School of Accountancy
Working Paper No. 2007-001

The $200 Million/Year Price Tag For Superannuation Fund Governance: A Case Study of Fund Member Loss

by Sue Taylor[1]

28th January 2007

Abstract

As the 21st century began in Australia, 91% of all Australians were covered by superannuation. In turn, total superannuation assets had reached $960 billion by the first quarter of 2006 with balances in superannuation funds now the largest financial asset held by households. This substantial growth in superannuation coverage did not, however, occur as a result of free market forces operating between producers and consumers in the superannuation industry. Rather, this increase can be directly traced to the level of intervention in the industry by both the Labor and Coalition Governments throughout the 1980s and 1990s. This pattern has again been replicated in the 21st century with a 'trilogy" of major superannuation reforms occurring in the period from 2001 to 2006 including the 2004 Registrable Superannuation Entity licensing (RSE) regime.

However, in spite of the public interest rationale provided by both governments, these regulatory reforms have failed to achieve recognition as a vehicle for advancing the welfare of Australian workers in their role as superannuants or for improving the welfare of the nation. Rather, criticisms relating to interest group lobbying for private gains continue to grow unabated. At the centre of this controversy are two key issues: 1) while fund member benefits from these reforms are limited, the associated compliance costs of fund governance, which are deducted from fund member returns, approached $200 million per year in 2006; and 2) the primary winners of the regulatory interventions, in terms of, for example, improved return-on-asset figures, appear to be the industry fund managers.

With further major reforms looming and given both the critical importance of this issue at an individual and social level and the scarcity of existing cost/benefit studies in this area, this research paper seeks to fill this present gap in understanding. The analysis of these opposing claims will be undertaken within the public and private interest theories of regulatory reform and will include a review of summary data obtained from a recent trustee-based survey[2] on the actual costs incurred and benefits received in relation to the RSE reforms.

This analysis highlighted that, while some benefits were delivered as a result of the RSE licensing process, in terms, for example, of formal risk management strategies being adopted, these benefits appear to be outweighed by four key losses/costs for fund members. These losses/costs can be summarised as: 1) member benefits associated with "closed" funds have been transferred to the master funds in the retail industry in spite of the fact that there is a priori evidence that retail/master funds have the highest expenses and lowest returns of all fund types; 2) the compliance costs associated with implementing the RSE reforms have been estimated at $50 million with ongoing costs estimated at a further $10 million per year; 3) the fact that the overall compliance costs of the two and half decades of regulatory reforms in the occupational superannuation industry is now approaching $200 million per year which is a direct reduction to fund member balances; and 4) in the absence of any anti-trust legislation, the remaining large firms in the industry have the ability to engage in predatory pricing activities which further "rip off" fund members.

[1] Corresponding author: Sue Taylor, School of Accountancy, Faculty of Business, Queensland University of Technology, Brisbane, Australia. Email: Suzanne Taylor sm.taylor@qut.edu.au

[2] This survey was conducted by Sue Taylor under Research Grants provided by the Faculty of Business, QUT (Research Initiative) and QUT's Women in Research Schemes.

KEY WORDS: Costs/Benefits; Registrable Superannuation Entity; Governance

1: Introduction to the Nature and Characteristics of the Regulatory Reforms in the Occupational Superannuation Industry

As the twenty-first century began in Australia, the superannuation product was the preferred savings vehicle and the centrepiece of the national retirement income strategy of the Federal Coalition Government, a legacy of the previous Federal Labor Government which the Coalition had chosen to preserve. With 91% of all Australian employees and 81% of all workers at this time covered by superannuation, employers and existing members of superannuation funds contributed more than $66 billion in the 2004/05 year alone. In turn, total superannuation assets had reached $960 billion by the first quarter of 2006[3] with balances in superannuation funds now the largest financial asset held by households and representing almost 20 per cent of private sector wealth[4].

Yet, a little less than a decade earlier, and in spite of taxation concessions provided by governments[5] from both sides of politics, superannuation was playing only a peripheral role in securing retirement savings for the workforce at large. With only 38% of all employees by 1986 receiving superannuation benefits[6], it was, rather, the universal old-age pension, which was the key plank of the retirement income policies of both political parties.

---

[3] These statistics were obtained from the "Statistics: Quarterly Superannuation Performance, September 2006" released by the Australian Prudential Regulation Authority on the 28th December, 2006.

[4] Australian Bureau of Statistics, 2006, Catalogue No. 4102.0, "Australian Social Trends: Components of Household Wealth" and "Australian Social Trend: Distribution of Household Wealth".

[5] Historically, concessional taxation treatment for superannuation benefits had been provided due to the perceived desirability of encouraging people to provide for their own retirement. Thus, concessional tax treatment applied for: **contributions** paid to superannuation plans, where employers were allowed a deduction for contributions to a plan which were made for the benefit of employee members; the **income** of benefits paid by superannuation plans; and of **benefits** paid by superannuation plans, by which both the lump sum and pension benefits paid by superannuation plans, were subject to concessional tax treatment.

[6] Australian Bureau of Statistics 1995, "Australian Social Trends", Catalogue No. 4102.0.

This substantial growth in superannuation coverage did not, however, occur as a result of free market forces operating between producers and consumers/fund members in the superannuation industry. Rather, this increase can be directly traced to the level of intervention in the operation of the industry by both the Labor and Coalition Governments throughout the 1980s and 1990s. This pattern has again been replicated in the 21st century with a 'trilogy" of major superannuation reforms occurring throughout 2001 to 2006 with total compliance costs approaching $200 million per year by October 2006 (Clare 2006, p.3) which are deducted from fund member balances.

Within this regulatory reforms process, neither the Labor nor Coalition Governments chose to adopt a retirement income policy based on one contributory, universal, government-controlled, national superannuation scheme which was the accepted practice in most overseas countries[7]. Rather, and as a result of extensive lobbying against the national scheme primarily by the fund management group as detailed in Section 1.6., a decision was taken to construct a regime of privately-controlled, mandatory, occupational superannuation. This policy shift was deemed necessary by both governments given (although their premises are open to challenge as outlined in Section 1.4.): Australia's ageing population; inadequate savings regime by world standards; and to ensure that the publicly funded contribution to retirement incomes remained within the country's capacity to pay.

These increased retirement savings levels would, then, also contribute to meeting the national savings goals (Dawkins 1992, pp. 1-33). In particular, the Labor Government believed that the securing of occupational superannuation benefits for almost all employees would be "*..hailed as*

[7] For example, the Australian scheme was government mandated yet it was to be privately provided, whereas those elsewhere were typically government provided; the Australian scheme was by and large fully funded, whereas those elsewhere were typically unfunded (i.e. pay-as-you-go-schemes); and the Australia scheme was mainly of the accumulations or defined contribution type, whereas those elsewhere were typically of the defined benefit type (Bateman and Piggott 1993, pp. 14-15).

amongst the finest achievements of the...reformist ALP Government" (Jones in Gruen, 1993, p. 7). The resulting "*coherent and equitable framework*" would permit a higher standard of living in retirement than if Australians simply continued to rely on the age pension alone.

However, these reforms have not been recognised as a vehicle for advancing the welfare of Australian workers in their role as superannuants or for improving the welfare of the nation. Rather, arguments have been raised (as detailed in Section 1.6.) that the timing and characteristics of these regulatory reforms can primarily be traced to the interests and actions of the most powerful lobby group in the superannuation fund industry, the fund managers (i.e. the producer group). That is, as the decade of the 1980s approached, the fund management group (with six life offices dominating this market) was facing increasingly high levels of forfeitures, withdrawals and discontinuances in both their insurance and superannuation businesses which were threatening their solvency (Office of the Life Insurance Commissioner Report 1981, pp. 5-13).

