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The Treasury

Via portal: <https://consult.treasury.gov.au/c2026-754407/consultation?page=1>

Superannuation advertising ban - draft regulations

The Super Members Council supports the draft regulations endorsing limits on advertising super products during employee onboarding with certain exceptions and safeguards.

Employee onboarding is a moment of acute consumer vulnerability, where small design choices in software screens and prompts can readily steer workers toward less well-performing super products which leave them poorer in retirement. Strong, prescriptive safeguards are therefore essential to ensure stapled and default super options are clearly presented and not overshadowed, and that any permitted advertising is unmistakably labelled and accompanied by prominent, upfront disclosures. Without these guardrails, advertising can readily undermine the intent of stapling by nudging people into unnecessary fund switching and opening duplicate accounts - leaving them paying extra fees and potentially ending up in a worse performing super product.

SMC supports the direction of the draft regulations and considers the framework could be strengthened further to ensure the ban operates even more effectively in real-world onboarding. In our previous [submission](#) to the Senate Economics Legislation Committee on the draft *Treasury Laws Amendment (Supporting Choice in Superannuation and Other Measures) Bill 2025*, SMC called for stronger, more prescriptive rules to prevent design-based steering and ensure genuine member-first choice architecture, including a clear prominence hierarchy (stapled and default funds shown first and more prominently), and clearer and standardised advertising labels and disclosures. SMC encourages Treasury to revisit these recommendations as final regulations and supporting guidance are settled.

SMC recommends

1. Strengthen the prominence safeguard by moving from a “no greater prominence” test to clearer, positive prioritisation of stapled funds (where one exists) and the employer default fund across screens, pages and formats.
2. Provide practical compliance guidance (including examples) for onboarding platforms on distinguishability, prominence and disclosure placement, to reduce design-based steering risks and support consistent implementation.
3. Consider a more explicit warning about insurance impacts when employees are prompted to choose or change funds, noting the current approach is a general statement.

About the Super Members Council

We are a strong voice advocating for the interests of 12 million Australians with over \$1.9 trillion in retirement savings managed by profit-to-member super funds. Our purpose is to protect and advance the interests of those millions of super fund members throughout their lives, advocating on their behalf to ensure super policy is stable, effective, and equitable. We produce rigorous research and analysis and work with Parliamentarians and policy makers across the full breadth of Parliament.



SMC supports the broad framing of the Bill's prohibition, covering both advertising a super product and making statements that directly or indirectly refer to a super product during the onboarding period for new employees. This scope is appropriate to reduce risks of product steering at a high-risk decision point.

Conditions for permitted MySuper advertising (design and prominence safeguards)

SMC supports the regulations' focus on behavioural and design risks, including requirements that any permitted advertised *MySuper* product be clearly distinguishable from the stapled and default funds, and that it must not be displayed more prominently than the stapled fund (if one exists) or the employer default fund.

However, SMC considers that the "no greater prominence" rule could potentially be undermined as it sets only a ceiling on the ad placement - it does not guarantee that the stapled or default fund is easy to see or choose. A platform can comply by making everything equally prominent, or by making the stapled/default option "not worse" in theory but still harder to act on in practice (extra clicks, less obvious buttons). The explanatory materials themselves recognise prominence can be used to influence decisions such as placement on top of pages, bright colours, and more noticeable formats.

By comparison, a positive prioritisation of stapled and default funds provides a clear, enforceable consumer protection. Onboarding decisions can be shaped by defaults and visual hierarchy. If an advertised product can be presented "equal" to a stapled/default option, many employees (especially time-poor or disengaged workers) will follow the most salient or easiest pathway. Platforms can technically comply while still nudging via ordering, spacing, colour, button design, screen flow, or extra clicks. The rule risks becoming a box-ticking exercise rather than a meaningful consumer protection. This means that "no greater prominence" can still function as practical steering. Further, a "no greater prominence" rule is hard to police across real interfaces. It potentially invites argument about subjective design features. By contrast, a requirement to *positively prioritise* stapled/default funds is far easier for platforms to implement consistently and for regulators to assess for compliance with the law.

