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PRE-BUDGET 2020-2021

Submission to the Treasury on the 2020-2021 Budget

ABOUT US

Set up by consumers for consumers, CHOICE is the consumer advocate that provides Australians with information and advice, free from commercial bias. CHOICE fights to hold industry and government accountable and achieve real change on the issues that matter most.

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INTRODUCTION

Consumers are the largest single group impacted by economic decision making. Consumers consistently tell CHOICE that they want to see improvements to superannuation, health costs, product safety and food labelling. These issues should be reflected in the Federal Budget.

Superannuation

We are calling for three actions to improve superannuation. First, establishing an independent inquiry into insurance in superannuation using the terms of reference outlined by the Productivity Commission. Second, a trial of pro-consumer competition for fund allocation. The third piece is the expression of interest process to help develop a model for a superannuation consumer advocate. CHOICE understands that Treasury is currently consulting on funding sources but funding requirements must be captured as part of the Federal Budget process.

Health care

Health care costs are top of mind for consumers - the cost of private health insurance is now the number one concern for consumers who have this product.¹ People need equitable, affordable access to quality healthcare. CHOICE strongly cautions against any budget measure that will result in additional costs for medical services, medications or health insurance for consumers in the public or private health care systems. An independent inquiry is required to go beyond the surface issues of private health insurance and examine whether the current policy settings and incentives are delivering the best possible health outcomes.

Product safety

Under current Australian law, businesses are not legally required to ensure the products they sell are safe. This means that businesses are selling potentially dangerous products and are not required to take any action until after their products cause serious injuries. A general safety provision, with an appropriate product intervention power and enforcement instrument, would solve this problem.

Food labelling

Consumers deserve a Health Star Rating system that works and food labels that clearly identify added sugar. It is currently impossible to know how many grams of added sugar are in the

¹ CHOICE Consumer Pulse September, 2019 is based on a survey of 1,098 Australian households. Quotas were applied by age, gender, state, household income and education to ensure the findings are reflective of the Australian population. Fieldwork was conducted from 17 September to 2 October 2019.

majority of packaged foods. The budget needs to capture action so that added sugars are labelled and assign funding to support this change.

Recommendations

- Funding for the establishment of an independent inquiry into insurance in superannuation, using the terms of reference outlined by the Productivity Commission.
- Sufficient funding for ASIC to develop and trial a 'best in show' shortlist.
- Provision of funding to support the outcomes of the Superannuation Consumer Advocate expression of interest process.
- An independent inquiry into private health insurance.
- No budget measures leading to additional out-of-pocket costs for consumers for medical services, medications or health insurance.
- Adequate funding for a product intervention power and new enforcement instrument for the ACCC to increase product safety protections.
- Funding to support the continued implementation and promotion of the health star rating system.
- Resourcing for Food Standards Australia and New Zealand (FSANZ) to adequately establish and manage the Health Star Ratings calculator and Technical Advisory Group database.
- Sufficient resourcing of FSANZ in the design and implementation of added sugar labelling, including adequate resourcing for substantial consumer testing.
- Funding for adequate consumer and business education about any changes to added sugar labelling.

1. A more efficient superannuation system

As the Retirement Income Review gathers a fact base on how the system allows Australians to achieve adequate retirement incomes, it is important that the superannuation system is operating as efficiently as possible to support this objective.

To improve the efficiency of the superannuation system, the Productivity Commission recommended important reforms that would see the retirement savings of people currently in poor performing funds increased by up to \$500,000. For some, realising these gains may offset the need for them to make extra contributions to their superannuation, which would boost disposable income today and in retirement. The Federal Government has begun implementing some of these proposals, but there are major efficiency gains that will require further work and funding if they are to be realised.

We draw the Government's attention to two major opportunities for efficiency gains: a review of insurance in super and implementation of best in show.

Improving insurance in superannuation

The 2019 reforms to insurance in superannuation will ensure that insurance products are better targeted at those who will find them most valuable. Removing duplicate accounts from the system and switching insurance to opt-in for groups of people for whom it is less valuable will lead to important efficiency gains.

