Dear Sirs.

I was fortunate to be invited to Canberra by the Hon David Bradbury MP to discuss the Options Paper when it was being compiled.

I have 4 observations in relation to same.

1. You should be commended for your work to date.

2. It would be a significant mistake to permit lawyers to be registered as liquidators if they they have not worked in the industry under the supervision of a liquidator for at least 3 years at a senior level. Liquidation is a very specialist job. Having a simple law degree (as I have) does not equip you to be a liquidator. Far from it. You need the on the job training that is only possible from doing the time. Good insolvency practice is a art that needs to be learnt, the theoretical knowledge learnt from my various law qualifications did not equip me to run a significant liquidation. There is a massive disconnect between the theoretical knowledge gained at Uni and the day to day management of a multi location trade on where peoples may be injured during the performance of their employment. Further, trade ons are run by the numbers, its an accountants job, lawyers can do it, but lawyers will need to understand cash flows and live through the process a few times before they are authorised to run it without supervision.

3. Your proposed enhanced insurance obligations are a mistake. I doubt very much you have seen any data to support the benefit of extra insurance v's the cost to creditors from the premiums liquidator's pay. Put simply, In 20 years of work in this industry, I can't recall a single insolvency administration where a insurance claim was made by creditors that resulted in creditors getting paid 1 dollar from the insurance held. Beefing up insurance as you have proposed will not provide any benefit to creditors. It will simply increase premiums and reduce the pool of funds available to pay creditors. If you want to do something different. Encourage cash bonds to be held for misconduct. Back in the day, that's what was in place and its a good idea that we have forgotten.

4. My data showed you just 4.5% of all insolvency administrations result in a successful restructure via a deed of company arrangement. So 95% of companies are not saved by our VA framework. These stat's establish the VA framework is a failure. It does not permit insolvent company's to be saved as the legislation intended. So instead 95% of companies look to phoenix there way out trouble. My submission to you showed the UK law is a good templet for meaningful reform here. If you adopted the UK, Prepack model and made director's automatically liable for taxation obligations that are unpaid or not disputed after 6 months of them falling due, you would eliminate illegal phoenix practices, saving billions in fraud and lost taxation revenue each year.

I would be delighted to return to canberra to discuss any aspect of your paper if you require.

Finally, great work so far, I sincerely hope you finish the job through new legislation.

NICHOLAS CROUCH
OFFICIAL LIQUIDATOR | TRUSTEE IN BANKRUPTCY

My comments on the Governments paper are below.

The majority of changes proposed are good and I hope you progress with legislation.

I will adopt the same paragraph numbering used in the Proposal Paper of December 2011 with respect to the changes which I think are not beneficial and need a little more work.

Para 26.
The proposal of changing the required experience to become registered of just 3 years is a big concern to me.
You learn this job on the job.
3 years is fine, if you have gone through the ranks and spent 5 years prior to that learning the ropes.
I promote a min, 8 year rule.
I do this, cause it took me 8 years to learn my job to a adequate level. And I'm one of the few dual law and accounting qualified practitioners. To suggest you can parachute in and pick it up in 3 years fails to acknowledge the difficulties of the industry.
The 3 years would necessarily be at a very high position, and not just at a manager's position.
The industry has a generic scale of fees, which the senate committee report referred to.
The 3 year rule should start only when a person is a director on that scale.

Para 38
You don't need classes of practitioners.
That's over regulation.
You either smart enough and know enough or you don't.

Para 46
Powers of limited registration are inconsistent with my thoughts per para 38 above.

Para 73
Any change should aim to harmonise both the Bankruptcy Act and Corps Act. Setting up a regime for only one type of administration is a mistake.
Cost assessment is a good idea, but it should flow across the board to include bankruptcy matters. Same comments apply to each of the changes which will apply to just corp matters. (para 244 for example)

Para 123
7 years remains a very long time to hold stuff.
3 would be better

Para 134
The $110K fine is crazy, its way over the top.

The insurance concept needs to be investigated. To me its a big mistake.
Its my belief, insurance costs a lot and provides nothing in return to stakeholders notably creditors.
Before we run off and up the insurance and fine the liquidator, somebody needs to show me, insurance companies actually pay and creditors actually get the money when liquidator's screw up. 20 years in the game. I have never seen it. but I've paid a lot of insurance.

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