At the centre of these negative trends in the superannuation industry was the existence of a wide range of fund member detriments which have been detailed in a range of government reports, consumer-based publications and academic research findings [e.g. Australian Federation of Consumer Organisations (AFCO) 1991; Klumpes 1994a and 1994b; Senate Select Committee on Superannuation 1991, 1992a, 1992b and 1992c; and Taylor 1995, 2005, 2006a]. These detriments can be summarised as: 1) poor quality accounting, auditing and information disclosures and reporting; 2) the failure of most superannuation funds to produce member booklets and member statements and with no member access to Trust Deeds allowed; 3) unequal bargaining power between fund members and product producers (i.e. the fund managers), as a result, for example, of high market concentration levels and complex product details, with resultant low levels of member

rights and benefits; 4) an absence of equal representation (employee and employer) rights within the fund; 5) the inability to call meetings, that is, to have any "voice" in the fund management; 6) limited "exit" options without incurring significant penalties; and 7) distributional inequities across sex, industries and occupation in terms of both coverage and the nature and types of rights and benefits provided under trust deeds.

Choosing not to address the existing fund member detriments in order to reverse these negative trends, the fund mangers lobbied instead for a publicly mandated but privately controlled, "pro-producer", occupational superannuation product. Within this policy framework, Australian workers are forced to contribute to their own retirement but without retaining the right to terminate their superannuation product irregardless of the quality of the services provided, the fees charged or the total compliance costs they are being forced to pay[8]. This legal and institutional framework has the potential to transfer significant levels of wealth from the fund members to the fund managers as detailed in Section 1.6. (the Australian Federation of Consumer Organisations (AFCO) 1991; Borowski et. al. 1991; Considine 1984; Klumpes 1994a and 1994b; Olsberg 1992,1997; Taylor and Little 1994; Taylor 1995, 2005, 2006a and the Senate Select Committee on Superannuation 1992).

[8] While fund members do have some freedom to move between funds under the "Choice of Funds" legislation, this benefit has been severely eroded given, for example, that the regulatory reform process only requires minimal levels of disclosure to be provided to fund members (in terms, for example, of fees and charges). Thus, it is claimed that producer groups can charge excessive prices without the risk of a fund member backlash given that "…*the information provided to fund members failed to give them the capacity to make informed comparisons between funds and between investment options based upon fees and charges* (Ageing Agenda Social Policy Consultants 2006, p. 6). This matter is discussed in more detail in Section 1.6.

1.2. Primary Objective of Paper:

With more major reforms looming[9] and given both the critical importance of this issue at an individual and social level and the scarcity of existing cost/benefit studies in this area, this research paper seeks to fill this present gap in understanding. Two key steps have been taken to ensure that the issues associated with the opposing claims are clearly identified. *Firstly*, the regulatory theory analytical frameworks of the public and private interest models of regulatory reform will be utilised to analyse the origins, characteristics and outcomes of the occupational superannuation industry reforms with a focus on the 2004 Registrable Superannuation Entity (RSE) licensing regime. To achieve this outcome, the basic principles and assumptions of both the private and public interest regulatory frameworks are elaborated in Section 1.4 and are then applied to the RSE licensing regime reforms in Section 1.6.

Secondly, the analysis within this paper will be based upon data obtained from a recently conducted, trustee-based survey[10] related to the actual costs and benefits experienced in relation to the RSE licensing regime as detailed by ninety (90) superannuation fund trustees and licensees. This reform was selected for analysis given that it is widely regarded as the most significant event in the regulation of the near trillion dollar superannuation industry since occupational superannuation gained mandatory status in 1992 (SuperReview 2005, p. 1; ASFA 2004, p. 1). For example, at the

[9] That is, the 2006 (Commonwealth Government) Parliamentary Inquiry into the Structure and Operation of the Superannuation Industry. This regulatory intervention is again controversial with the ACTU viewing these reform proposals as an attempt by the Coalition Government to further diminish the value of fund member "choice" by: "*…pushing the remaining industry funds towards privatisation* [i.e. away from their current not-for-profit status] *and, incredibly, public listing…which will enable shareholders to skim off dividends and capital gains from the retirement savings of fund members…If this was to occur, millions of superannuation fund members would be denied the choice they now have to invest with not-for-profit funds operated solely in the interests of members* (ACTU 2006, pp. 7-8)".

[10] This survey was conducted by Sue Taylor under Research Grants provided by the Faculty of Business, QUT (Research Initiative) and QUT's Women in Research Schemes.

end of this licensing process, associated compliance costs to-date had reached $50 million and more than 850 superannuation funds had exited the industry (Clare 2006, p. 3; Taylor 2006, p.5). In addition, and in spite of the Coalition Government's fund member protection rationale for its introduction, while billions of dollars of fund member monies had changed hands, few if any benefits for fund members were recognised by the trustees surveyed (refer Table 1 G in Section 1.6).

1.3. Limitations of Scope

In meeting the primary objective of this paper, three related issues, although of importance, are felt to be outside the scope of this study. First, an analysis of the limitations of each of the two theoretical perspectives used has not been provided. Second, while the original rationale of the Labor Government (which was then supported by the Coalition Government in introducing the RSE regime) contained four separate premises in terms of: an ageing Australian population; the existence of a low saving rate by world standards; a significant trend to earlier retirement; and the need, therefore, for a compulsory earnings replacement program, the basis of these four premises are open to challenge. For example, did individuals in Australia actually save too little for retirement and, if so, why was this the case, and are compulsory earnings replacement programs indeed the most efficient and equitable mechanism to achieve an increase in collective retirement savings? Given that these considerations are outside the scope of this research, the analysis within this paper is conducted on the assumption that these premises are valid.

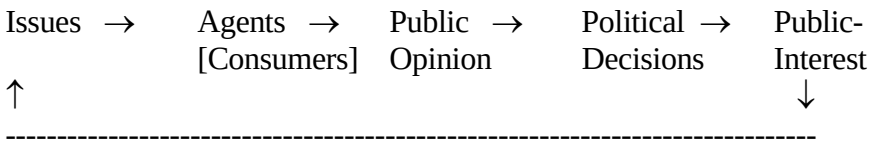
1.4. Regulatory Theory Analytical Framework: Public and Private Interest Models

a) Public Interest Theory: Principles, Assumptions and Validity of Application to the Occupational Superannuation Industry Regulatory Reforms

Public interest theory has a long tradition in welfare economics and is built on the fundamental assumptions that economic markets often are subject to market failures and, as a result, operate inefficiently. Government reform to correct these market failures is, simultaneously, critically important to the well-being of society and virtually costless. Thus, the public interest paradigm is based on the assumption that the government will act on behalf of the public to improve welfare (i.e. make everyone better off) in situations where the market has failed to do so. While these assumptions are open to challenge, as highlighted above, they are accepted as valid for the purposes of this analysis.

Public interest literature highlights that there are two more established concepts of this paradigm (Posner 1974, p. 336; Mitnick 1980, pp. 92-93; Needham 1983, pp. 270-279; Crew & Rowley 1988): the *consumer-protection concept* (refer to Diagram 1.1); and the *national-interest concept* (refer to Diagram 1.2).

