Consultation Paper 294 Response
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Proposal

E1 We propose that the sale of add-on products by caryard intermediaries for a new or used car should be permitted only after a certain period of time has elapsed (the deferral period).

During the deferral period:

(a) providers would be restricted from offering, or entering into, a contract for an add-on product with a consumer;

(b) caryard intermediaries would be restricted from:

(i) arranging for a consumer to apply for an add-on product; or

(ii) referring a consumer to a product provider in relation to an add-on product; and

(c) consumers would be restricted from initiating the purchase of an add-on product directly with the provider, or opting-out of the deferral period.

Table 10 sets out key issues in the design of any deferred sales model.

Note: The proposed options in Table 10 are not intended to be definitive. We welcome further suggestions.

E1Q1: Do you consider that it is appropriate to apply a deferral period to the sale of add-on products by caryard intermediaries?

A deferral period is not necessarily in the interest of the consumer nor does it address many of the fundamental questions posed by ASIC in this review. A vehicle purchase represents a significant investment by most consumers, often second only to the purchase of a home, and dealers and their representatives are often best positioned to advise consumers on the vehicle, financing and insurance products available to meet the needs of the consumer. The inability to present and educate a consumer on all of their available options at time of sale limits consumer choice. The deferral period would also restrict the ability to finance these products as part of the vehicle sale, leading to reduced affordability, and therefore coverage for many consumers.

Implicit in the proposal that a deferral period benefits consumers, is the availability of a robust and competitive post-sale market for these products and that these alternative channels are inherently superior in terms of customer value, transparency, and protection. This secondary market is often served by large insurers or financial institutions who may not be as well placed to effectively advise consumers on products associated with a vehicle purchase. Discussion of the secondary market is notably absent from this and previous reviews by ASIC of this market.

E1Q2: To what extent would a deferral address the consumer harms identified in this market?

The identified harms of high cost from excessive commissions, limited consumer value, and lack of transparency toward consumers are not directly addressed through a deferral model. Although a deferral period theoretically provides the consumer additional time to research these products, this also assumes information is adequately available outside of the dealership and the consumer has the time to invest and filter this information. The identified harms can be more directly addressed through commission regulation, disclosure requirements, extended cancellation periods, dealer training, compliance audits, and consumer education. Increased competition from both online and traditional vehicle retailers as well as the growth of direct product offers by insurers will drive transparency and create pricing pressure in the market. The deferral model would limit or even eliminate the ability of the dealer network to compete and potentially remove an entire distribution channel from the market.

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E1Q3: How would the proposal affect businesses (e.g. insurers, car dealers, finance brokers, credit providers)? Would it have a different impact on small businesses?

The deferral model would dramatically shift the market towards the insurers at the expense of the car dealers. Depending on the length of the deferral period, car dealers would be unable to include these products in the financing of the vehicle and do not have the infrastructure (marketing, sales force, financing) in place to pro-actively offer these products to consumers post-sale. The deferral period would effectively hand the market for add-on products to the large insurers. Many auto dealers are small businesses which would be disproportionately impacted by the deferral period.

E1Q4: Would the model need to apply differently to the new and used cars markets? In what ways could the model differ to be effective across the two markets?

The duration of the deferral period will be a significant determinant of the impact to new or used vehicle sales. If the deferral period removes the ability of the consumer to select the product and include it in the vehicle financing prior to delivery then both new and used would be equally impacted.

E1Q5: What are the preconditions for a competitive online market? How can a deferred sales model contribute to this outcome?

A competitive online market place requires a large number of competitors offering these products to consumers in a transparent, economically attractive manner. If the deferral model effectively eliminates the dealer channel, there is less competition available for these products and the market will be driven by large insurers and financial institutions.

E1Q6: Could the objectives of a deferred sales model be achieved in a different way or could any complementary measures better ensure our objectives are achieved?

There are alternatives to the deferred sales model. In the United States, a highly competitive market exists for these products in the absence of a deferred model. Several best practices and regulatory mechanisms are in place:

- Full disclosure of benefits and exclusions in marketing materials
- Highly competitive market with more than a dozen providers

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- Free look period of at least 30 days, products are cancelable pro-rata thereafter
- Robust compliance training provided by administrators, automakers, and finance institutions to automotive dealers. Non-compliance results in dealer chargeback or cancellation.
- Many dealers record, with the customer's consent, the interaction in the finance office to protect both the dealer and consumer from potential disputes or identify non-compliant practices and opportunities for training or potential personnel action
- Full disclosure of financing costs in loan documents
- Regular audit of consumer pricing, in some geographies consumer price is capped

A robust online vehicle sales market is developing in the US and add-on products are increasingly offered through this channel leading to additional transparency and price pressure. Consumers are actively participating in social media discussing the value and pricing of these products leading to a positive cycle of improving consumer education. One of the outcomes of this evolving model in the US is the near disappearance of CCI as a dealer offer. Dealers are increasingly looking toward products that drive customer retention and lower the cost of vehicle ownership to drive overall customer satisfaction. In the typical US dealership, Mechanical Breakdown Insurance is the leading product followed by GAP, Tire & Rim, Appearance Protection Products and Maintenance Programs. Product count per transaction has become a bigger driver of finance department compensation as opposed to a high commission on a single product.

