



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**Federation Chamber**

**BILLS**

**Corporations Amendment (Future of  
Financial Advice) Bill 2011, Corporations  
Amendment (Further Future of  
Financial Advice Measures) Bill 2011**

**Second Reading**

**SPEECH**

**Wednesday, 21 March 2012**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

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**Speaker** Billson, Bruce, MP

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**Mr BILLSON** (Dunkley) (11:20): I rise to support the very eloquent comments of my colleagues who have covered many of the issues that I will touch on. One of the reasons that I was keen to make a contribution to this debate is that, in my travels as the shadow minister for small business, financial advisory businesses right across the continent have expressed outrage at the nature of some of the changes proposed in the Corporations Amendment (Future of Financial Advice) Bill 2011 and related legislation. Their input in consultation processes has been ignored at best and, in some cases, the government has chosen a pathway that directly opposes the considered advice that the small business financial advising community has provided to government. Another point is that, wearing my hat as the shadow minister for consumer affairs, while these bills masquerade as being of advantage to consumers they actually provide a number of risks for consumers that the government has not properly considered or evaluated.

The idea about proper evaluation and assessment is an excellent starting point for a debate on this legislation. The government proclaims widely that it has outstanding regulatory impact processes. I have listened to and read carefully the accounts of world's best practice, which is the statement made by the department of finance and its officials involved in the Office of Best Practice Regulation. Some of the action steps that agencies and departments are expected to go through seek to address what the legitimate alternatives are for addressing that public policy problem, and evaluate how effective alternative courses of action would be and what the costs are in implementing those changes. That is a worthwhile decision support framework. It is such a shame that this whole package of measures has progressed without any great connection to that very worthwhile decision support framework.

At the heart of the coalition's objection to these bills is that there has not been a proper impact analysis, a regulatory impact statement, tabled for these bills. They have not been evaluated against the Office of Best Practice Regulation benchmarks and requirements as compliant. For those reasons alone this legislative package is poorly conceived. It has not been properly considered. It appears to many, me included, as a knee-jerk reaction to the very devastating impact of the collapse of particular investment vehicles—Storm and Opes Prime are some that are regularly referred to—where in reaction to the financial losses that many incurred the government seems to think it has carte blanche to do whatever it might think it wants to do.

What it thinks it wants to do seems to be overwhelmingly skewed to advance the interests of union controlled industry superannuation funds. There appears to be no other justification for some of the measures that are contained in this bill. Even, as my colleague the previous speaker referred to, in the consultation process absolutely nobody was advocating for some of the measures that are in this bill except for the MySuper industry superannuation group. Apparently, on the strength of just one self-interested advocacy group, the government thought that was a good enough reason to go with what they wanted and ignore all the other submissions about why some of the proposals they are contemplating are not well conceived and actually run against the interests not only of the consumers and investors but also many of the small business advisory firms that have established a very positive reputation amongst their clients and that know that, if they are not providing value for money, the clients will go somewhere else. So I do not know why we are here debating things such as the opt-in requirement, one of the most pointless bureaucratic interventions that no-one thinks is a good idea, save and except the superannuation industry network. Not even the government controlled Ripoll inquiry thought it was a good idea.

I hope Mr Ripoll, who is now the Parliamentary Secretary to the Treasurer, has some influence within Treasury over the direction of these changes and that the so-called future of financial advice is grounded in the considered work of his committee and the very sound recommendations that earned bipartisan support. I say that for a number of reasons. Firstly, they were well thought through. They were not contrived to advantage a particular sector of the financial advice industry—that is, the industry superannuation funds. They were also tested by a rigorous process of committee inquiry, of hearings, of evaluation, where the parliament as a whole could bring forward a bipartisan report that would give confidence to people involved in this industry that there was not going to be some unilateral change to the arrangements under which they operate.

By going down the pathway the government has with this legislation, they are far from building confidence and certainty in the financial services sector because they are actually pursuing changes that no-one else seems to think are a good idea. At some point down the track either Mr Ripoll in his new role within Treasury or, if there is a change of government, an enlightened, pragmatic, evidence based evaluation of these changes is likely to see them changed again because they are not well developed and they have not been properly evaluated.

Look at some of the things that have happened.. Let us look at the global financial crisis. There were some very high-profile cases of investment vehicles hitting the wall and that represented extreme financial hardship for those investors. A number of those investment vehicles were by their very nature more vulnerable to the changes in the global economy and the impacts of the GFC than others because they were offering returns at rates more attractive than other investment options and the risk-return ratios were understood by most. But when hardship arises that is a very difficult time for all involved. My heart goes out to those people who have seen their life savings and their investment nest eggs dissolve through the GFC.

Overwhelmingly, the Australian financial services and advice industry stood up very well during the GFC. It stood up very well because of the changes that the previous Howard government had put in place. So you look at the carnage in investment value and in wealth destruction that happened around the world and, whilst we had some setbacks, they were nothing of the scale experienced by virtually any developed Western market in the world.