However, as the debate around the 2019 reforms showed, there is still a confusing overlap of insurance and safety nets in the system. This is causing an inefficient misallocation of resources and depending on the individual, can lead to over or under insurance. In some cases, this is leading to serious harm and people falling through the gaps in workers' compensation schemes and having to rely on poorly targeted, inefficient and inequitable insurance in superannuation schemes.

For example, ASIC's 2019 *Holes in the safety net: a review of TPD insurance claims* report found that two people with the same claim, paying the same premiums for the same policy, can have extremely different outcomes due to restrictive fine print terms. These terms tend to target people who are in intermittent work patterns. The end result may be that someone who has been catastrophically injured is ineligible to claim due to not working sufficient hours. If the injury didn't occur in the course of performing their job, they are not entitled to work cover. This may

leave someone entirely reliant on the Disability Support Pension because they have fallen through the holes of two safety nets.

It is time to take a step back, assess the system and develop a more efficient and holistic approach to ensuring that people and their families are best assisted in the event of illness, injury or death.

The Productivity Commission articulated the need for this inquiry in its 2018 review into the efficiency of superannuation, and it is one that we endorse. CHOICE also see this as forming the next stage in fulfilling the Government's commitment to Financial Services Royal Commission recommendation 4.13, to investigate universalising terms in insurance policies.

Productivity Commission - RECOMMENDATION 18 INDEPENDENT INQUIRY INTO INSURANCE IN SUPER

The Australian Government should commission an independent public inquiry into insurance in superannuation. This inquiry should evaluate the effectiveness of initiatives to-date, examine the costs and benefits of retaining current insurance arrangements on an opt-out (as opposed to an opt-in) basis, and consider if more prescriptive regulation is required.

It should also look at the intersection of insurance in super with other schemes (such as workers' compensation) and consider how best to provide assistance to people in the event of illness and injury, including whether opt-out insurance through superannuation is the most efficient and equitable way to do so.

This insurance inquiry should be initiated within four years from the completion of this inquiry report.

Delivering better retirement savings for Australians

The biggest boost to people's overall retirement savings can come from improving the efficiency of the superannuation market. At the moment, this market is devoid of pro-consumer competitive pressure. As the Productivity Commission discovered, this has seen some people defaulted into poor performing funds, which could leave them \$500,000 worse off in retirement compared to being invested in a good performing fund.

The Federal Government has already made important improvements to the regulator's toolkit to improve member outcomes. Measures, such as APRA's heatmaps, will be important in improving transparency of underperformance in the market. However, this is not consumer facing information and will not drive competitive efficiency gains in the market for default members. In short, heatmaps may help to cut off the tail of underperformance, but will not drive market leaders to continue to improve.

In order to drive a culture of continuous improvement, there needs to be a mechanism for pro-consumer competition. This is not a change that should be taken lightly and should only be done after significant trialling and refinement to ensure it meets the needs of consumers.

Given ASIC's experience in creating consumer-facing information via the MoneySmart website and its overarching role as a conduct regulator in superannuation we recommend that ASIC be funded to undertake consumer trials of a best-in-show shortlist of MySuper funds. This is a major piece of work that ASIC would need to be appropriately resourced to complete.

Productivity Commission - RECOMMENDATION 2 A 'BEST IN SHOW' SHORTLIST

A single 'best in show' shortlist of up to 10 superannuation products should be presented to all members who are new to the workforce (or do not have a superannuation account), from which they can choose a product. Clear and comparable information on the key features of each shortlisted product should also be presented. The shortlist should also be easily accessible to all members at any time, including when starting a new job. Members should not be prevented from choosing any other fund (including an SMSF).

Terms in enterprise and workplace agreements that restrict member choice should be invalidated.

Any member who does not have an existing account and who fails to make a choice of fund within 60 days should be defaulted to one of the products on the shortlist, selected via sequential allocation.

