs in the past may be about to be cast aside. Of course, this prompts the question of whether this will lead to either an explosion in SMSFs or just a continuation in their growth, which already sees around an estimated 80 new SMSFs being created every day.

In this context, Rainmaker is bewildered why some SMSF critics are beginning to suggest the creation rates for SMSFs is slowing down post-choice. While Rainmaker readily acknowledges that the SMSF creation rates are not increasing, we however contend there is no evidence it is slowing either.

Reinforcing the sentiment that SMSFs should become an even more important segment in future, figures released by super choice clearing house groups like InvestmentLink are already suggesting that 3 per cent of super choice nominations are for SMSFs. If this 3 per cent adds to the already 6 per cent of members already with their own SMSF, then the only interpretation is SMSFs are growing just as expected.

The question remains why SMSFs are growing so rapidly? In answering this question, Rainmaker returns to the paradigm that the main way to differentiate super funds is through their investment menu.

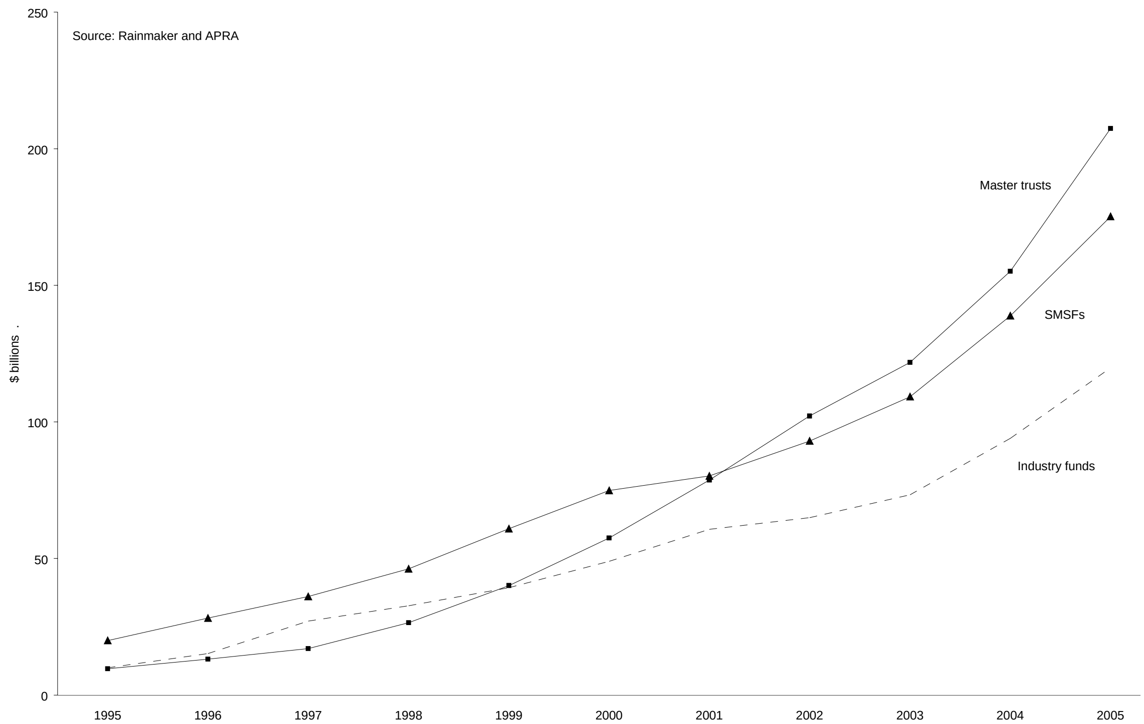
Because SMSFs by definition are inherently flexible structures we interpret the growth of SMSFs as simply the desire by many higher net worth super fund members for structures that offer maximum flexibility. In saying this, Rainmaker suggests the Committee may wish to consider that SMSFs are mainly set up by people desiring flexibility and independence rather than by people wishing to exploit superannuation loopholes. Of course some SMSF trustees will seek to exploit the system but in proportional terms we argue this is likely to be no worse than any other market segment.