Diagram 1.1. The Consumer-Protection Concept of Public-Interest Theory



As highlighted in Diagram 1.1 above, *the consumer-protection concept of the public-interest*[11], primarily defines regulation as a device for the protection of consumers against monopoly power, or

[11] An example of an Australian consumer protection regulation is the 1974 *Trade Practices Act (Cth)* (TPA). Introduced by the Whitlam Labor Government, the TPA was motivated by extensive pressure from consumer lobby groups who argued that "*private individuals, in acquiring goods and services for private use, increasingly find themselves to be in a disadvantageous position in dealing with the business community on which they must rely for the supply of those goods and services*" (Taperell et. al. 1983, p. 563). In turn, the Attorney-General argued that "*…the existing law is still founded on the principle known as caveat emptor - meaning `let the buyer beware'. That principle…has ceased to be appropriate as a general rule…the* [TPA] *will provide such protection* (Federal Attorney-General quoted in Taperell et. al. 1983, p. 568).

more generally it is a device supplied in response to public demand for rectification of inefficient or inequitable market practices by individuals and organisations. That is, the "*victims of economic change should not be placed at the mercy of the impersonal market, but should instead be protected by a mechanism that provides economic justice*" (Mitchell and Munger 1991, p. 20). Within this framework, regulation is intended by legislatures to…"*protect consumer interests by securing improved economic performance...compared with an unregulated situation*" (Fels 1982, pp. 32-33)".

This perspective is based on the perception that the interests of consumers are translated into legislative action through the operation of the political market place. Within this market, votes are seen as a form of currency, and the policies, or at least the images, presented by the competing candidates for office are the commodities being bought (Mitnick 1980, pp. 91-108).

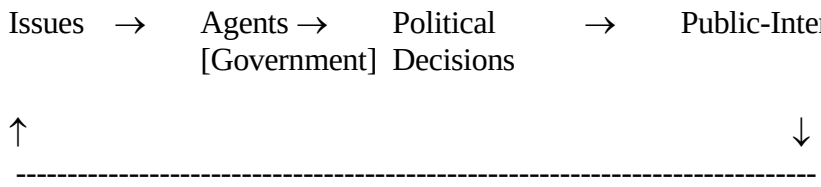
While the analogy with the traditional economic market is not strong, public-interest theorists argue that even given a total lack of a `market', individuals can maintain their ability to articulate demands. Hirschman (1970) has presented an analysis of the different means of articulating interests and shows that, in some situations, individuals can rely on what he calls `exit'; for example, an individual can purchase a commodity from another seller, or give his/her vote to another candidate. Thus, given a non-market situation, individuals are still able to use their right of `voice' by making demands, complaints, or threats in order to achieve the desired goals.

This consumer-protection concept is based on two major assumptions (Posner 1974, 335). First, that there are agents (e.g. entrepreneurial politicians and public-interest groups) who will seek regulation on behalf of the `public-interest' (Baldwin, Scott and Head 1998). "*These agents may satisfy their self-interest instrumentally through pursuit of public-interest objectives...but the theory requires that at*

least some preferences for the public interest be genuine and terminal" (Mitnick 1980, p. 91). The second assumption is that economic markets are subject to a series of market imperfections or transactions failures, which if left uncorrected, will result in both inefficient and inequitable outcomes.

The alternative, *national interest, concept of `the public-interest'*[12], as highlighted in Diagram 1.2 below, centres on the achievement by the government of social goals in which national objectives are held to be in `the public-interest' and therefore to supersede private interests. This concept is fundamentally different to the consumer-protection rationale which is based on the mobilisation of public opinion which is explicitly articulated to the government by `public-interest' agents to ensure certain outcomes. Rather, the national-interest concept is motivated by the government itself with no explicit request from the general public or their agents.

Diagram 1.2. The National Interest Concept of Public-Interest Theory



Governments in this case argue that they have an implicit mandate to undertake national-interest programs as a function of their election to office and are, therefore, their own `agents'. In this situation, the `public-interest' is a passive recipient of "paternalistic" government regulation which has been designed to achieve a `national-interest' objective (Bjornstad and Brown 2004).

[12] An Australian example of regulation in the `national-interest' can be found in the original introduction of the National Health Scheme (Medibank) in 1975 by the Whitlam government which felt that "*health standards in an advanced country must, to a substantial degree, be a national concern*" (Brown 1983, p. 2). The objective of the Whitlam Government here was to establish a single health insurance fund to finance a minimum level of medical and hospital benefits to which the whole population was entitled. This fund was, in turn, to be largely financed through a 1.35% levy on taxable incomes (Brown 1983, pp. 74-75). Thus, while individual Australian workers were required to subsidise their own health requirements, they were collectively to receive a guarantee of access to a minimum standard of health care.

The public interest model therefore provides a relevant analytical framework for reviewing the RSE licensing regime given that, firstly, as briefly outlined above and further detailed in Section 1.6., the occupational superannuation industry was characterised by a wide range of consumer detriments which needed to be addressed in the "public-interest". Secondly, the Coalition Government's objectives for this reform contained elements of both the consumer-protection and the national interest concepts of public interest theory. That is, the RSE reform was designed to both optimise the security of retirement benefits through the introduction of appropriate prudential measures and, thereby, maximise national savings rates.

b) Private Interest Theory: Principles, Assumptions and Validity of Application to the Occupational Superannuation Industry Regulatory Reforms

In contrast to this public interest basis for the introduction of the RSE regulatory reforms, *private-interest theory* is based on the power of private interest groups and was developed in the mid-1980s by economists in response to a growing number of research findings which highlighted that government regulations appeared, in many cases, to have served the interests of small, powerful interest groups, rather than the public interest. Within this framework, government regulation is seen as a market for wealth transfers with politicians having the power to coerce to affect wealth transfers and this product is then "sold" by politicians. To become the "highest bidders" in this lobbying process, private-interest theorists argue that voters form special interest groups, which, in turn, are often able to exert a powerful influence on the outcome of the political process. The sale price takes either (or both) the form of explicit payments to Governments (e.g. bribes, campaign contributions etc.) or more subtle forms of payment (e.g. "assurances" of voter support by a particular interest group) (Stigler 1971, pp. 3-21; Posner 1974; pp. 343-356; Peltzman 1976; pp. 212-214; Becker 1983, pp. 371-399; 1985 pp. 330-347; Noll 1989, pp. 1266-1282; Mitchell and Munger 1991, pp. 512-46).

Within the private-interest model, Stigler and his fellow theorists (Olson 1965, Stigler 1971, Peltzman 1976; 1989; Becker 1983 and Krosner & Strahan 1998) assume that government officials, like business executives or consumers, are rationally self-interested. That is, they will seek to maximise their votes (if they are elected officials) or their prestige and wealth (if they are appointed officials) or both. "Producer", private-interest groups in particular can supply these resources by providing campaign contributions to elected officials and by supplying lucrative opportunities for post-government employment. The very essence of private-interest theory is, therefore, that regulation is a device for transferring income to well-organised groups if the groups will return the favour with votes and contributions to politicians.

For example, in relation to the occupational superannuation industry, contributions are made on a regular basis from fund managers to both the Labor and Coalition Governments and at both the State and Federal levels as highlighted in Table 1 A. The full extent of these superannuation industry contributions are difficult to determine, however, as many of the contributions in the "Total Donations" column were made by private companies with an absence of details provided in relation to any affiliations.

