

December 2019

# Submission to the Senate Select Committee on Financial Technology and Regulatory Technology

## ABOUT US

Super Consumer Australia is an independent, not-for-profit consumer organisation formed in 2013. Super Consumers works to advance and protect the interests of low and middle income people in the Australian superannuation system.

We work in partnership with CHOICE; 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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## Table of Contents

<b>Summary</b>	<b>4</b>
Summary of Recommendations	5
Promoting good decision making	6
Reactive regulations do not protect consumers	6
Recommendation 1	8
The appropriate regulator for assisting consumers to access data	8
Recommendation 2	9
Recommendation 3	9
Industry opposition to greater comparability	9
Helping superannuation funds know their members	10
Recommendation 4	11

## Summary

Super Consumers Australia is supportive of the expansion of technology and data systems to improve competition in superannuation.

We support the expansion of the Consumer Data Right (CDR) to superannuation to empower consumers through improved access to their data and to facilitate switching. Providing consumers with relevant and accessible information about the products and services they use should lead to both better individual experiences and more competition in markets.

However, the complexity and compulsory nature of the superannuation market means we require some common standards and sources of data before the benefits of open data can be realised. There is currently little agreement over a common standard for comparison of superannuation products. For example, what one fund might classify as a growth investment option, another will classify as balanced. Without 'apples with apples' comparisons an open data regime may further complicate decision making and ultimately lead to poor outcomes for consumers.

Fortunately there are solutions to this problem in the enhanced data collection and presentation role the regulator APRA has undertaken. Before the power of open data can be harnessed APRA needs to refine and expand its capacity for data collection (e.g. collection in relation to 'choice' products and bundled insurance). We are concerned that debates in superannuation about data collection have dragged on for years. There is a clear need for some hard deadlines, the Productivity Commission recommended APRA address these data reporting gaps within 18 months (June 2020) of it handing down its report. We encourage the Federal Government to adopt this deadline.

To support this work ASIC needs to be resourced to turn this information into something which is usable for consumers. This includes both product dashboards for choice products, comparable information on insurance products and a comparison tool for superannuation fund performance. Again, deadlines have continued to slip on the delivery of choice product dashboards. The Productivity Commission recommended that they be delivered by the end of 2019. Given underlying data to form these dashboards is similar to what APRA requires for its enhanced data collection, funds should have no excuse for further delay. Again, we encourage the Federal Government to adopt a June 2020 deadline.

Creating universal data standards and empowering the regulator to develop comparator tools will complement the existing consumer protection regime. Existing consumer protections do little to overcome serious problems like information asymmetry. A regime that inserts comparable, independent information into people's superannuation purchasing decisions will assist efficient markets and may lessen the reliance on reactive consumer protections.

## Summary of Recommendations

### Recommendation 1

That the Federal Government act as a matter of urgency on the recommendations of the Productivity Commission in relation to data shortfalls in the superannuation system.

### Recommendation 2

The Federal Government require funds to publish simple, single-page product dashboards for all superannuation investment options and standard machine readable versions of this data be made available by June 2020.

### Recommendation 3

That the Federal Government adequately resource ASIC to develop a consumer-facing comparator tool for superannuation.

### Recommendation 4

That the Federal Government add superannuation to the Consumer Data Right regime.

## Promoting good decision making

We welcome the use of existing and emerging technologies to improve regulation, competition, information, and services across the superannuation system. However, these measures must be supported by robust consumer protections.

As the final report of the Financial Services Royal Commission notes:

*“Superannuation is not a product to be sold. It is a compulsory product. All employees must have a superannuation account.”<sup>1</sup>*

The compulsory nature of superannuation and its importance as part of someone’s retirement savings sets it apart from other financial products. As a result there is a greater obligation to ensure the superannuation market works efficiently, safely and ultimately delivers good retirement outcomes for Australians.

In the Financial Services Royal Commission Final Report, Justice Hayne outlined the problems with hawking of superannuation products. In particular he pointed to the asymmetry of information that occurs in these types of sales. As a result, he called for a ban on hawking of superannuation and insurance products. In the absence of an empowered consumer base banning is unfortunately the only solution. This inquiry is an opportunity to outline ways to overcome this information asymmetry so that people are better positioned to compare options and make objectively good decisions about where to invest their retirement savings.

## Reactive regulations do not protect consumers

There have been unfortunate examples of fintechs that have not improved consumer outcomes when engaging in this market. For example, ASIC launched a Federal Court action against the MobiSuper fund and Tidswell the trustee for, among other things, misleading consumers.<sup>2</sup> The service claimed to offer an obligation-free ‘lost super’ service. People were targeted through internet advertising campaigns, and prompted to roll over their other super balances into MobiSuper-promoted products. This was potentially in breach of a slew of consumer protections and done with little regard for the performance of a person’s existing funds.