The ATO should embed the shortlist and accompanying information into the centralised online service.

The first 'best in show' shortlist should be in place by no later than the end of June 2021.

Consumer Advocacy Body for superannuation – expression of interest

The importance of a superannuation consumer advocate in bringing a consumer voice to the almost \$3 trillion superannuation system is well understood by the Federal Government. CHOICE acknowledges that Treasury has launched an expression of interest process to help develop a model for such an advocate.

We support this approach and want to ensure that appropriate provision is made in the budget to deliver an independent, adequately resourced superannuation consumer advocate. We understand that the funding source for this body is still being considered, but encourage the government to address the funding requirements as part of the Federal Budget process.

We are concerned that without timely decisions on funding, the existing consumer advocate, Super Consumers Australia, will need to make a decision about its continued existence by June 2020. The current funding is unlikely to extend beyond June 2021. Without a timely funding solution, the superannuation space may be left without a consumer voice during a crucial time as the Government continues its response to the Financial Services Royal Commission and Productivity Commission recommendations. It may also result in the loss of experience and organisational knowledge that is being quickly developed at Super Consumers Australia.

Recommendations:

- Funding for the establishment of an independent inquiry into insurance in superannuation, using the terms of reference outlined by the Productivity Commission.
- Sufficient funding for ASIC to develop and trial a ‘best in show’ shortlist.
- Provision of funding to support the outcomes of the Superannuation Consumer Advocate expression of interest process.

2. Reducing health costs

Health and medical costs, including out-of-pocket expenses and private health insurance, remain a major cost of living concern for a large group of consumers. In September 2019, 81% of people were concerned about the cost of private health insurance, making it the largest concern for consumers.² A majority of people (66%), said they are worried about general health and medical costs, including the cost of seeing a General Practitioner (GP) or paying for medicines.³

In reality, people with private health insurance have faced high cost increases over the past few years with no or unclear gains. Long term analysis shows that the cost of private health insurance to Australian consumers has resulted in a 61% increase in the real cost of insurance premiums over the past decade.⁴

While costs are increasing, people do not believe the value of private health insurance is similarly increasing. Only 28% of private insurance holders surveyed by CHOICE in September 2019 think they receive good value for money, while 31% believe that the policies they hold are poor value for money.⁵

An independent inquiry into private health insurance

The interplay between private health insurance and other parts of the health system is complex. High levels of complexity and confusion add to the frustration people are feeling about health insurance in Australia. The private health insurance system hasn't had a thorough review since the mid-nineties, despite the introduction of many changes to the policy settings that prop up the industry.

People are concerned about premiums rising above wage growth every year, they are concerned about growing out of pocket costs and they are concerned that they are getting very little value from their policies. These concerns have resulted in people dropping their health

² CHOICE Consumer Pulse September 2019.

³ Ibid.

⁴ Graham D., Graham, D., 18 January 2018, 'Private health premium increases announced', CHOICE, available at <https://www.choice.com.au/money/insurance/health/articles/health-premium-hikes-on-the-horizon-131115>

⁵ CHOICE Consumer Pulse September 2019.

insurance - a trend that has been continuing over many years. The research we undertake on consumer sentiment reinforces these concerns.

Industry bodies and individual health funds are warning their policyholders not to use their policies else they will risk their premiums increasing.⁶ Other people are using making an informed decision not to use their insurance when in a public hospital, despite paying for coverage.

Despite these problems, the industry receives over \$9 billion in taxpayer subsidies each year.⁷ Evidence also shows that the industry is less efficient at providing healthcare than the public system.⁸

If these issues are not addressed, it is likely that people will continue to drop out of private health insurance. These scenarios mean that private health insurance is not likely to take the pressure off the public system, despite being one of the justifications of this private intervention into this essential public service.

An independent inquiry would be able to go beyond the surface issues of private health insurance and examine whether the current policy settings and incentives are delivering the best possible health outcomes. This would be a step towards a healthcare system that works for all Australians. This inquiry could be conducted by the Productivity Commission or an independent panel with appropriate secretarial support from the Department of Health.