Table 1 A: Political Contributions[13]

Year of Contribution	Total Donations $	Total $ Superannuation Industry Donations
1987	3193658	2500.00
1988	.	.
1989	.	.
1990	1681057	5000.00
1991	3905711	87500.00
1992	.	.
1993	5610389	185000.0
1994	9435839	246500.0
1995	3411058	204040.0
1996	10817605	241746.0
1997	4595156	261804.0
1998	6194395	244755.0

[13] Federal and State Level Data - Australian Labor and Coalition Parties – details extracted from hard copies of Funding Disclosure Reports specifically made available by the Australian Electoral Commission in their Brisbane office – Partial Only Data Set Available - 1987 to 2004 – No data available prior to 1987 or for 1988, 1989 and 1992.

1999	**3039484**	**130000.0**
2000	**4088837**	**145000.0**
2001	**6753046**	**212500.0**
2002	**2813152**	**444954.0**
2003	**4053488**	**263500.0**
2004	**8450038**	**268000.0**

Within the private interest model, these political contributions are provided in exchange for beneficial regulation including: price fixing, restriction of entry, subsidies, and suppression of substitutes. Again, applying these concepts to the data provided in Table 1 A, the private interest argument would be that the significant increases in contributions from the 1991 year through to 1994 in particular, were "producer" payments made in exchange for the publicly mandated but privately controlled occupational superannuation regulatory regime that commenced in 1992. These regulatory reforms effectively: eliminated substitutes; created significant barriers to survival for smaller, existing firms and barriers to entry for new firms via the introduction of minimum capital and qualification requirements; and imposed significant compliance costs with more than 1000 pages of prudential controls (i.e. the *Superannuation Industry Supervision Act and Regulations* (C'th) 1993 and 1994 respectively) which required trustee compliance.

Given that the producer group is generally very small relative to the consumer group, and where profits are potentially large, producers face a significant per person incentive to seek regulation which provides benefits to them. On the other hand, consumers face an insignificant incentive per person to oppose regulation. Thus:

> *"...[While] many of the proponents of…regulation intended it to protect consumers against excessive charges and discriminations [and] all the early state laws bear witness to this*

> *intent…it should be remembered, however, that behind this laudable social purpose lurked the sinister forces of private privilege and monopoly. They desired immunity from prosecution under the antitrust laws, legal validation of their privileges as property rights, the protection of the state for their monopolies, and a relatively free hand to extend their economic power*." (Gray quoted in Noll 1989, p. 6).

The final portion of the "protective" regulatory shield sort by the incumbent producers then, is to ensure that these benefits are "delivered" by the government in an in-transparent manner, such as in the form of highly technical and complex supervisory regulations which allow little scope for fund member/consumer recognition of the 'hidden' benefits/subsidies to producers and, therefore, see no reason to mount any form of counter lobbying campaign.

Within this model, the belief is that (Olson 1982, p. 68; Mitchell 1990, p. 87) the demands of these powerful interest groups actually act to "*…retard economic growth, cause stagflation and produce all sorts of social rigidities that promote inefficiencies in resource allocation. Once organised, "distributional coalitions" can efficiently pursue their own self-interests; …Each coalition will [then] seek a larger share of the GNP regardless of social costs. Such groups and coalitions, once formed, tend to persist; those who cannot organise will be harmed. And, in the long run, everyone is harmed through the sharing of a smaller GNP*" (Olson quoted in Mitchell 1990, p. 87).

Thus, in summary, the fundamental premise of the private interest model is that producers (i.e. the owners of the regulated firms) are almost always the most powerful lobbyists within the context of the regulatory reform process given that they are usually a well-organised, well-resourced, compact user group. This lobbying power was then utilised whenever deemed necessary to "harness" the

coercive power of the government to capture benefits for the industry's owners/producers at the expense of the more dispersed groups such as fund members/consumers.

In turn, these regulated firms were found to be at their most effective when: a) the benefits are concentrated among group members and these members have an homogeneous interest; b) when the costs of the regulation are relatively diffused, which ensures that potential losers have less incentive to lobby against any regulation sought by the "winners"; and c) where the issue is both a salient one for the producer group and of a complex nature requiring specialist knowledge or training to understand (which then places consumers at an immediate disadvantage). In turn, when these pro-producer characteristics are present in an industry, it can be more cost effective for producers to simply lobby for "regulatory privileges" such as mandatory product status, rather that incur the costs of correcting any inefficiencies associated with their product production (Olson 1965, Stigler 1971; 1988; 1991, Peltzman 1973; 1976; 1989; Becker 1983).

Where these types of reforms occur, then the private interest theorists predict significant wealth transfers from the fund members/consumers to the producer groups (fund managers). For example, in a research study focusing on the effect of interest group lobbying of governments on the distribution of income (and based on an analysis of cross-sectional data from the 50 U.S. states), Shugart, Tollison and Yan 2003, p. 452, concluded that "…*income inequality is an increasing function of interest-group influence*" when factors such as educational attainment, median income, race and state government expenditures relative to gross state product are held constant.

While the assumptions of private interest theory are open to challenge, as highlighted in the limitations section 1.4 above, they are accepted as valid for the purposes of this analysis.

The application of the private interest framework can be considered a valid alternative (or complementary) model for the analysis of the RSE reforms, given that at the heart of the opposing claims is the belief that, firstly, the publicly-mandated but privately-controlled legislative regime: eliminated substitutes and created both barriers to entry and to survival; involved concentrated benefits for homogeneous producers (i.e. the fund managers) while the benefits were diffused among millions of fund members (which ensures that they have less incentive to lobby against any "pro-regulation" sought); and the mandatory, occupational superannuation product is both complex and a salient one for the producers.

Secondly, the government's use of the concepts of fairness and the "public interest" were not consistently matched with appropriate forms of regulation with existing fund member detriments *not being addressed*. Rather, it is claimed that many of the regulatory reforms introduced have been designed to benefit the powerful lobby group of the industry "producer group" (i.e. the fund managers) at the expense of both the fund members and society in general (Klumpes 1994b; Gallery and Gallery 2005; Taylor 2005 and 2006a). These issues will be discussed in detail in Section 1.6.

1.5. Validity of Models and Key Issues to be Addressed: Application to the Registrable Superannuation Entity (RSE) Licensing Regime

In order, firstly, for the public interest claims to be accepted as valid, it would be expected that the *timing/origins* of the RSE regulatory reforms will be located in the existence of consumer and/or national interest-based detriments or failures. Further, a review of the characteristics of the stated rationales of both governments for regulatory reform; their associated objectives and the actual content of the regulatory provisions would also reveal consistency with public interest theory

assumptions and predictions. Finally, then, in relation to regulatory impacts, there should again be clearly identified *fund member and/or national interest "gains*" from the RSE reforms.

On the other hand, if the private interest-based "dissenting views" are to be accepted as valid, it would be expected then that a review of the characteristics and attributes of the stated rationales of both governments for regulatory reform; the associated objectives; and the actual content of the regulatory provisions and framework introduced, would reveal that they were all consistent with the assumptions and predictions flowing from the *private interest model* of regulatory reform. Finally, then, in relation to regulatory impacts, there should again be clearly identified *fund manager "gains"* from the RSE reforms.

Alternatively, rather than providing competing outcomes, the public and private interest frameworks may indeed be complementary with, in this case, both fund managers and fund members and/or "the national interest" receiving gains from the RSE reforms.

