

INSOLVENCY LAW JOURNAL

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What is in the best interests of creditors? The commercial and public interest dichotomy in voluntary administration – <i>Katherine Jones</i>	
A distinction or “dichotomy” between commercial and public interest has been drawn in case law surrounding the voluntary administration regime. The distinction drawn seems to limit the scope of the obligations of an administrator to commercial interests only, implying that no consideration or weight should be placed on public interest in the course of their duties. The contention in this article is that the public interests and commercial interests of creditors are not mutually exclusive and often run together, particularly when considering the interest of the Australian Taxation Office as a creditor in failed businesses, leading to the conclusion that administrators need to have regard to the continuum of creditors’ interests in the course of their duties.	7
The casting vote: An evaluation of the current law and alternatives to the casting vote – <i>Louisa Khong</i>	
This article reviews what the current law requires of a voluntary administrator in relation to a casting vote. This is evaluated in light of the general function and professional obligations of an administrator. Some alternatives to the current system are examined. While the current law does have theoretical flaws in relation to both the general function and professional obligations of the administrator, it is a compromise made to achieve the other objectives of Pt 5.3A such as speed and the minimisation of court involvement. Importantly, counter-balances do exist in the current system, and there is a trend that towards strengthening these. Lastly, the Australian system, while not perfect, is better than a number of the alternatives examined. However, there is room for further review of the law around the casting vote, particularly in relation to the United Kingdom majority in value system and the counter-balances that exist in that system.	16
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 - ² Hayton, n 1, p 286.
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