

SUBMISSION canvassed in June 2011 by the Australian Government through the:-
Options paper: a modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia

To:

The Hon David Bradbury MP
Parliamentary Secretary to the
Treasurer

The Hon Robert McClelland MP
Attorney-General

I note with disappointment that the options paper does not address the practices of the ASIC in its role as regulator of the Insolvency Practitioners. This is a divergence from the recommendations following the Senate Committee's investigations which highlighted how the ASIC needs to improve its processes or alter its framework to improve its performance in this area. There had been much suggestion during the Senate Inquiry about the ASIC failure to do its duties, in particular its failure to investigate complaints about the practices of IPs.

At the end of the day, any area of improvement that might be generated from licencing to communication would however be of no consequence if the structure or resourcing of the ASIC was inadequate, or if the ASIC was badly managed. I refer to the paragraphs 465 and 599 as examples of this.

I also note that provision of better support to affected employees has not been addressed. During the Senate Inquiry, there was a submission about employees of companies undergoing administration, who cannot obtain easy and affordable independent advice and become disadvantaged compared to the other stakeholders.

There are also examples where unscrupulous IP's claim but do not distribute GEERS funds. There are further examples where unscrupulous IP's withhold CSA payments from employee wages but do not pass these amounts on to the CSA.

Another of the most worrying findings of the Senate Inquiry was the multiple reports from complainants to the ASIC (about unscrupulous IP's) that their complaints were brushed off as not within ASIC mandate by the ASIC if the value of complaint was less than \$5-10 million. This perception by the ASIC must be changed as otherwise they effectively exclude more than 90% of all Australian Corporations from ASIC regulatory protection.

This is a case of those who are in denial leading those who refuse to see.

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