Rainmaker also further suggests that many critics of SMSFs are more concerned over their potential to lose market share among high net worth investors and how they may be struggling to compete against SMSFs rather than being about legitimate and fact-based concerns with SMSFs.

Returning to the point of why SMSFs may be growing so rapidly, Rainmaker also believes the fact that SMSF and master trust assets are growing at such similar rates echoes the parallels in how people who desire choice and flexibility can often graduate to SMSFs when their assets are of sufficient magnitude.

This perspective also explains why Rainmaker believes the superannuation industry debate of industry funds versus master trusts is really a distraction to the real battle emerging between master trusts and SMSFs. Nothwithstanding this, it is vital fund members establishing SMSFs (or any fund for that matter) do so only when they have assessed that an SMSF (or whatever) is an appropriate structure for them.

Graph: Growth in funds under management for master trusts, SMSFs and industry funds



8 The demise of defined benefit funds

Rainmaker declines to comment upon this Term Of Reference.

9 Cost of compliance

Rainmaker declines to comment upon this Term Of Reference.

10 The appropriateness of funding arrangements for prudential regulation

Rainmaker declines to comment upon this Term Of Reference.

11 Whether promotional advertising should be a cost to a fund and its members

Rainmaker is an active supporter of the Government’s super choice policy for the simple reason it has promoted significantly boosted levels of transparency, public accountability, member interest in their super, and above all, democratisation of superannuation and funds focusing more explicitly upon their members rather than just employer or fund sponsors.

By this we mean super funds now have to put much more energy into explaining themselves and their value proposition to their members, prospective members and they have to openly demonstrate how they are totally dedicated to acting in their members’ interests. Moreover, funds not doing this not only risk not growing, they risk not even holding onto their current membership – which is why so many super funds now talk openly about their “member retention” strategies.

The flipside of all this is that all super funds now have to put considerably more effort and resources into marketing, whether marketing to current members to reinforce to them why their fund is worth staying with, or to new and prospective members to encourage them to join.

Importantly, with the whole point of super choice being to promote competition among super funds, it is inconceivable to Rainmaker that super funds would not be compelled to spend more money advertising and marketing themselves. In this context Rainmaker must put on record how we are surprised that some industry observers are now perplexed with how this emphasis upon funds advertising has emerged.

The Sole Purpose test and advertising costs

The inevitable next question is how do funds, who are subject to the Sole Purpose test, justify the expenses associated with these marketing programs?

In light of this Rainmaker has observed how legal opinion is now surfacing that it may actually not be a Sole Purpose test question at all as marketing and advertising costs simply concern how the super fund spends its operating budget – refer to the opinion on this matter detailed by Peggy Haines, a partner with leading legal firm Freehills, who said at the recent annual Fund Executives Association Limited conference, that, “Sponsorship of sports teams is not really a sole Purpose test issue, but trustees must be able to justify why the particular advertising was used” (*Financial Standard*, 28 Aug 2006, page 8).

Haines however said that trustees still needed to justify the expenditure, a view that Rainmaker suggests would be widely endorsed by almost all super fund trustees. Anyway, many of the super funds that are sometimes criticised for spending money on marketing and advertising are still some of the lowest cost and highest performing funds in the market (within their segments), suggesting that there is no evidence at all that these advertising initiatives are damaging members' interests in any way.

Rainmaker is nonetheless intrigued that criticism of super choice driven advertising should be focused only upon not for profit funds rather than be equally leveled at retail super funds – which are, according to market reports, spending much more money. Indeed, not for profit super funds are just advertising in the same way that retail funds have been doing for years.

By way of background, according to market researcher AC Nielsen, not for profit super funds appear to be being outspent considerably by the retail brands by a factor estimated to be 6:1 (*Financial Standard*, 11 Sep 2006, page 4).

Why funds spend money on marketing and advertising

Super funds, in Rainmaker's view, spend money advertising and marketing because they:

1. wish to encourage members to make wise and appropriate choices while being a member of the fund;
2. because they believe members need to be protected from damaging their retirement savings outcomes by exiting the fund to join a fund that is less appropriate for their needs; and
3. because attracting more members into the fund will increase economies of scale and so help keep operating costs down or hold costs lower than they would otherwise be.