E1Q7: If a deferred sales model was introduced, are there any existing related obligations on insurers, finance providers and car dealers that would no longer be appropriate and could be removed?
We are not aware of any obligations that would be eliminated by a deferred sales model.

E1Q8: What is the most effective way of testing whether consumer understanding has improved due to a deferred sales model? What metrics would provide the best way of measuring consumer comprehension?
Consumer understanding is difficult to attribute to the implementation of a deferred sales model. General discussion and awareness of these products is continually increasing in online channels and any surveys or period over period comparisons would need to normalize for this effect. Customer complaints to regulatory bodies could be tracked as an indicator of marketplace compliance. Any research on the deferred model should also include an analysis of the direct

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to consumer market as well as the pre and post penetration of these products to identify customers who were in need of coverage but did not have the opportunity to secure coverage outside the dealership.

E1Q9: Should a consumer opt-out mechanism be included?

An opt-out of the deferred model should be included. Many consumers appreciate the convenience and expert advice afforded by the purchase of these products at the dealership. Consumers should always have the choice to determine their preferred method of buying these products. An appropriate disclosure form would need to be developed to protect the customer and dealer from disputes.

Proposal
Commencement of the deferral period
E1.1 We do not propose in this paper a specific trigger event for the commencement of the deferral period and seek stakeholders' views on this. The period could commence when the consumer:
(a) receives a consumer communication (with mandated content);
(b) finalises the vehicle purchase and receives the consumer communication; or
(c) takes delivery of the vehicle and receives the consumer communication.

E1.1Q1: Which of the proposed options in paragraph 193 for commencement of the deferral period would be preferable and why (please suggest other options if relevant)?

Option (a) would be preferable for a number of reasons:

- Would create an incentive for dealerships to pro-actively educate consumers ahead of the purchase process to allow them to ultimately offer the products at time of vehicle sale
- Clear consumer marketing pieces would be developed in a number of online and offline formats to adequately educate a consumer ahead of purchase.
- Would allow the inclusion of these products in vehicle financing (with full disclosure of associated costs), increasing affordability for many consumers who may be unable to independently afford the purchase of these products but still would benefit from coverage.
- Consumers would include these products in the research phase of the vehicle purchase where they would be more exposed to competitive information.
- Consumers would be less dependent on information from a single dealer and be able to compare offers from competing dealers and brands.

E1.1Q2: Which sales sequence (see Figure 1) is most likely to meet our stated objectives and why?

Sales Sequence **'A'** would be preferable. The consumer at this point has selected a vehicle and can determine the add-on products that would be most applicable to their needs. The consumer is able to assess the products that best meet their vehicle and personal coverage needs and then understand the impact of those products on the financing terms. Sequence **'B'** would limit the possibility of incorporating the products in the financing of the vehicle, this would be detrimental to consumers where automakers discount the finance rate as part of a broader vehicle incentive program which would allow consumers to finance add-on products at a below market rate. Sequence **'C'** is a viable alternative as it allows consumers to compare coverage and price but the coverages may not be aligned to the specific vehicle or finance option the customer has selected. This could lead to a misalignment of benefits/coverages to the customer's specific needs.

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E1.1Q3: How could the point at which the deferral period commences be easily documented to be readily verified by all relevant parties?

The start of the deferment period could be identified by a documented consumer interaction – via electronic communication or consumer acknowledgement/receipt of product information. If an opt-out process is made available to consumers, the presentation of this waiver could be considered as the start of the deferment period as well.

E1.1Q4: If the deferral period commenced at vehicle delivery, could short-term 'bridging' insurance be offered to cover the deferral period (only)? What does insurers' claims data demonstrate about the likelihood of a claim shortly after delivery?

Bridging insurance would likely not be economically viable. As an example, GAP insurance would have a consumer cost of less than $20 per month, Mechanical Breakdown Insurance doesn't take effect on a new vehicle for several years, therefore a bridge is an unnecessary additional expense to consumers and program administrators. In our experience, claims shortly after delivery are often suspect and may be the result of inadequate vehicle preparation prior to sale. Claim frequency typically increases with contract duration, therefore short-term claims are not a significant source of customer benefit at a well-managed dealership.

Proposal

Duration of the deferral period

E1.2 We propose that the total duration of the deferral period for add-on products (except those discussed in proposal E1.4) could be a:

(a) minimum of four days; and

(b) maximum of 30 days.

E1.2Q1: What would be the appropriate duration of the deferral period within the range of 4–30 days and why?
The deferral period should not exceed the period between initial customer interaction and vehicle delivery. A period in excess of this would disproportionally harm automotive dealers and customers leading to the following:

- Inability to finance protection products in the vehicle financing. Many consumers would be unable to afford these products in the absence of automotive financing.
- Reduced incentive for dealers to inform and educate consumers of the coverages available via add-on protection products
- Protection products would be presented through large insurers/financial institutions who may not be familiar with the specific vehicle or customer situation.