Junk health insurance policies

Consumers need action to help them better identify quality health insurance products. This can partially be achieved by ensuring that poor value products are not eligible for health insurance rebates.

⁶ See:

- Dunlevy, S (2019) Why using your health cover in a public hospital is adding \$100 to your health fund premiums. <https://www.dailytelegraph.com.au/lifestyle/health/why-using-your-health-cover-in-a-public-hospital-is-adding-100-to-your-health-fund-premiums/news-story/229d549c25a89e168982221348dccc3e>
- NIB (2017) Should I use my private health insurance in a public hospital? <https://www.nib.com.au/the-checkup/health-cover/should-i-use-my-private-health-insurance-in-a-public-hospital>
- rt health (2019) 'Health Hacks' members email <https://mailchi.mp/rthealthfund.com.au/can-you-have-fun-at-the-dentist-479445>

⁷ Duckett, S. and Nemet, K. (2019). The history and purposes of private health insurance. Grattan Institute.

⁸ Duckett, S. and Nemet, K. (2019). Saving private health 1: Reining in hospital costs and specialist bills. Grattan Institute.

Junk policies can cover less than 1% of services available in hospital and do not cover treatment for some of the most serious illnesses, such as cancer treatments. Junk insurance is problematic as consumers are often unaware that their policy excludes the vast majority of treatments and may only become aware when attempting to access treatment. Because of the extreme limitations of cover of these policies, they do not reduce strain on the public healthcare system.

Given the very low value of these policies, and their inability to reduce strain on the public healthcare system, they should not be considered eligible for the Private Health Insurance Rebate. This will lead to budget savings in the short-term, through a reduction in the amount paid through the rebate. In the long-term, savings should be expected through a change in the make-up of the health insurance market with more consumers holding cover that genuinely relieves pressure on the public healthcare system.

Recommendations

- An independent inquiry into private health insurance.
- No budget measures leading to additional out-of-pocket costs for consumers for medical services, medications or health insurance.

3. A general safety provision

CHOICE has been advocating for a general safety provision (GSP) to be incorporated into the Australian Consumer Law (ACL) for more than a decade. While Australia's consumer protection law is extensive, there's no explicit obligation placed on businesses to make sure they sell safe products. Instead, if a product in Australia hurts someone, that consumer can individually seek a remedy but this will not get the product off the shelves.

The current product safety system is also not equipped to deal with emerging changes to consumer markets. The rise of online shopping, proliferation of low-cost products from overseas and the increasing diversity and complexity of products have all resulted in the present enforcement and compliance problems. A general safety provision will help to stop the flow of unsafe products.

The system is over-reliant on recalls which are both onerous and ineffective in removing unsafe products from people's homes. Recalls are conducted and investigations initiated sometimes only after harm has already been caused. Alarming new data from the ACCC shows that there are 6.6 million individual products currently under voluntary recall.⁹ This means that one in four Australian households are currently exposed to potential hazards. The number of recalls in Australia continues to grow annually. In October 2019 alone, there were 59 product recalls.¹⁰ Without a general safety duty providing a pre-market control, the number of recalls will continue to grow.

ACCC intervention power and enforcement instrument

A proactive requirement for products to be safe, together with appropriate penalties for breaches, would better align with international best practice and consumer expectations. There remains a persistent view among the community that products must be safe in order to be sold. In a recent survey, CHOICE found that 93% of Australians believe that products sold in Australia are legally required to be safe.¹¹ This view is entirely reasonable and the law should reflect it.

⁹ ACCC 2019, Over a million recalled products still in circulation in Australia, accessed on 19 November 2019, <https://www.accc.gov.au/media-release/over-a-million-recalled-products-still-in-circulation-in-australia>.

¹⁰ Product Safety Australia 2019, Recalls – October 2019, accessed on 15 November 2019, <https://www.productsafety.gov.au/recalls>.

