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22 May 2008

Mr Geoff Dawson
Secretary, Home Warranty Insurance Inquiry
Senate Economics Committee

Via e-mail: CassidyL@aph.gov.au

Dear Mr Dawson,

Inquiry into Home Warranty Insurance schemes

Thank you for your e-mail of 9 May 2008, in which you invite HIA to comment on nine submissions to the Committee which might be thought to reflect adversely on HIA.

Attached are HIA's comments on these submissions.

Yours sincerely,
Housing Industry Association Ltd

Glenn I Simpson
Legal Counsel

Attachment – HIA Comments on Certain Submissions to the Senate Economics Committee re Home Warranty Insurance.

GENERAL COMMENTS ON THESE SUBMISSIONS.

The Terms of Reference of the Committee make it clear that this is not an inquiry into HIA; nevertheless, certain witnesses have apparently taken the opportunity to express views about building contracts with HIA members, while others have tried to vilify HIA and its staff . HIA might, if it chose, simply point to the fact that these and other allegations are outside of the Committee's Terms of Reference and do not require comment.

However, HIA considers that such allegations tend to colour the environment in which the Committee is required to make its Report, and the Committee should have the benefit of relevant information where that exists. HIA observes that it is difficult to respond constructively to allegations such as "all areas of insurance in Australia are a total malicious fraud", "it [HWI] is a useless, risk-free product", or "BFAIR is the main lobby group for the industry".

DETAILED COMMENTS ON INDIVIDUAL SUBMISSIONS

1. Submission 15 – Mr Ian Piddington (builder)

- a. Mr Piddington says "all HIA's government assistance should be revoked ... or better still disbanded." HIA receives no government assistance. HIA is a voluntary association of members engaged in the housing industry and not a statutory authority, a public service department or a charity.
- b. While HIA speaks for 44,000 members around Australia, Mr Piddington is not an HIA member and HIA has never claimed to represent him.

2. Kim Booth MP (Tasmania, Greens)

- a. Mr Booth is a State politician pushing a political barrow. Mr Booth's comments in Hansard, and his submission to this Committee, are long on invective and prejudice but short on facts, which he has made no attempt to seek out. Mr Booth has declined an invitation to repeat his allegations outside of the Tasmanian Parliament.
- b. HIA has no shareholders – it is a company limited by guarantee and belongs to its members. All HIA activities are for the benefit of members. All surpluses generated from HIA's activities go to benefit members.
- c. The policy of insurance from Australian Home Warranty tendered by Mr Booth has no connection with HIA or with HIA Insurance Services and there is no information provided as to how the policy cost was arrived at. In fact, the Committee has been provided with no information about this particular policy or the commercial relations behind it, but it is obviously quite unsound to draw conclusions regarding the whole Australian insurance marketplace on the basis of a single unverified instance. The level of 'agents' fees' in that policy (\$918.30 out of a total premium of \$1,691.60 on work valued at \$48,000.00), if true, is very far from the norm in the industry. HIA has been informed by underwriters that the **average** warranty premium paid on a new dwelling in 2007 was \$650.00 against a median house cost of \$176,421.00.
- d. In any case, a competitive informed marketplace, such as currently exists, is the best guarantee of the lowest prices.

