

Saraj Bhullar
Australian Competition and Consumer Commission
23 Marcus Clarke St, Canberra, ACT 2601

25 Aug 2016

A91548 & A91549 - The Association of Superannuation Funds of Australia – Submission

Dear Saraj,

This letter represents our submission as an interested party in the ASFA application for authorization on behalf of the members of the Superannuation Transaction Network (STN).

Policy Background

A key recommendation made by the [2010 Cooper Review](#) was that the government mandate a uniform set of IT data standards in the superannuation industry (known as 'SuperStream'). The review believed that this doing so would lead to significant administrative and market efficiencies. Both the consultation paper and the final report suggested that a large part of the efficiencies gained from standardisation would occur as common technical standards would make it cheaper and easier for employers and funds to directly transact with one another. Unfortunately, the outcomes have been rather the opposite of the Cooper Review's original intention.

I do not believe that the Cooper Review's expectations were unrealistic or implausible. Rather, these expectations have not been realised due to poor technical and regulatory decisions made by the ATO, acting as chair of the 'Gateway Operators Group' (GOG). The regulations discussed below, which were made by the ATO under a delegated regulatory power, have effectively prohibited direct transaction between employers and funds. In addition, the technical standards chosen for SuperStream are unjustifiably complex. This complexity acts as a significant barrier to market entry and has ultimately led to the creation of an uncompetitive intermediary market (the 'SuperStream Gateways').

SuperStream Implementation

The [SuperStream](#) amendments mandate that all employers and funds must use specified electronic messaging and data formats (as of 2014). The Cooper Review clearly saw technical standardisation as a way to make direct transactions between funds and employers possible. This intent can also be seen in the table in section 4.1 of the [contributions message implementation guide](#), where, at least initially, the "To" party was defined as a fund identified by a USI (Unique Superannuation Identifier) and the "From" party was defined as an ABN holder.

- After the "Stronger Super" amendments were passed, gateway operators formed a governance group to manage the integrity of the network. Part of the work of this group was to establish inter-gateway protocols resulting in 18 variations to the original specification. These variations are known as ["Binding Implementation Practices"](#). One in particular, BIP4, altered the messaging standard so that only gateways could be valid entries in the "From" and "To" fields. It is this regulation that effectively prohibits direct transactions between employers and funds. In my view, it is perfectly reasonable that the ATO was given delegated regulatory powers, to allow them to adapt to the unforeseen issues that inevitably arise during the implementation of large technical systems. However, using this power to stunt market competition goes against the original intent of both Parliament and the Cooper Review. More specifically, BIP4 is counter to the public interest as it lessens competition in the Superstream market.
- The technical standards chosen by the Australian Business Register (ABR) and the ATO are similarly damaging to the public interest. Specifically, the standards chosen were ebMS3 for the messaging protocol and XBRL for the data payload. These are extremely niche technologies that are rarely, if ever, voluntarily used by the private sector. As they are not natively supported by common technology stacks, implementing software developers are forced to purchase expensive commercial tools that are supplied by very few technology vendors. The alternative is for software developers to

do their own costly custom builds. Skills in XBRL and ebMS3 (or even knowledge of their existence) are extremely rare. These two unpalatable choices mean that potential implementors of these standards face high cost and complexity barriers. This is why an intermediary market formed around Superstream; gateway service providers essentially shield other market participants from this complexity (for a fee). Of around 200 payroll software providers, only one has chosen to do their own implementation, while the rest have chosen to avoid the costly implementation effort and have instead opted to pay ongoing fees to Superstream gateway providers. The one that did build to the standard has since become a gateway.

The combined effect of the un-necessary technical complexity and the competition hindering BIPs has completely subverted the original intent of direct employer to fund transactions by making them both commercially and technically infeasible. It is possible, of course, for any implementer to become a gateway and then exchange messages directly (provided they can meet the technical and governance requirements defined by the Gateway Operators Group). However, only one fund and one payroll provider have done so, and solely for the purposes of sending and receiving their own contributions (ie in a “one to many” model). All other gateway operators operate on a many-to-many basis. This means that a message sent from an employer to a fund (or vice-versa) goes through two intermediate gateway “hops” which generally mean two separate gateway fees are levied on the single transaction.