E1.2Q2: Should the duration of the deferral period be different for new and used cars?
From a consumer perspective the deferral period would impact new and used consumers in the same manner.

E1.2Q3: What is the average period of time between the sale of a new car or a used car and its delivery to the consumer? What is the shortest period of time and how common is it?
A vehicle can be selected, delivered and financed in the same day. Any proposed regulation should look forward toward an online marketplace where vehicles are selected, financed and delivered with a greatly streamlined dealership experience. The concept of a mandated deferral period is contrary to the online retail model where speed and customer convenience is paramount.

E1.2Q4: What is the average period of time between when a consumer applies for finance and approval? What is the shortest period of time and how common is it?
The goal of many forward looking retailers is to shorten the time between vehicle selection, financing and delivery to drive consumer satisfaction. A deferral period is not consistent where the market and consumer demands are heading from a retail perspective.

Proposal

Consumer communication

E1.3 We propose that the consumer communication should:

(a) address the current limitations in consumers making informed decisions (as discussed in Section C);

(b) include information about each type of add-on product being offered through the car dealership (e.g. in a standardised format) and how they interact with other elements of the transaction;

(c) provide information to consumers that is accessible and addresses different levels of comprehension or financial literacy; and

(d) make use of innovative techniques to deliver this information to the consumer.

E1.3Q1: Should providers be required to take active steps to ensure consumers read and understand information about their products before they can buy them?

Although it is impossible to force a customer to read materials, providers should be required to:

a. Train salespersons on the terms and conditions (including exclusions) so they can accurately describe the products and answer a consumer's questions; and
b. Make a copy of the customer agreement available to the consumer prior to their purchase of the product; and
c. Include a signature line on the customer agreement acknowledging that they have read the terms and conditions or have them signature certain sections of the customer agreement acknowledging their terms and conditions.

E1.3Q2: What forms of innovative disclosure could be used to better inform consumers about their insurance decision?

a. Interactive technology (i.e. presenting product information on a tablet or computer screen), usage of a documented menu system where all consumers are presented a similar product set at similar price points – all documented and recorded subject to compliance audits.
b. Disclosures that need to be initialed by the customer. Both at time of presentation and at time of purchase, these acknowledgements can be systematically recorded by the point of sale system – something not typically available outside of the dealership.

E1.3Q3: What information should the consumer communication include?

a. A plain English description of the coverages.
b. A list or description of the most frequently invoked exclusions or limitations.
c. An example of how a claim benefit would be calculated.

E1.3Q4: Should providers be required to inform consumers about the availability of other products that provide similar cover, but may be cheaper?

Providers should not be required to give specific information regarding competing products, but a disclosure advising customers that other options exist could be beneficial to consumers.

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E1.3Q5: If so, what information should the consumer communication include?

Something along the lines of: "You may be able to purchase other products that provide similar coverage from an insurance agent. Other products may cost more or less than the product being offered to you today. Please consult with an independent insurance agent to determine the availability and cost of such other products." Products that have a free look period and are cancellable will increase the pressure on the dealer network to present the products in a compliant manner and ensure they are priced competitively.

Proposal
Mechanical breakdown insurance and warranties
E1.4 Where these products are sold with new cars or used cars that are still covered by the manufacturer's warranty, we consider that: (a) a different deferral period could apply; and (b) the consumer communication could be tailored to explain that cover will not commence for some time and set out the consequent risks in buying the product.

E1.4Q1: Should a separate deferred sales model be introduced for these products? If not, how could the particular risks associated with these products be addressed?

There is no one better positioned to explain the underlying factory warranty as well as the options and potential benefits of mechanical breakdown insurance than the automobile dealer. They are uniquely situated to understand the included coverages as well as typical costs of mechanical breakdown. A deferred sales model would eliminate this expert consultation to the detriment of the consumer.

Proposal
E2 We propose to introduce specific requirements for the supervision and monitoring of a provider's authorised representatives, based on the risks for consumers in this distribution channel.

E2Q1: Given the limitations in monitoring conduct at the point of sale, what changes would be necessary to ensure providers are effectively supervising their representatives?
Providers should be required to monitor the following:

- Average consumer price paid vs MSRP
- Alignment of coverage to exposure – financing, credit profile, usage profile
- Completion of periodic compliance training for existing personnel
- Completion of comprehensive product and compliance training for new hires
- Cancellation rates during the free look period, counseling of dealers with cancel rates above their peer group

E2Q2: What risk indicators could be introduced to improve the capacity of providers to monitor their representatives?
See above

E2Q3: What sanctions would be most effective in deterring representatives from engaging in unfair practices at the point of sale?
Sanctions for unfair practices could include:

- Fines equivalent to the amount of commission earned by the dealership for products that are presented and sold in a non-compliant manner
- Revocation of insurance licenses for dealers that have excessive consumer complaints, excessive free look cancellations or frequent violations of consumer price limits