In each of these cases Rainmaker believes the trustees could easily mount a very credible Sole Purpose test argument to justify their decisions to invest in marketing and advertising.

Nonetheless, Rainmaker of course acknowledges the cost of marketing and advertising is a cost upon members – what else could it be? But just because its a cost doesn't mean it's a bad cost that should be avoided, which is why the trustees must always judge any such expenditure on the basis of its cost-versus-benefit.

How the payment for the advertising is structured

Rainmaker also believes that a related issue to how much super funds are spending in their operational budgets on advertising is how the advertising is being funded.

For example, some industry funds are criticised at times because a company they pay administration levies and fees to, being at times Members Equity, actually pays for the cost of some collective industry fund advertising. But since these costs are paid out of that company's operating budget it is difficult to identify the point of the criticism as it should really be directed to the company paying the costs and perhaps (if relevant) their corporate Regulator.

Indeed, Rainmaker understands these arrangements to be very similar to how super funds operated by retail wealth management brands also fund their advertising through their parent or associated companies.

However, concerns over these questions clearly mean some market participants are uncomfortable with some of these funding arrangements and Rainmaker suggests there may be an opportunity for the Committee to clarify how super funds, being both not for profit and retail, should disclose their relationships with these associated companies.

Rainmaker nonetheless requests that the Committee not to recommend that only retail super funds and their wealth management brands continue to be allowed to advertise because that would, in our very firm view, be anti-competitive. Moreover, given the lack of technical definitions of what are not for profit funds anyway, any such proposals would be very difficult to actually implement.

12 The meaning of the concepts "not for profit" and "all profits go to members"

Rainmaker has gone on record many times to argue that the term "not for profit" can be ambiguous. We of course absolutely recognise the point the term is trying to convey, being that the fees match the costs and that no shareholders are directly paid any profits.

But because Rainmaker often has to explain to fund members that while it's the trustee company that is not for profit, the super fund the trustee company operates is however very much profit focused as that is how members make investment income.

Adding to the ambiguity, these funds also use many service providers who are themselves very profit focused while many not for profit trustee companies even invest in profit making companies that they might even own in their own name. Indeed Rainmaker in the past has even tried to develop a term less likely to be as confusing (we failed in this regard however).

Some groups that actually represent commercial funds can also call themselves not for profit and this on occasion has lead to false impressions about what is actually not for profit. It may therefore be appropriate for the Committee to consider attempting to define the term at least in the context of super funds.

Nothwithstanding this, Rainmaker suggests such definitions are likely to have considerably and unforeseen consequences in other segments of the economy, eg, the charity segments.

For these reasons, Rainmaker has long argued that super funds should instead be judged on their merits, on their features, according to their returns, fees, levels of insurance and quality of their management, governance and communications, rather than just according to whether a fund happens to not for profit or commercial.

Despite these issues, the term not for profit is nonetheless very helpful as a collective term for corporate, government and industry super funds.

Importantly though, Rainmaker explicitly rejects the notion that not for profit super funds in and of themselves are better than commercial funds. This is because being not for profit or commercial is merely a way to describe how a fund operates, rather than being an indication of how good the fund is.

Rainmaker also rejects the concept that not for profit super funds are 'the new mutuals". We reach this view because mutual funds are owned, by definition, by their investors, while for super funds (including not for profit super funds) the owner of fund's assets are technically the trustee companies that oversee the super funds although the fund members of course have a beneficial ownership claim over these assets.

Therefore Rainmaker would strongly urge the Committee to not entertain ideas of allowing the "mutuals" concept to become too widespread in Australian superannuation circles because it is very clearly misleading and does not reflect the true legal structure of super funds.

13 Benchmarking Australia against international practice and experience

Rainmaker declines to comment upon this Term Of Reference.

14 Level of compensation in the event of theft, fraud and employer insolvency

Rainmaker declines to comment upon this Term Of Reference.

14 Any other relevant matters

Rainmaker declines to comment upon this Term Of Reference.

[ends]