

29 August 2019

Australian Securities and Investments Commission (ASIC)
GPO Box 9827
Brisbane QLD 4001

By email: unsolicited.sales@asic.gov.au

Dear ASIC

AFA Submission – CP 317: Unsolicited Telephone Sales of Direct Life Insurance and Consumer Credit Insurance

The Association of Financial Advisers Limited (**AFA**) has served the financial advice industry for over 70 years. Our objective is to achieve *Great Advice for More Australians* and we do this through:

- advocating for appropriate policy settings for financial advice
- enforcing a Code of Ethical Conduct
- investing in consumer-based research
- developing professional development pathways for financial advisers
- connecting key stakeholders within the financial advice community
- educating consumers around the importance of financial advice

The Board of the AFA is elected by the Membership and all Directors are currently practicing financial advisers. This ensures that the policy positions taken by the AFA are framed with practical, workable outcomes in mind, but are also aligned to achieving our vision of having the quality of relationships shared between advisers and their clients understood and valued throughout society. This will play a vital role in helping Australians reach their potential through building, managing and protecting their wealth.

Our submission is largely with respect to life insurance, which is a product that does deliver considerable value to consumers, however it is a complex product that is difficult for everyday Australian to fully understand. We do not have great insight into the Consumer Credit Insurance product and distribution, although we note the recent release of Report 622 and the key findings from that report, including the poor value for money that this product represents and the sales practices that were observed. On the basis of Report 622, the proposal with respect to Consumer Credit Insurance is understandable.

Introduction

The AFA welcomes the opportunity to make a submission in response to this consultation.

It is the AFA's view, that life insurance is a complex product and should therefore only be sold with the benefit of personal financial advice. We do not believe that the average everyday Australian has

a good understanding of their insurance needs or the products available, in order to make fully informed decisions. For that and other reasons, we are happy to support the premise that unsolicited telephone sales of life insurance should be banned.

We accept the important consumer protection role that this proposal is based upon, however we also make the point that the positioning of such messages needs to carefully consider the impact on consumer confidence in life insurance. Some of the language in the media release runs the risk of damaging the perception of the value of life insurance. We are referring to comments like “insurance products which consumers do not need” and “peddlers of inappropriate insurance products”. In our opinion, life insurance is needed by many Australians and in terms of the retail advised products, whilst some are not as competitive as others, it is typically more a matter of the product not being suitable for the client, rather than the product being fundamentally inappropriate.

We note the intent to update Regulatory Guide 38 on the Hawking Provisions. This document has not been updated since 2005, so a detailed review is appropriate. One important consideration for us is the definition of “unsolicited” and the risk that a financial adviser contacting an existing client about the suitability of their current insurance could be considered unsolicited. We also believe that extra consideration needs to be given to financial advisers who work with regional and remote clients, where interaction with their clients is more often done via the telephone. We would not like to see this proposal place limitations or additional costs on these regional/remote financial advisers. In addition, given the changes in communication technology, maybe there is a need to address other forms of contact that are possible through social media applications.

Subject to addressing the risk that this might prevent or limit the way financial advisers contact their current clients, we are also supportive that this ban on unsolicited telephone sales of life insurance should include financial advisers who do not provide personal financial advice.

We also think that this exercise needs to give consideration to the way in which outbound leads generation activity should be designed, in order for it to comply. We do not see a problem, where the outbound activity does not involve any prospect of a sale and is to identify people who might benefit by seeing a financial adviser for personal financial advice on their life insurance needs at a later time.

We appreciate that the intent is to ban unsolicited telephone calls for the sale of life insurance via general advice or no advice and that it is not focussed upon personal advice on life insurance. Nonetheless, it is important to ensure that the implementation of this proposal does not restrict the ability of potential clients being referred to a financial adviser for personal advice on life insurance. We could envisage a range of scenarios where one professional may contact their clients with a view to referring them to a life insurance specialist in order to obtain life insurance. As an example, an accountant, who has a client who they are aware has recently taken out a large loan, should not be discouraged from contacting them to recommend that they speak to a financial adviser in order to put life insurance in place. Guidance is required on referral arrangements.

Response to Questions raised in the Consultation Paper

1. C1Q1. Do you have any feedback about our intention to use the modification power to prohibit unsolicited telephone contact to offer, issue or sell direct life insurance?

We support the proposal to implement this reform by the use of Section 992B(1)(c), which in our view, is both a power that is available to ASIC and is suitable to achieve the underlying objective.

2. C1Q2. Do you have any feedback about our intention to use the modification power to prohibit unsolicited telephone contact to offer, issue or sell CCI?

The members of the AFA do not typically provide advice or any services with respect to Consumer Credit Insurance, however we accept the importance of the findings of ASIC Report 662 and have no reason to oppose this proposal.

3. C1Q3. Is there a risk of causing inadvertent consumer harm by banning unsolicited telephone contact to offer, issue or sell direct life insurance and CCI?

Subject to our comments above with respect to the avoidance of any constraints on financial advisers contacting their clients, we do not believe that there is any great risk of causing inadvertent consumer harm by banning unsolicited telephone contact to offer, issue or sell direct life insurance. People can still get access to life insurance, either via a financial adviser, through their employer superannuation plan or by contacting a life insurer directly. We are very conscious that Australians can get better quality life insurance products by seeking financial advice from a financial adviser and this is the best way to acquire life insurance.

As mentioned above, CCI is not a product that our members typically provide advice or services with respect to and we are not intricately familiar with the use of this product, however the findings of ASIC Report 622 highlight the issues with the value of this product. To the extent that this product might be of value to some clients, then we assume that other channels will be available for the distribution of this product in a manner that delivers value to consumers. This will be an issue to be addressed by the insurers who choose to continue to offer this product. We see no downside for consumers in the banning of unsolicited telephone contact to offer, issue or sell CCI.

4. C1Q4. Do you think that the prohibition on unsolicited telephone contact should be extended to any other financial products currently captured by the hawking provisions (e.g. other insurance products, superannuation products)? If so, which products, and on what basis?

The Royal Commission has proposed a ban on unsolicited sales of both insurance and superannuation. We support these proposals. More broadly, we believe that the acquisition of financial products should be on the basis of financial advice or otherwise be client initiated. We are also very aware of the risk of consumer detriment where the needs and circumstances of the client are not adequately considered. For this reason, we think that there should be broad restrictions on unsolicited telephone sales of financial products.

- 5. C1Q5. If you are an insurer or distributor:**
- (a) what are the likely compliance costs of the ban?**
 - (b) what is the likely effect on competition?**
 - (c) do you foresee any other impacts, costs and/or benefits of this proposal, or of any alternative approach you suggest?**

We are neither an insurer nor a distributor, however it is our view that the compliance costs should be minimal for implementing this ban on unsolicited telephone sales of life insurance, as much of the outbound sales activity has ceased as a result of the Royal Commission. Competition remains strong in the life insurance sector as the other channels such as financial advisers, Group Super and inbound direct remain available.

We do not foresee any other material impact that has not been previously addressed.

We do not have any alternative suggestions for how to proceed with this proposal

Concluding Remarks

The AFA supports the proposal to ban unsolicited telephone sales of life insurance and consumer credit insurance. We recognise the issues that have arisen with respect to sales practices, that have contributed to poor consumer outcomes. In our view, clients get a better outcome when they obtain the benefit of financial advice to understand their insurance needs and the products that are most suitable for them.

The AFA welcomes further consultation with ASIC should clarification of anything in this submission be required. Please contact us on 02 9267 4003.

Yours sincerely,

Phil Anderson

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Association of Financial Advisers Ltd