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Ombudsmen: the leaders in independent resolution, redress and prevention of disputes

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EDR Review Secretariat
Financial System Division - Markets Group
The Treasury
Langton Crescent PARKES ACT 2600

Review of the financial system external dispute resolution framework
Consultation on the financial system external dispute resolution framework

The Australian and New Zealand Ombudsman Association (ANZOA) is a professional association and the peak body for Ombudsmen in Australia and New Zealand. ANZOA's membership includes industry-based ombudsmen, parliamentary ombudsmen and other statutory ombudsmen. More about ANZOA and the foundations and value of the ombudsman model of external dispute resolution can be found at www.anzoa.com.au

This submission addresses questions 31 and 32 of the Issues paper of 9 September 2016:

31. Does having multiple dispute resolution schemes lead to better outcomes for users?
32. Do the current arrangements result in consumer confusion? If so, how could this be reduced?

ANZOA's concerns about the emergence of 'competition' among external dispute resolution schemes (ombudsman schemes and others) are longstanding. In September 2011, ANZOA published a policy statement on this issue. That policy statement, *Competition among Ombudsman offices*, is attached to this submission and is publicly available on the ANZOA website:

http://www.anzoa.com.au/assets/anzoa-policy-statement_competition-among-ombudsman-offices.pdf

ANZOA considers that 'competition' among dispute resolution schemes runs counter to the *Benchmarks for Industry-based Customer Dispute Resolution (CDR Benchmarks)* of independence, accessibility, fairness, efficiency, effectiveness and accountability, which provide standards for industry-based customer dispute resolution in Australia and New Zealand.

As explained in ANZOA's policy statement, 'competition' among EDR schemes is inefficient and undesirable, on a range of policy levels:

- 'Competition' is not in the interests of consumers or their advocates, as it may not be clear where to take complaints or which scheme is the most appropriate to deal with particular issues.
- 'Competition' is likely to add unnecessary and inefficient costs to dispute resolution schemes, e.g. inefficient duplication of infrastructure/resources/services/information systems, mechanisms to establish a 'common door' approach, and the need to provide information to consumers about different schemes.
- 'Competition' may lead to manipulation of dispute resolution schemes, differing standards, and inconsistencies in decision making which could be adverse for consumers and industry participants.

- Poor performing industry participants may choose to join an alternative scheme that they believe is not as rigorous in its approach to complaints.
- A scheme may focus more on industry participants, rather than on complainants or consumers, in order to keep or grow its membership.
- Where schemes are subject to regulatory approval and/or other regulatory mechanisms, regulators may need to set up separate reporting and communication systems for different schemes, potentially about the same issues.
- The value of a dispute resolution scheme as a source of information and analysis to contribute to the ongoing improvement of an industry or service area will be diluted, to the detriment of consumers, industry participants and the wider community.

ANZOA's concerns about 'competition' between external dispute resolution schemes were endorsed by its membership and have been expressed in submissions to a number of public consultations since the policy statement was published in September 2011.

I would be pleased to discuss the issue with the members of the review panel and may be contacted on +61 3 8600 8784 or by email at info@anzoa.com.au.

Yours sincerely



Judi Jones
ANZOA Chair

Attachment

Competition among Ombudsman offices

Policy statement endorsed by the Members of the Australian and New Zealand Ombudsman Association (ANZOA)

Members of ANZOA, both parliamentary and industry Ombudsman/Commissioner offices, operate according to the principles of independence, accessibility, fairness, efficiency, effectiveness and accountability.

ANZOA considers that 'competition' among Ombudsman offices runs counter to these principles, particularly the key principle of independence, for the reasons set out below. ANZOA's position is that there should be only one external dispute resolution (EDR) Ombudsman's office for any industry or service area.

Competition in Ombudsman offices is most likely to impact on industry Ombudsmen, and is considered inefficient and undesirable on a range of policy levels:

- It is not in the interests of consumers/citizens or their advocates, as it may not be clear where to take complaints or which is the most appropriate service to deal with particular issues.
- It is likely to add unnecessary and inefficient costs to Ombudsman services, e.g. inefficient duplication of infrastructure/resources/services/information systems, mechanisms to establish a 'common door' approach, and the need to provide information to consumers about different offices.
- It may lead to manipulation of dispute resolution services, differing standards, and inconsistencies in decision making which could be adverse for consumers and participating organisations.
- Poor performing organisations may choose to join an alternative office that they believe is not as rigorous in its approach to complaints.
- An office may focus more on participating organisations rather than on complainants or consumers in order to keep or grow its membership.
- Where offices are subject to regulatory approval and/or other regulatory mechanisms, regulators may need to set up separate reporting and communication systems for different offices, potentially about the same issues.
- The value of the Ombudsman's office as a source of information and analysis to contribute to the ongoing improvement of an industry or service area will be diluted, to the detriment of consumers, service providers and the wider community.

ANZOA believes that while it is inappropriate to apply concepts of market forces and competition to what are effectively 'natural monopolies', other appropriate mechanisms can be utilised to provide a proxy for the benefits that can otherwise be derived from competing services. These mechanisms include appropriate governance arrangements, independent reviews, public reporting, effective self-regulatory and/or regulatory mechanisms, benchmarking, formal or informal peer reviews, and scrutiny through avenues such as ANZOA.

There may be overlaps between some Ombudsman offices, but this is different from competition between offices. An overlap is usually dealt with by way of a Memorandum of Understanding between the offices, or other transparent arrangements.

**ANZOA is the peak body for Ombudsmen
in Australia and New Zealand**

More at www.anzoa.com.au