



A•S•U
Australian Services Union

Productivity Commission

ASU Submission

Superannuation Competitiveness and Efficiency Commissioned Study

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Introduction

1. The Australian Services Union (ASU) is one of Australia's largest Unions, representing approximately 120,000 members.
2. The ASU was created in 1993. It brought together three large unions – the Federated Clerks Union, the Municipal Officers Association and the Municipal Employees Union, as well as a number of smaller organisations representing social welfare workers, information technology workers and transport employees.
3. Today, the ASU's members work in a wide variety of industries and occupations and especially in the following industries and occupations:
 - Local government (both blue and white collar employment)
 - Social and community services
 - Transport, including passenger air and rail transport, road, rail and air freight transport
 - Clerical and administrative employees in commerce and industry generally
 - Call centres
 - Electricity generation, transmission and distribution
 - Water industry
 - Higher education (Queensland and SA)
4. The ASU has members in every State and Territory of Australia, as well as in most regional centres as well. The ASU's members are covered by a large number (approx. 20) of the modern awards because of the diversity of our membership. Following the introduction of compulsory superannuation, the ASU has become a significant stakeholder in the Australian superannuation system as union members' employee representative on industry superfunds relevant to our coverage. Through the established long term relationships with industry superfunds, the ASU holds board positions and advocates for our member's interests in the ongoing success and security of the superannuation system. Relevantly, the ASU is also a party interested in the maintenance of the national safety net of minimum terms and conditions of employment through modern awards.
5. The ASU primarily believes that the current system where an employer can select a default fund from MySuper products is working appropriately, if the current reforms to the system are allowed to be implemented. In addition, the ASU strongly contends that the measurement of competitiveness and efficiency of MySuper products would not be best served by reducing the primary indicator of product competitiveness to a fees discussion. Ensuring best net returns to fund members is paramount; however, the best indicators of product performance require, at the very least, a weighted assessment of net investment return over short, medium and long term investment cycles; transparency of all fees in accordance with full implementation of APRA's public disclosure requirements¹; an assessment of whether fees are justifiable; consideration of the relative value of services to fund members; and, appropriateness of the risk exposure of a MySuper product in the context of individual fund member's industry and occupation.

¹ Prudential Standard APS 330 Public Disclosure

6. On the last issue, MySuper products should be required to demonstrate policies higher than the legislative minimum requirements for insuring for Death, Total and Permanent Disability (TPD), as well as Income Protection where appropriate; also, the assessment should be undertaken by an independent agency with the capacity to analyse the inherent risk of working in specific industries and occupations.
7. Finally, the ASU is aware of and endorses the concerns of AIST, about other appropriate measurements that seek to ensure the sustainability, adequacy and fairness of the whole superannuation system.

The ASU response

8. The terms of reference discussed in the Productivity Commission's Issues Paper² published for this stage 1 study, calls for submissions on development of criteria to assess the efficiency and competitiveness of the Australian superannuation system. The ASU response is confined to considerations for the assessment of default fund performance as a term of employment relationships and we strongly contend that effective measures of transparency and accountability for the governance of superannuation funds is necessary to ensure fairness of the compulsory system.

MySuper and the employer's choice

9. The ASU is primarily concerned with the implications for default fund members arising from the conclusions about the default fund market drawn from the Murray Financial System Inquiry completed in 2014 (the Murray Inquiry): "the general disinterest of many members reflected in high reliance on various default options in the superannuation system"³. As has been said by the Productivity Commission, a competitive and efficient default fund market needs to aim for protecting net returns to fund members. However, the ASU believes that it is just as important that the choice of fund made by the employer or any other party other than the employee remain subject to regulatory review as a matter of the *Fair Work Act 2009* (FW Act). The fact that fewer than desired fund members elect to change from their default fund is as much an indication that the MySuper products perform to an individual's needs as it is an imperative for government to ensure there is an independent review of the the products in the interests of consumer protection.
10. The matter of efficiency and competitiveness criteria for compulsory contributions invested in default funds, must appropriately off-set a higher standard for consumer protections than the market for voluntary contributions. When the Productivity Commission designed the MySuper system for default funds overseen by the Fair Work Commission (FWC), consideration was given to the risk involved in legislating the employer's selection of a default superfund; in respect of making financial decisions on behalf of employees' compulsory contributions.
11. The current oversight of eligible MySuper products mitigates certain risk factors including the variability of employers' skills or knowledge to compare the specific details of the terms of superannuation products; employer relationships with banking institutions influencing financial

² *Superannuation Efficiency and Competitiveness*, March 2016

³ *Ibid.*, p. 6

decisions; also, the impact of other business decisions such as management of payroll functions that would influence the default fund of choice.