4. Submission 20 – Builders' Collective – Mr Phil Dwyer

- a. We have already commented on many of Mr Dwyer's incorrect statements.
- b. *Choice Magazine* (cited by Mr Dwyer and a number of other submissions) is a source of opinion and not of verified facts. HIA wrote to *Choice* on 27 February 2004, after publication of its article on HWI, setting out in considerable detail HIA's view of the true position and offering a full briefing, but received no reply. It appears that *Choice Magazine* is not interested in providing a fully informed (let alone a balanced) view on this issue.
- c. Comments by Mr Dwyer, *Choice Magazine* and other witnesses that HWI has 'little or no value' should be viewed in the light of the report at p.4 or the *Australian Financial Review* of 14 May 2008 ("Project Builder Hits the Wall"), in which a spokesman for the NSW Dept of Fair Trading was quoted as commenting that 300 consumers building houses with Beechwood Homes (the previous day placed in voluntary administration with debts of \$20m and negligible assets) would be protected, as "if the builder became insolvent... home warranty insurance would apply." Vero, the underwriter of HWI for Beechwood Homes have publicly acknowledged their liability. HIA is unable to comprehend the persistent refusal of critics to acknowledge that without HWI, such builder collapses would be disastrous for homeowners, and that these large costs of completing unfinished houses are paid by insurers out of HWI premiums.
- d. Even though premiums on HWI have continued to decline, Mr Dwyer in the Graph of HIA Financial history drawn from its Annual Reports, seeks to link HIA's income growth over the years 2002-4 to HWI and the reduced competition in the provision of HWI during the same period. The break-up and details of HIA's sales revenue is sensitive commercial information, the disclosure of which would advantage HIA's competitors and consequently disadvantage HIA members. However, HIA can say that revenue from activities associated with the provision of HWI accounts for about 3 per cent of HIA's gross revenues obtained from all sources. HIA's accounts are audited and lodged with ASIC every year.

5. Submission 27 - Cunninghams (consumers)

- a. Home Owners Warranty is not "owned in total by HIA". Neither is HIA Insurance Services
- b. Mr Geeves is no longer employed by HIA,
- c. HIA is legally constrained by the terms of the settlement from commenting on the resolution of the action brought by Mr & Mrs Cunningham other than to say:
 - (i) The action was resolved without admission of liability to the satisfaction of all parties; and
 - (ii) they were fully advised by their own lawyers throughout the process.

6. Submission 28 - Holloway (consumer)

- a. Mr Holloway is in dispute with his builder over a contractual issue which has no relevance to the Committee's Terms of Reference. He is using this as an opportunity to attempt to put pressure on HIA to have the dispute resolved in his favour. This is pointless, as HIA has in fact no role in the dispute.

7. Submission 35 - Tomlinson (consumer)

- a. Mr Tomlinson's comments are emotional and abusive. They provide no new evidence and raise no new issues.

8. Submission 39 - Atkins (builder)

- a. Allegations by Mr Phil Dwyer, similar to Mr Atkins', re misleading conduct etc were investigated by the ACCC in 2005-6, which dismissed them.
- b. There are not now and have never been any "arrangements between MBA and HIA lessening insurance availability" or "restrictions by MBA and HIA on purchase Home Warranty Insurance" or breaches of s.46 TPA. Mr Atkins advances no evidence for these allegations. If he has any evidence he should immediately refer it to the ACCC.
- c. Mr Atkins' view that 'all areas of insurance in Australia are a total malicious fraud', his championing of his own 'Bathroom Book' in a dispute with MBA-NSW, and his suggestion that "Associations supposed to be 'not for profit' should be altruistic to help builder members" are matters of personal interest to him and not matters within the Committee's terms of reference.

9. Submission 40 – Mr Lionel Buckett (builder)

- a. The submission is generally ill-informed, and reliant on much hearsay from equally ill-informed persons. For example, he claims that the NSW Government "gave the scheme" (including \$70m reserves) to Vero and HIH Insurance because to keep it was "against international treaties". What is his source of this alleged information? What treaties? This is plainly nonsense. The NSW scheme was not given to anyone, it was wound down and the reserves used to pay consumer claims or transferred to the NSW Treasury.
- b. Claims that HIA makes \$80m per annum from HWI are wrong. See 4(d) above.
- c. HIA is not aware of writing any letters to Mr Buckett, "threatening legal" or any other kind of action. He is not an HIA member, and we cannot find any record of having dealt with him on any issue.
- d. HIA produces a Standards and Tolerances Guide that address the issues raised in his para on "Standards".