

Letters

Risks in rewarding informers

The federal government has raised the possibility of granting statutory protection to employees who maliciously disclose their suspicions about fellow workers to the Australian Securities and Investments Commission (“Labor to protect whistleblowers”, October 23).

At present an informer must make any disclosure in good faith.

Justification for the proposal is said to be that it will encourage employees to inform on their fellow workers resulting in ASIC obtaining a conviction that it might otherwise have not obtained.

The proposal contemplates the retention of the requirement that the informer has reasonable grounds to suspect that he or she has information that indicates that the fellow worker may have contravened the corporations legislation. In practice, however, this offers little restraint on a bona fide informer, and will offer

even less on a malicious one. The proposal, if implemented, will have a number of adverse consequences.

□ There is no protection to those who are maliciously reported to ASIC. Why should they be assumed to be guilty, particularly when the informer is acting maliciously? Further, it is not unheard of for an employee to be required to resign immediately at the start of an ASIC investigation, or to have his or her career path put on hold. The investigation may take several years. How, and who compensates that person and his family for the time, cost and worry of a fruitless investigation?

□ The proposed statutory protection will no doubt gratify the malicious informer. But why should the statutory change of law stop there? Why not reward an informer with a financial reward i. e. \$100,000 for a conviction on insider trading, and so on (in the United States

informing the Internal Revenue Service on your neighbour or fellow worker now entitles the informer to up to 30 per cent of the tax collected). Then, from rewarding the informer, the logical statutory progression is to change the law so as to punish those employees who do not inform on their fellow workers.

The question is what sort of society Australians want.

Is it one in which informing on your fellow worker, neighbour or employer for reward (financial or personal gratification) is encouraged?

History shows what happens to societies that feed on themselves, and governments that encourage the resultant feeding frenzy.

Robin Speed
President
Rule of Law Association of Australia
Sydney NSW