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<sup>1</sup> FSRC, 2019, ‘Final report’, p.247

<sup>2</sup> ASIC, 2019, ‘19-301MR ASIC takes court action against Super Trustee, promoter and others’, available at:  
<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-301mr-asic-takes-court-action-against-super-trustee-promoter-and-others/>

In this case, existing consumer protections will likely solve the problem after the fact. The courts will likely impose penalties and consumers will be notified of the breach and may be compensated for losses - if they can be determined.

A far more proactive regulatory regime would have addressed the issue of information asymmetry and presented simple, easy to act on, comparative information to a person contemplating a switch. An open data regime can assist with this. Regulators could be charged with presenting fund comparisons and super funds looking to attract new customers could be required to ensure a potential new customer has reviewed the regulator's comparator as part of a switch. It would be important that such a comparison remain the responsibility of the regulator. Giving the power to a superannuation fund would create the temptation for the fund to frame its offer as relatively good compared to the market, when it may not be. Again, misleading or deceptive conduct provisions would have a role in addressing this problem, but they would be reactive.

This is not a new idea, the Productivity Commission has already made proposals for reforming the default allocation system, which would allow people to easily compare the relative performance of a fund against the 'best in show' on the market. Open data would allow this concept to be extended one step further. Instead of merely comparing a static list of 'best performers', open data could facilitate the comparison of a person's existing superannuation product to the entire market. Most importantly, it would allow for tailored comparisons based on data available about the needs of the person (e.g. age, occupation, salary and dependents).

There are some technical barriers that need to be overcome in order to introduce personalised comparisons in superannuation. For example, the Productivity Commission made clear that data collection on the part of the regulators was insufficient.<sup>3</sup> The Commission found serious flaws in data collection, including:

- widespread reporting of 'zero' investment costs by funds,
- poor data on costs attributed to related parties,
- inconsistent reporting of costs due to the discretion given to funds,
- an absence of product-level data outside of MySuper,
- funds reporting zero or an implausibly low level of assets,
- non-alignment of data collection and reporting between institutional funds and SMSFs,
- the absence of panel data for SMSFs,
- inadequate member-level data,

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<sup>3</sup> Productivity Commission, 2018, 'Superannuation: Assessing Efficiency and Competitiveness', p.504

- information about the types of insurance cover in individual accounts is inaccessible.

Without a reliable source of truth on these important factors, consumers will continue to be left in the dark when comparing products. The Committee should recommend that these shortfalls and others identified by the Productivity Commission should be addressed as a matter of urgency.

#### Recommendation 1

That the Federal Government act as a matter of urgency on the recommendations of the Productivity Commission in relation to data shortfalls in the superannuation system.

#### The appropriate regulator for assisting consumers to access data

Currently data collection powers sit with APRA, for the purposes of prudential regulation. Where data has been collected, it has not been for the purpose of helping consumers make better decisions about superannuation.

For example, APRA's 'heatmaps' compare funds on performance, fees and sustainability using colour gradients. The data was presented in an array of spreadsheets which left many journalists and even industry insiders at a loss to explain what it all meant for an individual consumer. One industry commentator labelled the spreadsheets "about as useful as an ashtray on a motorbike" for consumers wanting guidance on picking the best fund.<sup>4</sup>

APRA has been at pains to point out that the primary purpose of these heatmaps is to assist the regulator and industry to improve, it is not designed to be consumer facing.<sup>5</sup> Meanwhile, ASIC has continued to develop its expertise in delivering high quality consumer facing information through its MoneySmart website. There are still significant gaps in the data ASIC can rely upon to create consumer facing information. For example, not all funds are required to publish simple, single-page product dashboards for all superannuation investment options. This was a recommendation of the Productivity Commission in 2018 and the Stronger Super reforms in

<sup>4</sup> SMH, 2019, 'Worst performing superannuation funds exposed by APRA 'heatmap'', available at: <https://www.smh.com.au/business/banking-and-finance/worst-performing-superannuation-funds-exposed-by-apra-heatmap-20191210-p53ihq.html>

<sup>5</sup> Rowell, H., 2019, 'APRA Deputy Chair Helen Rowell - Speech to the 2019 ASFA Conference', available at: <https://www.apra.gov.au/news-and-publications/apra-deputy-chair-helen-rowell-speech-to-2019-asfa-conference>

2013, but without the creation of the enabling regulations this reform has currently been pushed out until 2023.<sup>6</sup>

It is disappointing that it will take over a decade, or potentially longer to implement this simple measure. Without this information the ability of open data to transform the superannuation market will be severely hampered.