12. MySuper products have been designed to facilitate the employer's selection of fund with basic characteristic features and fee structures that can be compared on cost, investment performance and insurance coverage. However, Superannuation Guarantee (SG) contributions are deferred wages and the employer's execution of their SG obligation is an arrangement governed by an employment relationship. In the absence of an Enterprise Agreement that establishes the employee's choice of default through majority support for an industrial instrument, employees currently rely on the relevant modern awards and the FW Act to provide that default funds will be selected in the interests of the employee and be subject of independent review by an expert panel of the Fair Work Commission (FWC).
13. The industrial relations jurisdiction also ensures that all interested parties can make submissions on how default funds are working in the modern awards. The default MySuper investment strategy adopted on behalf of a group of employees must perform well on fees, costs, education, services, and insurance. Without an independent review, current legislative frameworks do not ensure that standards relevant to the workplace are being met. It is appropriate that an independent review process includes employees advocating their own interests in an effective jurisdiction that is accessible in cost for all parties. By constituting an Expert Panel, Fair Work is the appropriate jurisdiction to assess whether MySuper products satisfy the criteria set by the Productivity Commission and any other matter relevant to the employee's compulsory superannuation accumulation that is not otherwise publicly reviewed.
14. For example, the content of insurance strategies are governance matters for the trustees of the fund; however, employees should have the ability to influence the decision about whether an appropriate level of insurance is being met for the industry or occupation covered by a modern award. Section 52 of the *Superannuation Industry (Supervision)* legislation⁴ implies only that mandatory covenants, including an insurance covenant, be inserted into the trust deed. The effect is that trustees must discharge a basic fiduciary obligation when selecting insurance for fund members. Therefore, it is also appropriate that industry advocates be heard on how the trustee may be best informed in relation to selecting policies adequate for the inherently dangerous nature or otherwise of the industry and occupation.
15. Furthermore, the ASU joins other industry experts in rejecting the notion that consumer-driven competition in the default fund market can drive a reduction of fees. In a study of the best outcomes for fund members and retirees, the ASU does not accept that the rate of fees alone is the best indicator of outcomes for fund members. The lowest fees could be offered for a very poor product. MySuper products would be best served if the Commission makes recommendations on the appropriate measurement of all the following standard indicators of fund performance:
 - i. Best net investment return over a range of investment cycles: short - 2yrs; medium - 5yrs; &, long term - 10 yrs.

⁴ *Superannuation Industry (Supervision) Act 1993* (Cth) (SIS Act)

- ii. Whether complete transparency of fees has been implemented in accordance with APRA full disclosure standards; and whether the fees are justifiable.
 - iii. Relative value of services to employees; such as transferring other balances in; online access to account; modes of additional contributions; personal financial planning advice; education of investors; retirement planning; and, calculation tools.
 - iv. Appropriateness of insurance policies for Death, TPD and Income Protection, to fund member's employing industry or occupation.
16. In any event, employees should have recourse to agitate on all governance issues not just the issue of fees. For example, APRA's Prudential Standards have to date not been fully implemented. APRA is will soon be a full 2 years behind in its obligation to implement compliance with standard 330 determined 26 June 2013. Without Fair Work or any other independent agency reviewing MySuper product eligibility for the default funds, there may be no other adequate pressure for APRA to fully implement necessary transparency of fees.
17. Sufficient criteria to measure performance of MySuper products against an objective that the system should aim to replace reliance on the Aged Pension, should form part of the current stage review. The ASU believes that the regulatory review process of recommended criteria for MySuper products should continue to be undertaken by an Expert Panel of the FWC, as a matter that facilitates harmonious employment relationships. Too many uncontrollable biases will influence an employer's choice or any other third party selection of a default fund product on behalf of an employee and presents a high level of risk for the management of employees' deferred wages.
18. The MySuper products should continue to simplify choices to eligible cost-effective super accounts for the relevant industry. However, no better legislative framework currently exists to facilitate the employee's interests in the employment relationship than those of the industrial relations system. The Productivity Commission should conclude that the FWC is the most credible and transparent agency for conducting regular assessment and accountability for default fund selection for compulsory contributions through the allocation of MySuper products to the modern awards.