1.6. Application of the Public and Private Interest Regulatory Theory Models to the Registrable Superannuation Entity Reforms:

a) Government Rationale and Objectives for Occupational Superannuation Industry Regulatory Reforms:

Underlying the regulatory interventions of both governments throughout the last two and half decades has been three key, public interest-based, objectives which can be summarised as (Australian Liberal Party's 2004 Election Policy Statement; Dawkins 1992): 1) *Performance:* to optimise the level of retirement benefits accumulated from the inflow of contributions through the efficient operation of the retirement income market and, thus, achieve a sustained structural

improvement in national saving, and; 2) *Security***:** to optimise the security of retirement benefits through the introduction of appropriate prudential measures; and 3) *Simple, Equitable and Socially Justice***:** to provide a superannuation framework which is simpler, more equitable and which ensures social justice.

These objectives are consistent with both the consumer protection and national interest concepts of the public interest model outlined in Section 1.4. In turn, the RSE legislative reforms were meant to be primarily focused around the achievement of the "security" objective as is detailed below (Australian Liberal Party's 2004 Election Policy Statement).

b) The Registrable Superannuation Entity Legislative Reforms 2004 (RSE): Nature and Characteristics and Outcomes for Fund Members and Fund Managers

1) Nature and Characteristics of Regime:

The RSE licensing regime was implemented as part of the *Superannuation Safety Reform Act 2004* (C'th) and represented the most significant event in the regulation of the nearly trillion-dollar superannuation industry since occupational superannuation gained mandatory status in 1992 (SuperReview 2005, p. 1). The focus of the RSE reforms was to require trustees to implement a range of "security" measures designed to improve fund governance such as the requirements for each fund to produce a formal risk management plan. Under the RSE regime, existing trustees where given a transition period of two years (i.e. from 1 July 2004 to 30 June 2006) within which to obtain an RSE licence and register their RSEs. From 1 July 2006, all corporations or groups of individuals wishing to act as a trustee for an RSE must be licensed.

2) Fund Member Welfare Issues

There are five major issues of concern for fund member welfare associated with the RSE regime. *Firstly*, the trustee reaction to the RSE reforms and its related compliance costs, particularly following so closely behind the earlier implemented *Financial Services Reform Act 2001* (C'th) (which also contained significant licensing requirements) was that at least 855 superannuation trustees exited the industry by the end of its trustee licensing process (Australian Prudential Regulation Authority 2006, p. 1). The member benefits associated with these funds were then, in many cases, transferred to the master funds in the retail industry (primarily operated by the life offices) in spite of the fact that research evidence highlights that *retail/master funds have the highest expenses and lowest returns* of all fund types. For example, the not-for-profit, industry funds are currently predicted to deliver more than 26% more superannuation on retirement for their members than master trusts (Industry Super Funds Media release, September 2006; Coleman, Esho and Wong, 2003 p. ii). The outcome of this RSE "security"-based reform then has been to sacrifice aspects of the original "performance" objective established by both governments.

Secondly, many of the existing fund member detriments highlighted in Section 1.1. (such as information asymmetries and an absence of 'exit" and "voice" rights) were actually further entrenched and intensified by the RSE reforms in that neither the legislation nor the fund trust deeds required that fund members had to be consulted in relation to the move, for example, to retail funds. In addition, the number and nature of the remaining funds for "fund choice" by fund members have been significantly reduced. This latter outcome is in conflict with both the "social justice and equity" and "performance" objectives.

Thirdly, as indicated by the useable responses to the survey, total compliance costs incurred to-date for the RSE licensing requirements was estimated at $10.3 million (81 trustee responses) with on-going charges then of $4.5 million (77 trustee responses) as highlighted in Tables 1 B and 1 C. If

these figures are then extrapolated to the 307 trustees that remain after the implementation process, then total compliance costs have been estimated at $50 million with ongoing costs estimated at a further $10 million per year (Clare 2006, p.3). The major factors then that contributed to this high level of costs were: internal administration costs (including trustee time); legal costs and consulting fees as set out in Table 1 D.

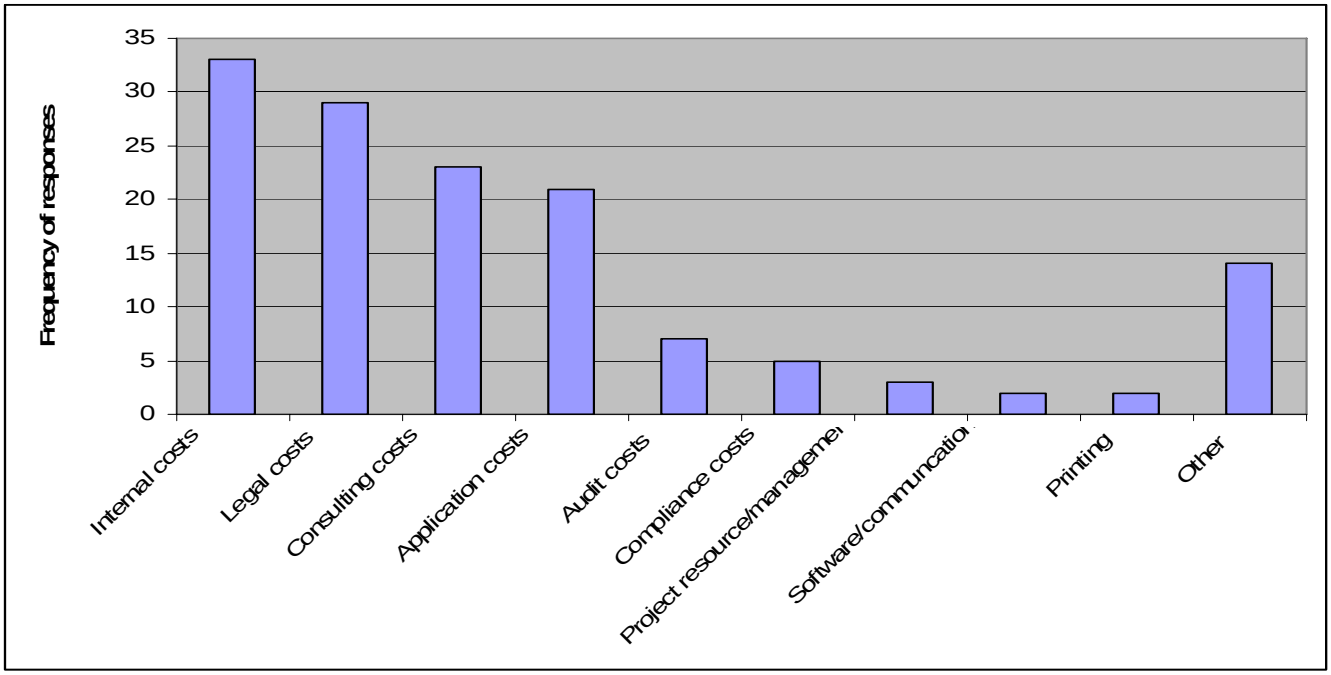
Table 1 B: Total Licensing Process Costs Incurred To Date

Descriptive	Figure
Total costs (all funds)	$10,349,026
Mean (per fund)	$128,753
Standard deviation	$135,966
Range of responses	0 – $905,000
Total N	81** Cost Responses - i.e. Exempt and No Response Categories Excluded

Table 1 C: Estimated Yearly Costs

Descriptive	Figure
Total annual costs (all funds)	$4,242,500
Mean (per fund)	$56,151
Standard deviation	$75,681
Range of responses	0 – $600,000
Total N	77 * Excluding Exempt Funds and No Responses

Table 1 D: Nature of Costs Incurred
(more than one response provided by some trustees)



Fourthly, the overall compliance costs of the two and half decades of regulatory reforms in the occupational superannuation industry is now approaching $200 million per year as detailed in Tables 1 E and 1 F below when both compliance costs ($135 million) and the supervisory levy ($43-$50 million) are taken into account (Clare 2006, pp. 3-8).