Background on ComplianceTest

Early in the Superstream implementation program, it became evident that the potential for incompatible implementations of the highly complex specifications posed a significant risk to network integrity. www.compliancetest.net was established to provide a set of “reference” funds and employers that could be used as test end-points to verify compliance with both the technical messaging (ebMS3) and business payload (XBRL) components of the specification.

As the operators of the testing service, we have had close exposure to nearly all fund and payroll system implementers. Many have expressed frustration at the complexity of the specifications and surprise at the perceived lock-in that requires them to choose a gateway service provider in order to exchange contributions messages. Our role has been simply to help implementers achieve compliance with the legislation and our work has led to a significant number of tested and compatible implementations – as evidenced by the list on our [compliance register](#).

However, the fact that the network is functioning in a technical sense does not mean it is the best solution from a national productivity or consumer welfare perspective. It only means that the market has established some commercial services that allow the subjects of the legislation (employers and funds) to meet their legal obligations. As a technologist with 20 years experience in web based data exchange, I know that there are much better and cheaper ways of achieving the same outcome using the simple and ubiquitous protocols that dominate data exchange on the web today.

Some recent events have led me to the point where I felt obliged to write this submission.

- As current members of the Gateway Operators Group (because we provide “through gateway” test services), ComplianceTest Pty Ltd was contacted and advised that we would be included in the list of “interested parties” in the ACCC authorisation submission. We were uncomfortable with being a member of a group potentially in breach of the competition law, and so have chosen to withdraw from the gateway operators group. We have announced to the GOG that we will cease to provide testing services from 1 November. Although we regret that this may mean there will be no one offering compliance and testing services on the Superstream network, we felt we were in an untenable position.
- As active participants in the Superstream network, we were invited by the ATO/ABR to participate in the closed-door standards setting effort for the [national e-invoicing framework](#). The ostensible

purpose of this ATO-led initiative is to automate invoicing between Australian businesses. There are around 1 billion invoices per year exchanged between businesses – a much higher volume than superannuation contribution messages. Although a worthy goal, it has unfortunately decided on an implementation model very similar to SuperStream (and, in fact, directly incorporates ebMS3 – the SuperStream messaging protocol). It proposes a “4-corner model” similar to Superstream“s, where invoices will flow from seller -> gatewayA -> gatewayB -> buyer.

- The e-invoicing governance group, largely composed of organisations with existing Superstream assets or that sell Superstream compliant products, may approach the ACCC for a similar exemption from competition laws at some point in the future. The standards that have been chosen are, again, un-necessarily complex and will likely create barriers to market entry and competition. ComplianceTest has strongly argued for a simpler set of standards that mirror those widely used on the web. Despite strong opposition, particularly from the Superstream gateway operators participating in this initiative, we have been able to establish an official [technical working group](#) that is examining alternative standards (and which embraces a more open style of consultation).

Summary

Our view is that the SuperStream Transaction Network (STN) is working effectively as a solution to the technical complexity imposed by the SuperStream legislation, although there are high barriers to market entry. Furthermore, semi-regulatory decisions like BIP4 reduce market competition by effectively forcing superannuation industry participants to transact via gateway operator intermediaries. Over time, we believe it is more likely that barriers to entry will increase, rather than decrease. Furthermore, we are starting to see a similar pattern emerging in the much larger national e-invoicing standards initiative.

There are better, simpler, and cheaper ways to achieve outcomes that would better serve the public interest. Whilst the current STN and the future e-invoicing 4-corner model should be allowed to compete in the marketplace, it is our firm opinion that the ACCC should not further protect a model that has proven to create high barriers to competition and market participation.

Please don't hesitate to contact me should have any questions.

Yours Sincerely,



Steven Capell
Managing Director
ComplianceTest Pty Ltd
Mob: 0410 437854
Email: steve.capell@compliancetest.net