**Mr Van Manen:** They had nothing to do with the advice.

**Mr BILLSON:** Those changes also had nothing to do with the advice that people were provided—as my twin brother and my friend and colleague interjects, and I thank him for that interjection—nothing to do with the quality of the advice. If you are going to handle or address these public policy concerns in a sober, evidence based way you should actually look at what the causal factors are of the hardship that you are hoping to avoid—what is the evil you are hoping to address? To understand what has caused it then gives you an insight into what action you might need to take.

This whole package is free of that analysis and instead we see some propositions that the government cannot even defend themselves because they are so incoherent. The coalition again puts forward the framework that was agreed through the Parliamentary Joint Committee on Corporations and Financial Services which said these things should not go ahead in their current form. It said that they lacked some key characteristics that would represent a positive step forward for the industry and for the investors that rely upon the advice that they are given. They represent a great deal of red tape and compliance imposition for no good reason.

I recall my travels to Gladstone. I had a nice flight up there to meet with all the financial advisers in Gladstone. There is a community providing quality financial advice to a number of people not only to the immediate Gladstone community but to quite a lot of fly-in fly-out people and other people earning quite staggering incomes in the mining sector. So the quality of their advice is very important in setting up those people for their future. They all came to me and said, 'Bruce, this opt-in idea: where on earth did that come from?' I was able to point to the industry superannuation funds. The collective groan in the room said to me: 'Well, that'd be right. Here's another regulatory and red tape imposition championed by a very narrow section of the financial services sector to advantage its own interests.' They described to me the example of someone who had been out on a mine for three or four weeks and would fly into Gladstone. They had some time to themselves or they might want to catch up with family and friends. They walk into their place of accommodation and find a mountain of mail you could not climb over. They described to me the things that person would be looking for. Imagine that you are that person: would you be looking for the bills you have to pay? Probably, so you can make sure the phone was not cut off and the power was there. You might look for one that has a sweet scent; that one might be a note from your sweetheart. But if you saw something from your financial adviser, would you know what it was? Given the relationship you have with your financial adviser, who is servicing your interests well in an open and transparent way, you might think this was probably another newsletter with the latest update on what the government is mangling in another area of the policy. That could be it, and you would probably think: 'Gee, I see enough of this dysfunctional and divided government. I'm back and I don't want to be depressed even more about government incompetence affecting my interest and the national interest.' So you put that to one side.

You might then have a lovely few days in Gladstone: you might do some fishing or you might catch up with your sweetheart. You might just go about your life and then fly out again without looking at the letter from

your financial adviser. Under these changes, that would be: uh-oh, end of relationship, because you have not opted in again. You have not opted in again because you were bewildered by the burden imposed on you and your financial adviser, even though your relationship has served you well, is open and transparent on fees, the quality of advice and the frequency of engagement and makes sure that your interests as an investor align with the advice being provided by your adviser. Then suddenly, because you have not sorted out some bureaucratic renewal within a 30-day period, the relationship is over. What happens then? What happens with the advice that you hoped you might get while you are out at the mine site? What happens with your investments? This is just one very practical example where this is likely, according to some in the industry sector, to cost \$120 per client. It will eat away at their investment nest egg for no good reason and to no demonstrable benefit.

If you look at other areas you will see that certain products with trailing fees and the like—even where they were entered into with full knowledge by the parties involved—will be prohibited under these changes. What will you do? You will have to change them, get out of them or have those arrangements restructured. I read an impassioned plea from a small business financial adviser who points out that not only is he 'being branded a hellraiser out to pillage their clientele because of events involving Storm and Opes Prime over which they had no influence whatsoever', he is 'somehow being victimised and used as a scapegoat for consequences that weren't any of their making'. That is how he starts his presentation to me, and I think he is right on the money. He goes on to talk about what would happen with the trusted relationship he has where, as the shadow Treasurer pointed out—the key tenet is 'no surprises', is how I would characterise it—the advisers are acting in the best interests of the client, there is transparency in the fees, there is an understanding of what support is being provided for those fees and the client can opt out whenever they choose. They can just go if they are not happy. What is wrong with that? Instead we have this very odd set of recommendations.

We also have an example where the government is failing to address the impact not only on small financial advice businesses, but also on consumers. On the trail ban that is being proposed: what happens if you have a client who is in such a product but now cannot be? You will have to go to that client and say, 'I'm sorry, even though you fully understood what you entered into and what the cost structures are, even though the product may be performing very well for you and regardless of what any industry superannuation fund advocate may be stating, you have to hop out of it.' What is the cost of exiting that product, of having it restructured or of trying to materialise the asset value, which you know has taken a hit through the GFC? You would do your money. So in this example, the recalibration that will be needed if you are a Centrelink client, the risk to your capital of materialising a gain or loss, the fact that there may be costs involved in shifting into another product, all seem to have not been taken into account by the government. This is why these bills should not proceed. The industry is not supportive of them and most fair-minded people looking at the measures cannot see a connection between then and what the government proclaims it is trying to do. The lead-up time frame is too short, there are too many uncertainties about the detail of these reforms and the financial services industry is wary of the government that has blamed them for plenty, even though it has not been their responsibility. They deserve to be taken more seriously. *(Time expired)*