Table 1E: Supervisory levy by fund size, various years (Clare 2006)

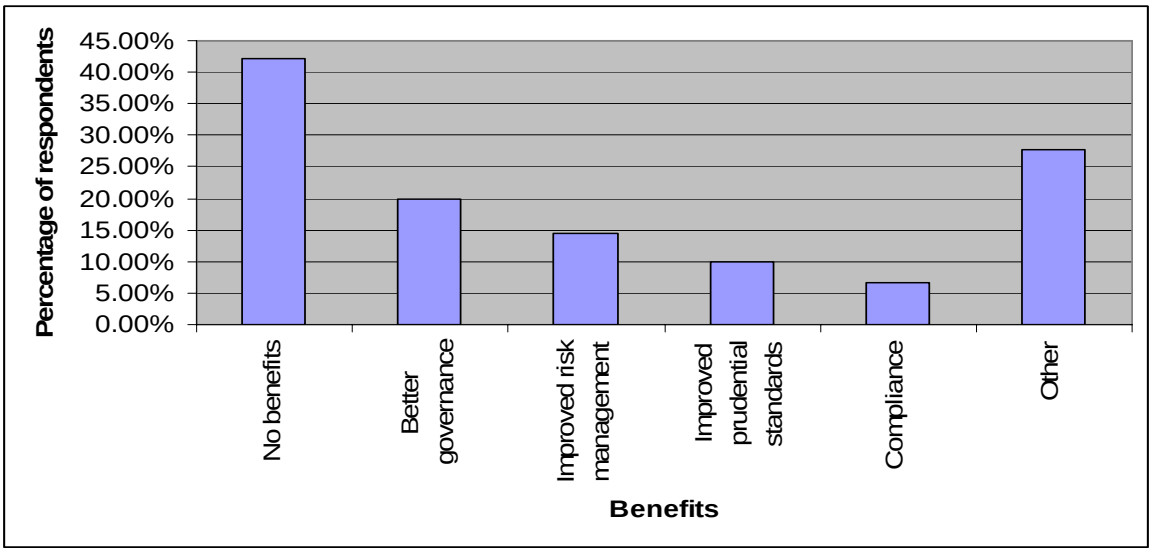
Year	$50m	$250m	$5billion	$20 billion
2001-02	$12,500	$53,000	$53,000	$53,000
2003-04	$17,500	$85,000	$85,000	$85,000
2005-06	$21,500	$101,400	$146,800	$290,100
2006-07	$17,745	$88,725	$164,500	$397,000
% increase since 2001-02	42%	67%	210%	649%

Table 1 F - Structure of the Total Compliance Costs in the Superannuation Sector after the RSE Licensing Reforms (Clare 2006)

Asset Range ($)	APRA 2006 Trustee Nos	Aggregate ongoing compliance costs for funds in each category
<20m	40	$3 million
20-100m	80	$6 million
100-250m	38	$3 million
250-1,000m	64	$19 million
1-5b	53	$21 million
5-10b	19	$11 million
10-20b	11	$34 million
20b+	3	$39 million
Total	307	$135 million

Finally then, and of the most serious concern for fund member welfare, is that the RSE costs have not, according to at least 42% of trustees, resulted in any benefits at all for fund members as highlighted in Table 1 G below.

Table 1 G - Graphed Percentages of Responses Regarding Benefits – Trustee Survey Responses



3) Private Interest Gains from the RSE Regulatory Reforms:

While a formal statistical analysis is needed before any relationships or associations can be stated with any certainty, the data provided in Table 1 H and I below highlight that the fund managers/life offices were still facing a range of negative investment and growth returns in the 2000 to 2003 period. In addition, their return on assets figures were extremely low when compared, for example, to overall industry averages for the 1998 to 2002 period which ranged from 4.0 to 4.5, compared to the .3 to .6 for life offices (Australian Bureau of Statistics (ABS), "Business Operations and Industry Performance" data, Catalogue 8142.0).

Thus, and as outlined earlier, even though occupational superannuation had become a mandatory product in 1992 and that the 1993/94 SIS legislative framework had introduced a range of barriers to entry/survival for competing new and existing smaller firms, the life offices were still in significant financial distress. These same ABS statistics also highlighted that superannuation assets

had grown throughout this period from comprising 60% of total life office assets, to representing 88.4% by 2004. Thus, the non-performance of this asset base was of serious concern to the life offices.

The private interest model would, therefore, predict that these continuing poor performance outcomes would create strong lobbying pressure by the fund managers/life offices for the introduction of an additional range of protective mechanisms which would serve to remedy the detriments they faced. This prediction is consistent with the significant new levels of government intervention that did occur in the occupational industry from 2001/02 onwards with the introduction of the 2001 licensing requirements of the *Financial Services Reform Act*, the 2004 *Choice of Funds* legislation and the 2004 Registrable Superannuation Entity (RSE) licensing process. The resulting outcome of this regulation "trilogy" then should be, if the private interest model is valid, that the fund management group would be the primary "winners".

This prediction is supported by the available information as set out in Table 1 H and I which indicate significant improvements *in all return, earnings and growth measures* from the 2002/03 period onwards. In addition to the data provided in the Tables below, there has been a wide range of media reports which highlight the large scale "wins" by the life offices in terms of gaining control of the management of the funds that have exited as a result of the RSE reforms. For example, one of Australia's largest corporate superannuation funds, the Woolworths Group Super Scheme, has recently outsourced its $1.2 billion, 21,000 member, corporate fund to AMP. In addition, ING Australia has successfully won the accounts of Visy Industries, HPM Industries, the National Heart Foundation and Sanofi-Aventis and has been said to be "*close to finalising a number of other major wins*" (Taylor in *SuperReview* 2006, p. 2).

Table 1H: Statutory Fund of Life Offices – Superannuation - Return on Assets and Equity (Investment Linked Products) (%) and Return on Net Premium Revenue (%)

Year	Return on Net Premium Revenue	Return on Assets – Investment Linked	Return on Equity – Investment Linked
1995	Data unavail.	.30	20.20
1996	Data unavail.	.40	19.50
1997	Data unavail.	.40	19.80
1998	Data unavail.	.50	24.00
1999	Data unavail.	.50	16.40
2000	1.9	.40	15.70
2001	7.8	.40	19.30
2002	12.8	.40	9.50
2003	25.9	.20	14.80
2004	94.1	.60	26.60

Table 1I: Income and Expenditure of Life Offices – Superannuation Business – Extract from APRA's "Statistics: Life Insurance Trends", September 2005, p. 7.

