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Ref: FTMIN14/1710

John Miller
Inquiry Manager
Legislative Assembly Legal Affairs Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr Miller

Inquiry into Debt Collection in NSW

I refer to the supplementary questions received following my appearance before the Legal Affairs Committee for the above inquiry on 16 June 2014.

Please find enclosed the responses to these questions.

Should you wish to discuss this matter further, Mr Lachlan Malloch of Fair Trading can be contacted on [REDACTED]

Yours sincerely

Rod Stowe
Commissioner

Encl. 11/7/14

Inquiry into Debt Recovery in NSW:

Responses to supplementary questions following hearing on 16 June 2014

- 1. Would you agree with comments by the ACDBA regarding the significant changes in the debt recovery industry (such as industry consolidation and the increased use of internet and phone technology) that have occurred since the Commercial Agents and Private Inquiry Agents Act (CAPI Act) was introduced in 2004?**
 - a. Could you comment on their suggestion that the CAPI Act has failed to adapt to such changes in the industry?**

Historically, the extent to which NSW Fair Trading has been involved in the debt recovery industry has been limited to handling public complaints of unfair business practices in commercial agent activity, such as fraud and unethical conduct. As such, Fair Trading is not familiar with, and could not comment on, significant changes within the industry in the context of industry consolidation and technological advancements.

- 2. What are the advantages of licensing commercial agents? And could these outcomes be achieved at a lower cost to the industry and government via other types of regulation or oversight?**

Fair Trading is unfamiliar with and cannot comment on the current licensing scheme for commercial agents. Consideration of the most appropriate regulation for this industry is a matter for the NSW Government.

- 3. Is there a danger that standards will fall or be inconsistent between organisations and jurisdictions if training requirements are removed as a result of negative licensing?**

This is a matter for the NSW Government to consider.

- 4. Under the current NSW licensing system, companies have to keep trust accounts. Would this continue if NSW follows Victoria and Queensland and adopts negative licensing?**

As above, this would be a matter for the NSW Government to consider.

- 5. In evidence to the Committee, the Security Licensing and Enforcement Directorate of the NSW Police Force noted its previous recommendation to transfer the oversight of commercial agents to NSW Fair Trading, while the Police Force retained regulation of private inquiry agents. Given that many commercial agents may also be licensed private inquiry agents, can you comment on the proposal?**

The proposal to transfer the administration of commercial agent regulation to NSW Fair Trading is a matter for the NSW Government. We are therefore not in a position to comment on this proposal.