These product dashboards should be made available as a priority. The underlying data should also be made available in standard machine readable format to facilitate use by regulators and third parties.

#### Recommendation 2

The Federal Government require funds to publish simple, single-page product dashboards for all superannuation investment options and standard machine readable versions of this data be made available by June 2020.

#### Recommendation 3

That the Federal Government adequately resource ASIC to develop a consumer-facing comparator tool for superannuation.

### Industry opposition to greater comparability

Parts of the industry have opposed these reforms on the grounds that it is a regulatory burden to create disclosures for the 40,000 investment options in the superannuation market. Firstly it is highly questionable that we need twice as many super investment options as there are products in the average supermarket.<sup>7</sup> Secondly, if we are to take the industry at its word, and people

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<sup>6</sup> ASIC, 2019, '19-081MR ASIC extends temporary disclosure-related relief for product dashboards', available at:

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-081mr-asic-extends-temporary-disclosure-related-relief-for-product-dashboards/>

<sup>7</sup> Investor Daily, 2019, 'Super merger mania could hurt members: Bennelong', available at:

<https://www.investordaily.com.au/superannuation/46123-super-merger-mania-could-hurt-members-bennelong>



actually need this diverse an array of offers in the market, making this data available may actually help connect customers with these products that are more tailored to their needs.

Comparator tools could be developed which allowed people to enter information about themselves which helped identify appropriate products for their needs. For example, younger people with longer investment horizons may be connected with products with a higher risk/return trade off while older people near retirement that are worried about investment risk may be connected with more appropriate low risk products.

Lifecycle products that attempt to evolve with a person's needs across their lifecycle are already on the market. However, as APRA found in its recent heatmap study:

*"More single-strategy products outperformed the simple reference portfolio and strategic asset allocation portfolio benchmarks than lifecycle products."<sup>8</sup>*

The nature of lifecycle products makes it harder for consumers to compare them to single strategy investments or even other lifecycle products. Instead of having to compare a single performance figure, a person may have to compare across multiple cycles the associated fees and insurance. As we know from many consumer decision making studies, as soon as a person is asked to compare a product on more than two to three factors, the quality of decision making reduces dramatically.<sup>9</sup> This has an impact on the competitiveness of a market, as the demand side pressure is not connected to people's actual needs. With this understanding of human limitations in complex decisions, it is unsurprising that the complex market for lifecycle products performs worse than single strategy investments. Simply stated, they haven't had to.

Again open data could help solve this problem. By requiring superannuation funds to make available data about their fund performance, fees, insurance, and other key factors, regulators will be able to develop comparator tools to assist consumers. This will have the added benefit of allowing the market to mature and develop *high quality* tailored products that meet the needs of individuals.

## Helping superannuation funds know their members

There is a clear need for existing and emerging technologies to open up a two-way flow of information between superannuation funds and their members to help them to better understand

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<sup>8</sup> APRA, 2019, 'Data insights - MySuper product heatmaps', p.5

<sup>9</sup> Lunn, . Bohacek, Somerville, Choidealbha & McGowan, 2016, 'PRICE Lab: An investigation of consumers' capabilities with complex products', report, Economic & Social Research Institute, May 2016

each other. Funds need better information on their members to design investment strategies, retirement products, and fund services; and members need better information about their needs when it comes to fund investment strategies, retirement products, and fund services.

By establishing a safe market in which this information flow can occur, we should see better products and more people connected with ones that meet their needs.

This issue was on display in debate around the Putting Members Interests First package of legislation. At a high level the reform made insurance within superannuation opt-in for under 25s and those with a balance below \$6,000. This was necessary because many funds were not designing their insurance products appropriately. In part because they did not collect information on their members needs.

For example, 79.5% of funds collected no data (either direct or indirect) on whether a member had dependants, 79.5% also failed to collect data on the income level of their members.<sup>10</sup> For a fund charged with designing appropriate insurance and investment products for their membership, the fact that they have not collected this most basic information is shocking.

The complaint from superannuation funds has long been that people don't engage enough with their super, making it difficult for them to collect this information. While we don't accept this justification for inaction, an open data regime may assist super funds in accessing this type of information. For example, banks will have a picture of someone's finances, which will assist superannuation funds to get a better picture of wealth and income. Where consumers consent to this information being shared, superannuation funds will be well positioned to make the most of this new data source.

#### Recommendation 4

That the Federal Government add superannuation to the Consumer Data Right regime.

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<sup>10</sup> Productivity Commission, 2018, 'Superannuation: Assessing Efficiency and Competitiveness', p.238