Table 2a. Income and expenditure of life offices - superannuation business

($ million)

	Premiums[a]	Policy payments[a]	Net premium flows	Operating expense[b]	Net investment income[c]	Net earnings[c]	Net growth
1997/98							
Jun	7,483	6,040	1,443	238	-205	-443	1,000
1998/99							
Jun	9,566	7,168	2,399	812	1,135	323	2,722
1999/00							
Sep	8,685	7,500	1,185	787	456	-330	855
Dec	7,812	7,472	339	1,283	8,401	7,117	7,457
Mar	8,747	7,146	1,601	579	2,358	1,779	3,380
Jun	9,297	8,592	705	763	3,975	3,212	3,917
2000/01							
Sep	10,723	9,906	818	919	-1,257	-2,176	-1,358
Dec	9,097	8,439	657	685	583	-102	555
Mar	7,968	7,129	839	603	773	170	1,009
Jun	8,514	6,997	1,517	532	4,992	4,461	5,978
2001/02							
Sep	10,516	8,085	2,432	582	-6,912	-7,494	-5,062
Dec	9,465	9,320	145	476	6,440	5,964	6,109
Mar	8,435	7,982	453	562	970	408	861
Jun	9,379	8,983	396	393	-4,044	-4,438	-4,042
2002/03							
Sep	11,175	9,381	1,794	520	-5,829	-6,348	-4,555
Dec	8,413	9,361	-947	573	5,057	4,484	3,537
Mar	6,574	6,770	-196	470	-3,798	-4,267	-4,463
Jun	7,689	8,227	-538	399	5,826	5,427	4,889
2003/04							
Sep	7,657	7,296	361	734	1,788	1,054	1,415
Dec	6,958	8,272	-1,314	652	3,983	3,331	2,017
Mar	7,432	7,743	-311	584	3,507	2,923	2,613
Jun	7,467	7,922	-455	617	5,097	4,480	4,025
2004/05							
Sep	9,344	8,979	365	750	2,851	2,101	2,465
Dec	7,510	8,065	-555	680	9,163	8,483	7,927
Mar	6,386	6,888	-501	584	1,136	552	51
Jun	8,195	8,129	66	681	5,321	4,640	4,706
2005/06							
Sep [d]	9,373	10,061	-688	712	8,580	7,868	7,180

Source:

The above table refers to flows of assets backing Australian policyholder liabilities only. These figures are sourced from APRA regulatory returns first lodged with respect to the June 1997 quarter.

1.7. Summary and Conclusion: The Costs and Benefits of the RSE Licensing Regime - Who are the Winners and Losers?

This preliminary review of the available evidence related to the RSE licensing regime within, *firstly*, the public interest regulatory framework, reveals that the *origins* of this regulatory reform, was broadly consistent with only the *national interest concept* of this theory only. That is, the legislative reform provisions sought to bring about improvements in terms of prudential control/safety mechanisms which, in turn, would ensure that the superannuation monies under investment increased significantly. Within this rationale, there was not attempt to identify and then address any existing fund member/consumer detriments.

In terms of the *actual outcomes or impacts* of the RSE reforms, however, there is no evidence to suggest that even these limited national interest objectives have been realised. Rather, the recent data collected from fund trustees, highlights that the combination of: increasing compliance costs; the "mass" fund exit; and the resultant transfer of funds worth billions to the more expensive retail fund sector, has left member funds, and, therefore, the overall savings pool, worse off, and to an extent of nearly $200 million per year.

In addition to compliance costs concerns, recent evidence has also highlighted that the remaining large funds within the industry are engaging in anti-trust behaviour. For example, there have been recent calls for the immediate review of the Eligible Rollover Fund sector in the occupational superannuation industry, following the RSE reforms, given that "*some funds were engaged in predatory pricing"* with estimated losses to fund members of over $100 million per year (SuperRatings 2006, p.1). As a consequence of these outcomes, the "performance" and "social justice and equity" objectives of both governments have been subjected to negative pressures.

On the other hand, and consistent with the principles and assumptions of the private interest framework, the fund managers appear to be the real "winners" under the RSE regime. That is, the licensing requirements have forced many of Australia's largest corporate and industry superannuation funds to exit the industry with member monies primarily being transferred to the retail sector (dominated by the life offices).

The reality is, however, that these "wins" for fund managers (in terms of increasing returns on net premium income, assets and equity as highlighted in Section 1.6.) as opposed to the "losses" experienced by fund members, were inevitable. That is, given the original Labor Government decision (after extensive lobbying for this outcome by the fund managers) to create a publicly-mandated but privately-controlled occupational superannuation regime (Considine 1994; Klumpes 1994b), the producer groups were always going to be the primary beneficiaries of the regulatory reforms.

Within this policy framework, even though Australian workers are being forced to contribute to their own retirement, they have not retained the right to terminate their superannuation product irregardless of the quality of the services provided, the fees charged or the total compliance costs they are being forced to pay. This latter outcome is a financial windfall for the fund management sector which no longer has to face the threat of terminations, surrenders and forfeitures related to these occupational superannuation investments.

In conclusion, while some of benefits have been delivered as a result of the RSE licensing process, in terms, for example, of better risk management strategies being adopted, these benefits appear to be outweighed by four key losses/costs for fund members: 1) member benefits associated with

"closed" funds have been transferred to the master funds in the retail industry in spite of the fact that there is a priori evidence that *retail/master funds have the highest expenses and lowest returns* of all fund types; 2) the compliance costs associated with implementing the RSE reforms have been estimated at $50 million with ongoing costs estimated at a further $10 million per year; 3) the fact that the overall compliance costs of the two and half decades of regulatory reforms in the occupational superannuation industry is now approaching $200 million per year which is a direct reduction to fund member balances; and 4) in the absence of any anti-trust legislation, the remaining large firms in the industry have the ability to engage in predatory pricing activities which further "rip off" fund members.

The power of any government to correct this situation, however, is limited given their inability to modify the inequitable nature of the underlying publicly-mandated, privately-controlled occupational superannuation regime. That is, the existing framework is the lobbied for outcome of the powerful fund management group who viewed single, government-controlled, national schemes as a "*threat to their profitability*", lobbying extensively against any earlier attempt to introduce such a national scheme *(*Paatsch and Smith 1992, p. 6). Given that this framework is now delivering extremely high levels of returns on net premium income, assets and equity for the remaining firms (as a result, at least in part, of wealth transfers from fund members) there is little incentive to accept an alternate regime.

References:

Areeda, P., and Hovenkamp, H. (2nd. ed.) 2002, *Antitrust Law*, Herbert Publishers, New York.

Association of Superannuation Funds of Australia, 2004, "RSE Licensing Fees to APRA for Superannuation Fund Trustees", accessed on the 25th January 2006 from: http://www.superannuation.asn.au/ArticleDocuments/116/sub0408_APRA-Licensing-Fees.pdf

Association of Superannuation Funds of Australia, 2005, "Implications of Superannuation Fund Legislation for Members, Employers and Funds", accessed on the 25th January 2006 from: http://www.superannuation.asn.au/2006-Releases/default.aspx

Australian Federation of Consumer Organisations, 1991, Submission to the Senate Select Committee on Superannuation.

Australian Liberal Party's 2004 Election Policy Statement, Super for All, accessed on the 25th January 2006 from: http://www.liberal.org.au/default.cfm?action=2004_policy

Australian Prudential Regulation Authority, 2004, "Superannuation: Licensing and Registering a Superannuation Entity", Australian Prudential Regulation Authority, Sydney.

Baldwin, R., Scott, C. and Hood, C., 1998, (eds.), *A Reader on Regulation*, Oxford University Press, Oxford.

Baldwin, R. and M. Cave, 1999, *Understanding Regulation: Theory, Strategy and Practice*, Oxford University Press, Oxford.

Bateman, H. and Piggott, J., 1993, "Australia's Mandated Private Retirement Income Schemes: An Economic Perspective, Background Paper No. 30, Office of EPAC, Australian Government Publishing Service, Canberra.

Becker, G. S., 1983, "A Theory of Competition among Pressure Groups for Political Influence". *Quarterly Journal of Economics*, 371-400.