Positive prioritisation reinforces the clear policy intent of stapling and default arrangements. A worker's existing stapled fund and the employer's default are the protected, safety-net options. They should be clearly displayed first and most prominently. SMC therefore recommends Treasury strengthen the prominence safeguard that positively prioritises stapled/default funds, rather than relying only on a "no greater prominence" test.

Guidance on timing and placement of disclosures

SMC also encourages Treasury to provide guidance on the timing and placement of disclosures to ensure they are genuinely prominent and not presented only after key decision points. The regulations rightly require disclosures to be shown "immediately prior to or during" the advertisement, but without practical guidance, platforms can comply in form while undermining the policy in substance. For example, an advertisement may place disclosures where they are technically present but functionally invisible such as after key clicks, behind expandable accordions, or separated from the actual ad. The explanatory materials explicitly recognise that interface design and prominence can influence employee decisions during onboarding, which is exactly why disclosure placement matters as much as disclosure content.

SMC acknowledges that Treasury will need to strike a balance with any guidance to ensure it is proportionate, balanced and easy to implement. Digital onboarding advertising is an important engagement channel, and proportionate, practical rules are needed to protect members from confusion, choice overload, or outcomes that do not reflect informed consent.

If Treasury were to adopt such guidance, it could be short, prescriptive, and written for designers and compliance teams, with "do/don't" examples. In practice, it could cover:

1. When disclosures must appear (timing rules)

- Disclosures must appear on the same screen as the relevant ad/content *before* an employee can take an action to select/switch to the advertised product (i.e., before "Continue", "Select", "Next", or equivalent).
- If the ad is shown across multiple screens, a short label (e.g., "Advertisement") should persist, and key disclosures should be repeated at the final decision screen.

2. Where disclosures must appear (placement rules)

- Disclosures should be proximate to the advertising claim or call-to-action (not only in footers, separate tabs, or general terms).
- They should be visible without scrolling on standard device views or otherwise presented in a way that ensures they're seen before proceeding.



3. Minimum presentation standards (prominence)

- Clear minimum font size/contrast and avoidance of low-salience formats.

4. Specific guidance for the commercial arrangement disclosure

- Because the regulations require disclosure of any consideration/benefit “immediately prior to or during” the ad, guidance should specify that this disclosure must be unavoidable at the point of exposure to the ad and not deferred until after a selection has effectively been made.

5. Worked examples / templates

- Provide sample compliant layouts (mobile + desktop) showing: the “Advertisement” label, the commercial arrangement disclosure, and the mandated links to myGov and YourSuper - all displayed in a way that meets the intent of “clear and unambiguous”.

Insurance disclosures

SMC further recommends that Treasury should consider making the insurance disclosure explicit as insurance is one of the biggest hidden consequences of switching super funds. People making an onboarding decision are often less likely to understand or actively check their insurance coverage matches their work risk profile.

Switching can materially change a person’s cover (amount of cover, exclusions, waiting periods, default cover levels) or, in some cases, result in cover ceasing if it isn’t replicated or if eligibility conditions aren’t met. A general “consider insurance” prompt does not reliably communicate that risk. Onboarding is a high-risk decision point where people may be in vulnerable circumstances, not financially literate, and can be guided by interface cues. If the prompt is vague, many will treat it as generic fine print and proceed. That undermines the policy objective of informed, member-first choices at onboarding.

Insurance harms are often irreversible or only discovered later, such as when a claim arises. The disclosure needs to function as an effective “stop and think” warning at the point of choice. The draft regulations already require “clear and unambiguous” disclosures to accompany permitted advertising; a short, plain warning about insurance consequences is consistent with that intent and would strengthen consumer outcomes.

A good, simple disclosure Treasury could encourage in guidance could be: “Warning: Changing super funds may change or cancel your insurance. Check your cover before you switch.”

Commencement and transition

SMC notes the regulations commence six months after Schedule 2 of the amending Act comes into effect. This transition period is sensible to allow employers, onboarding platforms and digital service providers to update systems and processes. SMC encourages Treasury and relevant regulators to release practical guidance early in the transition period, so compliance expectations are clear ahead of commencement.

SMC would welcome the opportunity to engage further with Treasury as implementation guidance is developed, including by testing real-world onboarding journeys to ensure the protections operate as intended in practice.