Criteria to assess efficiency and competitiveness of the Australian superannuation system

19. The principal objective, against which the efficiency and competitiveness of the superannuation system should be assessed, is the role of the superannuation system in improving the retirement incomes of all Australians, through a combination of compulsory contribution rates as well as voluntary contributions. The effect of limiting any scope of the objective would be an error of understating the role of superannuation in broader government policy settings.
20. The ASU is concerned that the objective of superannuation should be improvements in the operation of the superannuation system so that it continues to alleviate the impact of an ageing population on government revenue, whilst maintaining public expectations of decent living standards in retirement. The cost of the Aged Pension must continue to be managed as the numbers of people who will fund their own retirement through superannuation grows. The growth

in funding the cost of health and aged care from healthy superannuation must be supported. Reasonable levels of voluntary contributions; also, must always be encouraged to ensure that consumption levels can continue to contribute to the economy as the proportion of retired Australians not working increases.

21. To function effectively within the retirement income system, the principal objective of superannuation must also allow for the creation and implementation of measures that do not detract from the primary objective such as targets or strategies to improve gender equity; low income outcomes and the impact on effectiveness of superannuation that the growth in self-employment and part-time work raises; as well as facilitate transparency and other long-term expectations.
22. The current policy settings have allowed unintended consequences. Firstly, in their role to complement pillar one, pillars two and three can only currently complement the Age Pension during income earning years. The self-employed, part-time employed, unemployed, those earning less than \$450 per month and those who cannot work due to disability do not benefit equitably from this current policy setting and will continue to face a disproportionate dependence upon the Age Pension in retirement years. It is the growth in that will weaken the objective of the superannuation system must qualify as relevant to this study.
23. The ASU believes that for the reasons described the objective of superannuation to provide retirement income for all Australians is yet to be achieved. Significant inequities of outcomes arise from the current system. Consequently, any assessment of competitiveness and efficiency of the system should consider the prospective impact of a workforce that will increasingly become characterised by self-employment, part-time employment, periods of structural unemployment, and the ongoing systemic underemployment conditions for Australians who regularly earn less than \$450 per month and those or who cannot work due to disability.

Assessing efficiency of the superannuation system

Importance of benchmarking sustainability, adequacy and fairness of the Australian superannuation system

24. The ASU is aware of and endorses the submission of AIST for this study. The AIST in conjunction with Mercer, have researched an appropriate assessment tool for measurement of Australian policy settings. In particular, the AIST have framed objectives of Superannuation in terms of principles addressing adequacy, sustainability, and fairness. The ASU recommends that the Commission seek their demonstration of the AIST-Mercer Super tracker.

Conclusion

25. The current default superannuation market allows employers to select a default fund from a range of MySuper products. The process can continue to be efficient for employers and employees provided existing MySuper reforms are implemented. However, any other proposed measurements of efficiency and competitiveness of MySuper products must serve the interests of

fund members in the first instance and not reduce competitive options to the cost of fees. As the superannuation industry continues to mature, weighted assessments of all indicators applicable to an expanded objective of superannuation that would seek to improve the income in retirement of all Australians, should be considered as criteria for measuring efficiency and competitiveness of the whole industry. In respect of selecting appropriate tools for measurement of sustainability, adequacy and fairness of the Australian superannuation system, the ASU relies on the analysis of the AIST. The ASU would be pleased to provide further information or to answer queries in relation to this submission. Please contact the National Secretary, David Smith (