

Subject: Submission 3 to HWI Inquiry

Senators

As further information becomes available further issues with HWI are identified. Below are three further issues I would like the Senate to consider

Issue 1

My reading of the OFT reports (NSW Home Warranty Insurance Scheme Information on the Scheme as at various dates) and the comments of the Minister of Fair Trading in NSW raises an issue regarding claims ratios.

From the OFT data total revenue for the HWI scheme in NSW can be estimated at over \$250M. The Minister's comments are that \$16m has been paid out and there is a further \$7m of liabilities. This provides a claims ratio for the insurance of less than 10% ( $23/250 \times 100$ ).

Claims ratios for other consumer protection products are in the order of 65 to 80%. It could therefore be assessed that the providers of HWI are either participating in price gouging or the providers of HWI are not providing the consumer protection it was intended to provide or both.

To resolve this matter it is suggested that the Senate Inquiry ask the ACCC what is an acceptable claims ratio for a consumer protection product and whether a ratio of 10% would be considered unreasonable and warrant further investigation. If it is the latter could ACCC be requested to undertake that investigation.

Issue 2

It has been noted that neither the HIA, the Insurance Council of Australia nor any insurer agreed to subject themselves to questioning by the Senate. It was also noted that Mr Paul Jameson of Vero was in attendance at the Inquiry in Sydney but did not make himself available to answer questions from the Senate. As has been stated by members of the Inquiry it could place the Senate in a difficult position.

To address this position, I suggest the Senate consider that in the whole building process the two main stakeholders are the builder and the consumer. Their relationship is determined by the building contract and the relevant state laws. The state laws include provisions aimed at providing the owner consumer protection. At the present in NSW and Victoria that protection, when all other avenues have been tried including liquidation of the builder, is supposed to be provided by a third party, the private sector insurer.

Within that context, the discussion that is held, and ultimately the relevant legislation must firstly address the issues of the consumer and the builder. If it is then proposed to have a third party as part of the system that third party has the choice of participating in the system or not. At present, by virtue of agreeing with governments to

provide HWI, a third party being the insurers have agreed to be part of the system .

By not agreeing to appear before the Inquiry, it could be considered that the insurers have provided their opinion to the Inquiry and it is the Inquiry's role to determine what is the best system to provide both protection to the primary stakeholders being the home owner and the builder. When that has been determined and if there is a role for the private sector insurance, private sector insurers will consider that role and determine whether or not they wish to take it up. If they do, all well and good, if they do not an option without the provision of insurance by the private sector, and known to have the support of consumers and builder, such as the QLD model or a model based on that model can be recommended.

In the alternate, if the insurers believe they have a strong case for the system to remain as it is, by not agreeing to appear before the Inquiry, as in any jurisdiction, their evidence should not be weighted highly.

If summonsed before the Inquiry it is doubted as the whether you would be provided with the answers sought and due to the time involved it is doubted any answers given could be validated.

I therefore suggest that the inquiry, based on the evidence before it, weighted as seen fit, determine what would be the best system for both consumer and builder protection. If there is a role for a third party that role should be defined and offered to the third party. If the third party does not accept the role then the preferred option would revert to a model known to be acceptable to builders and consumers that being the QLD model or a model based on that model.

### Issue 3

On a review of the Insurance Policy of Vero it is considered much of the Policy does not comply with the law in NSW. Due to the financial barriers before consumers I doubt the policy has ever been tested in Court and Insurers have continued to implement the policy whether or not it complies with the law. I ask the Senate to seek legal advice to determine whether the insurance policies comply with the intent of the law to provide consumer protection.

If time permits I may expand this further.

Rob Siebert