

From: Chris Krstevski
Sent: Friday, October 15, 2010 12:06 PM
To: sub@apesb.org.au
Subject: Submission re Exposure Draft APES 230

Dear Sir,

Please find a summary of comments and thoughts for use by the Professional bodies in reviewing Exposure Draft APES 230.

My comments are particularly directed at the unwelcome level of prescription by the professional bodies in relation to fees charged by members.

The Role of Professional Bodies.

Professional bodies should guide not limit innovation or rewards to its members.

Focus of ethical pronouncements should be on ensuring fiduciary responsibility to client is respected.

The method of charging fees does not determine this and should not be made a victim.

Unethical and fraudulent activities occur without any regard for the method of fees being charged.

The current debate has become infantile – placing a ban on commissions or similar fee methods is not the solution to unethical behavior.

Professional bodies have become distracted from their true role by the slant of commentary by media organizations – they need to lead and raise the level of debate!

Ethics

The professional bodies are putting forward rules which are disrespectful and insulting to their members.

Guidance is acceptable and appreciated; prescription and decree are unwelcome and unwarranted for a highly educated professional.

If the bodies intend to prescribe details as to the method of charging fees by members will they also assume the responsibility in prescribing the quantum to charge?

How can quantum be eliminated from the discussion? Smart & proficient professionals would spend less time in comparison to slow and incompetent persons.

Which is more ethical ?

Client & Adviser

We are aware of our responsibilities and duties to our clients. We simply request the freedom to mutually determine between ourselves the most appropriate fee method.

Choice is necessary to enable us to compete and offer services to our clients. Different models are necessary in different businesses and different locations.

Capital city options may not suit regional or smaller centres. Fully informed clients should be allowed the choice. If commission or asset based methods are not suitable then market forces should be allowed to operate and, if preferable, alternative fee models will become more widespread and adopted by an informed, competitive market.

A Review Of Alternatives Discussed

Rate per hour

Conflicts of interest are an unavoidable consequence of rendering fees to any client.

Rate per hour methods of charging fees are generally seen as antiquated.

Who determines a fair rate?

Who determines how long you should spend on a matter?

Should inefficiency be an objective ?

Is efficiency to be penalized?

Outcome and service should be the objectives not “justification of a fee”.

It is ridiculous to suggest this method is always fair to both parties or there is no conflict in this method.

Incompetence and procrastination should not be rewarded.

Flat fees for a service vs % of assets

Low income individuals are unintended victims by being priced out of the equation.

High net worth (HNW) clients can generally negotiate better and are more aware ; low net worth (LNW) clients won't get a chance to receive advice to improve their situation.

Asset based fees have merit in that the financial rewards of client and adviser more aligned – improving the clients net wealth.

Most HNW clients accept they may pay more as their assets grow; they may expect some reduction in rates or a cap as the size of assets grow; these are very normal, commercial and logical outcomes. LNW clients expect low initial costs but expect to pay slightly more as their wealth grows; they don't see the technique of fees via commissions as unethical.

If they are not satisfied they can change advisers and/or products.

The quantum of assets provide a crude but reasonable guide to the risks inherent in the advice situation – higher risk of loss & greater professional care are usually required with greater assets.

Small investments with low but percentage based fees generally allow clients to enter the advice world and realize the benefits of receiving advice.

Case for Commissions

-Initial Commissions

Many financial products have an inbuilt “entry fee” of 4% - when we provide advice we can usually provide quality advice, save the client money and get the situation structured correctly.

This is totally a win/win situation for adviser and client – the product manufacturer pays the cost!

One can question whether the professional bodies prefer a better outcome for big banks and institutions rather than for consumers? If not then this unintended consequence should be considered.

-Trailing commissions

These commissions usually impose no additional cost to client. Consumers quite often still pay the inbuilt MER irrespective of the engagement of an adviser;

the commission to an adviser is a benefit to the consumer – the receipt of advice without any direct cost!

The issue isn't about commissions – banks and product providers will still charge investors fees when they invest in financial products.

Why do the professional bodies want us to simply charge consumers additionally and save the banks from paying an amount to advisers?

Other Professions

The professional bodies should also review what remuneration models are used by other professions.

Some very token examples for consideration-

Legal profession

Cases are taken to court on the basis of mutual rewards and mutual loss in no win no fee actions. Many legitimate cases would not go to court if direct fees were charged to individuals.

Architects

Project management based on % of costs of project is very common and commercially acceptable arrangement.

Submission

I strongly urge the professional bodies to show leadership and build a modern profession and not revert to old prescriptive, authoritarian approaches.

As a proud member of the Institute of Chartered Accountants I request that the ICAA shows faith in the professionalism of its members and allows us flexibility to offer our services within the law and as we see appropriate. Further, any operative date should commence no sooner than legislative requirements are enacted in this rapidly changing regulatory environment.

Thank you for the opportunity to put forward these comments.

Regards,
Chris Krstevski
Chartered Accountant.

Chris Krstevski
Director