¹¹ Results are from the TEG Omnibus, November 2019. Sample of n = 1,000 representative of the Australian population. Quota controls are applied to achieve a nationally representative sample.

Providing a new enforcement instrument could reduce the time unsafe goods from remain on the market once supplied - reducing risk to consumers. An effective product safety system is not possible without effective enforcement. CHOICE is supportive of stronger enforcement powers and mechanisms for the ACCC. The product intervention power and new enforcement instrument, described in the Treasury's regulatory impact statement on improving the effectiveness of the product safety system, will allow the ACCC to investigate and compel traders to swiftly remove unsafe products from the market.¹² Adding these powers and mechanisms to the regulator toolkit will allow for more efficient and responsive enforcement.

Recommendations

- Adequate funding for a product intervention power and new enforcement instrument for the ACCC to increase product safety protections.

¹² Consultation Regulation Impact Statement, https://consult.treasury.gov.au/market-and-competition-policy-division-internal/main_consultation/supporting_documents/CRISConsumerProductSafetySystem.pdf, accessed 16 December 2019.

4. Improved food labelling

The health stars rating system

The Health Star Rating System (HSR) is mostly effective and popular among consumers. It plays an important role in influencing people's food choices and encouraging them to make healthier purchases. Consumers overestimate the healthiness of a product based on their understanding of the ingredients advertised on the front of the pack. When Health Star Ratings are absent, 75% of people rely on marketing material including product descriptions and images.¹³

In order to help people successfully differentiate between products, Health Stars should be present on all packaged products covered by the HSR System. The System is currently voluntary. Last year, the HSR was displayed on 31% of eligible foods in Australia and 21% of eligible foods in New Zealand.¹⁴ Health Stars help people choose healthier products, but the System fails when ratings are displayed on some products but not others. In order for the Health Star Rating System to succeed, Health Star Ratings must be mandatory so that consumers can compare like for like.

Establishment of a centralised database

It is crucial for public health initiatives including the HSR system to be based on up-to-date guidelines and scientific evidence. The effectiveness of public health interventions must be effectively monitored and comprehensively assessed. The development of a central, trusted, comprehensive database of food products and HSR status would not only assist in the monitoring and evaluation of the HSR system, but would also be a useful resource for public health professionals, researchers, governments and policymakers in the design and evaluation of health interventions.

CHOICE suggests that industry must register any products that display an HSR in the database, as well as any inputs that were applied to the HSR calculator in order to generate this rating. Any components that manufacturers are relying on to determine their score that are not listed on the package (for example Fruits, Vegetables, Nuts and Legumes values or fibre) must be

¹³ The survey was designed and analysed by CHOICE with fieldwork and sample of n = 1,001 provided by Dyanta. Fieldwork for this study was conducted from the 2 October to 9 October 2019.

¹⁴ MP Consulting (2019), Health Star Rating Five Year Review Report, Melbourne, pp. 23-24.

declared. Any variations to products should require industry to update product details accordingly.

Added sugar labelling

There is currently no requirement for companies to disclose the amount of added sugar included in the food and drinks that they manufacture. This means that people cannot make informed choices about the amounts of added sugar they consume. Both the Australian Dietary Guidelines and the World Health Organisation suggest limiting added sugars to avoid adverse health outcomes, yet national nutritional surveys suggest that more than half of Australians exceed recommended intakes.

The Ministerial Forum of Food Regulation has supported the introduction of added sugar labelling, but the design and implementation of added sugar labelling is yet to be finalised by the regulator, FSANZ.

Recommendations

- Funding to support the continued implementation and promotion of the health star rating system.
- Resourcing for Food Standards Australia and New Zealand (FSANZ) to adequately establish and manage the Health Star Ratings calculator and Technical Advisory Group database.
- Funding for the establishment and monitoring of health star ratings.
- Sufficient resourcing of FSANZ in the design and implementation of added sugar labelling, including adequate resourcing for substantial consumer testing.
- Ensure adequate consumer and business education about added sugar labelling.