Bjornstad, D., and Brown, M., 2004, "A Market Failures Framework for Defining the Government's Role in Energy Efficiency", Working Paper of the Joint Institute for Energy & Environment, Knoxville, Tennessee.

Borowski, A 1991, "Retirement Income Arrangements in Six Countries in Comparative Perspective", Background Paper No. 30 (Two Papers), Australian Government Publishing Service, Canberra.

Borowski, A., Schulz, J.H. and Crown, W., 1991, *Economics of Population Aging: the "Greying" of Australia, Japan, and the United States*, Auburn House, New York.

Borowski, A., 2005, "The Revolution that Faltered: Two Decades of Reform of Australia's Retirement Income System", *International Social Security Review*, vol. 58, issue 4, pp. 45-65.

Clare, R, 2006, "Benefits and Costs of the Regulation of Superannuation", ASFA 2006 National Conference and Super Expo "Going the Distance", Perth Convention Centre 15-17 November

Coleman, A. D., Esho, N., and M. Wong., 2003, "The Investment Performance of Australian Superannuation Funds", Working Paper, Australian Prudential Regulation Authority, February 2003-02.

Considine, M, 1984, "Australian Insurance Politics in the 1970s: Two Case Studies", Doctoral Thesis, Department of Political Science, University of Melbourne.

Crew, M. and Rowley, C., 1988, "Toward a Public Choice Theory of Monopoly Regulation", *Public Choice*, vol. 57, 49-67.

Dawkins, Hon. J. M.P, 1992, *Security in Retirement: Planning for Tomorrow Today*. Australian Government Publishing Service, Canberra.

Fels, A., 1982, "The Political Economy of Regulation", *U.N.S.W. Law Journal*, vol. 5, 29-60.

Gallery, G., and N. Gallery, 2005, "Accounting Impediments to Better Superannuation Fund Governance", Conference Paper, QUT Superannuation Symposium, April 2005.

Hansmann, H., 1985, *Mutual Insurance Companies and the Theory of Nonprofit and Cooperative Enterprise.* New Haven, Conn., Institution for Social and Policy Studies, Yale University.

Hirschman, M., 1970, *Exit, Voice and Loyalty*, Harvard University Press, Cambridge.

Howe, B., May 1989, "Australian Retirement Income Policy Towards 2000", EPAC Discussion Paper No. 89/04.

Krosner, Randall and Philip Strahan, 1998, "What Drives De-regulation? The Economics and Politics of the Relaxation of Bank Branching Restrictions", Graduate School of Business, University of Chicago Working Paper Series.

Klumpes, P 1994a, 'Voluntary Compliance with AAS 25: Another Look at the Reporting Paradox", *Australian Accounting Review*, vol.4, issue 1, pp. 37-46.

Klumpes, P 1994b, "The Politics of Rule Development: A Case Study of Australian Pension Fund Accounting Rule-Making", *Abacus*, vol.30, issue 2, pp. 140-159.

Life Insurance Commisioner, 1980-81, *Annual Report*, Life Insurance Commission Office, Canberra.

Manne, G. 1965. *The Economics of Legal Relationships*. St. Paul. West Publishing.

Mitchell, W.C. and Munger, M.C., 1991, "Economic Models of Interest Groups: An Introductory Survey", *American Journal of Political Science, v*ol. 35, issue 2, pp. 512-546.

McGee, J., 1958, "Predatory Price Cutting: The Standard Oil (N.J.) Case", *Journal of Law and Economics*, vol. one, April.

Mitnick, B., 1980, *The Political Economy of Regulation.* Columbia University Press. New York.

Needham D., 1983, *The Economics and Politics of Regulation: A Behavioural Approach*, Little, Brown and Company, Boston.

Olsberg, D., 1992, "Trade Union Participation in Public Policy-Making: The Rise and Demise of Australia's National Retirement Income Regime". PhD Thesis, Sydney.

Olsberg, D., 1997, *Ageing and Money: Australia's Retirement Revolution.* Allen & Unwin, St. Leonards, N.S.W.

Olson, M., 1965, *The Logic of Collective Action*. Harvard University Press, Cambridge, MA.

Organisation for Economic Co-operation & Development, 2005, *Guidelines for Pension Fund Governance*. Organisation for Economic Co-operation & Development Web-Site.

Peltzman, S. 1976. "Towards a More General Theory of Regulation." *Journal of Law and Economics*. 19:109-148.

Peltzman, S., 1989, "The Economic Theory of Regulation after a Decade of Deregulation". *Brookings Papers: Microeconomics*, 1-41.

Paatsch, D. and Smith, G., 1992, *The Regulation of Australian Superannuation: An Industrial Relations Law Perspective*, Centre for Industrial Relations and Labour Studies, University of Melbourne. Melbourne.

Posner, R., 1974, "Theories of Economic Regulation", *The Bell Journal of Economics and Management Science*, Autumn:335-358.

Rowe, G., 1984, "Economic Theories of the Nature of Regulatory Activity", in R. Tomasic (ed.), *Business Regulation in Australia*, CCH Australia Limited, North Ryde, Sydney.

Senate Select Committee on Superannuation 1991, *Super System Survey: A Background Paper on Retirement Income Arrangements in Twenty-One Countries*, Senate Printing Unit, Canberra.

Senate Select Committee on Superannuation June 1992a, First Report, *Safeguarding Super: The Regulation of Superannuation*, Senate Printing Unit, Canberra.

Senate Select Committee on Superannuation June 1992b, Second Report, *Super Guarantee Bills*, Senate Printing Unit, Canberra.

Senate Select Committee on Superannuation August 1992c, *Super Charges: An Issues Paper on Fees, Commission, Charges and Disclosure in the Superannuation Industry*, Senate Printing Unit, Canberra.

Shugart, W., Tollison., R. and Yan, Z., 2003, "Rent Seeking into the Income Distribution", *KYKLOS*, vol. 56, 441-456.

Stigler, George J. 1971. "The Theory of Economic Regulation". *Bell Journal of Economics and Management Science*. September, No.2, 3-21.

SuperRatings, 2006, "$100 Million Stripped in Fees from Eligible Rollover Funds Every Year – Savings Going Backwards" accessed on 26th October from
http://www.superratings.com.au/media-releases.php

SuperReview, 2005, "RSE countdown: exploring the options for trustees" accessed on 17th July, 2006 from:
http://www.superreview.com.au/articles/80/0c031380.asp

Taperell, G.Q., Vermeesch, R.B., and Harland, D.J., 1983, *Trade Practices and Consumer Protection: A Commentary on the Trade Practices Act 1974*, Butterworths, Sydney.

Taylor, S. and P. Little, 1994, Compulsory Occupational Superannuation: Forsaking Individual Protection for the National Interest, in Knox. D. (ed). *Contemporary Issues in Superannuation*. Longman Professional Publications. Melbourne.

Taylor, S., 1995, "A Review of the Financial Accounting, Reporting and Auditing Provisions of the Superannuation Industry (Supervision) Act 1993 (Cth)", A paper presented at the Superannuation Consultative Workshop at Bowral, N.S.W. on 4 to 6 August.

Taylor S., 2005, "Effective Superannuation Fund Governance", School of Accountancy, Faculty of Business, Queensland University of Technology Working Paper Series.

Taylor, S., 2006a, "Profiling Private Interest Barriers to Effective Superannuation Fund Governance: An Australian Case-Study over Two and Half Decades", Griffith University Symposium on Accountability, Governance and Performance: Achieving Excellence, 17 February, Brisbane.