



ASIC

Australian Securities & Investments Commission

Parliamentary Joint Committee on Corporations and Financial Services inquiry into whistleblower protections in the corporate, public and not-for-profit sectors: Opening statement

*A speech by John Price, Commissioner,
Australian Securities and Investments Commission*

*Parliamentary Joint Committee on Corporations and Financial Services inquiry into
whistleblower protections in the corporate, public and not-for-profit sectors
27 April 2017*

CHECK AGAINST DELIVERY

Thank you Chairman.

For the Hansard, my name is John Price and I am a Commissioner at ASIC. With me are Senior Executive Leaders Warren Day and Andrew Fawcett.

We are very happy to appear before the Committee today.

ASIC supports work towards encouraging reporting of corporate wrongdoing and better protection for whistleblowers in Australia.

We recognise the courage of whistleblowers, and value the insights they provide. Whistleblowers play an important role in calling out poor conduct, and assisting ASIC to do its job.

ASIC has established an Office of the Whistleblower and enhanced our internal process for dealing with whistleblower reports, including ensuring ASIC staff who are involved in handling whistleblower matters are appropriately trained. In addition, we have developed targeted information to ensure whistleblower awareness of the protections that may apply to them, and ensure understanding of ASIC's role.

In preparing ASIC's submission to this inquiry (and the Treasury review of tax and corporate whistleblower protections in Australia), ASIC considered the recently amended

Fair Work (Registered Organisations) Act 2009 and the *Public Interest Disclosure Act 2013*. We also considered whistleblowing regimes in various international jurisdictions.

ASIC's experience to date in handling whistleblower matters has also helped inform our views on the areas of the law that could be improved.

In ASIC's submission to this inquiry, we recommended:

- broadening the definition of whistleblowers to include a company's former employees, officers, contractors and others
- extending whistleblower protections to anonymous disclosures and ensuring whistleblower identity should be subject to absolute confidentiality
- replacing the 'good faith' requirement with an 'objective test', that is, it should be sufficient for the information disclosed to simply show that wrongdoing has occurred
- a rewards system be deferred until higher monetary penalties have been introduced, possibly following the Government's review of ASIC's enforcement regime
- an overhaul of whistleblower compensation to ensure better access and to better define the nature of the damages – including loss of lifetime earnings - on which a whistleblower may claim compensation.

We also recommended the establishment of a whistleblower tribunal to hear compensation claims.

Lastly, we think any new whistleblowing regime should be supported by an independent oversight agency, such as the Commonwealth Ombudsman.

We welcome any questions the Committee may have.