Care Inc

Submission to

ASIC Consultation Paper 317

Unsolicited telephone sales of direct life insurance and consumer credit insurance

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Introduction

We appreciate the opportunity to comment on ASIC Consultation Paper 317 on the ban on unsolicited phone calls for the sale of life insurance and consumer credit insurance products. Care Inc is the primary provider of financial counselling, legal and related services for consumers in the ACT on low to moderate incomes. We prioritise service delivery for those who are most in need but recognise that there is a significant proportion of ACT consumers who are unable to access support or exercise their legal rights due to resource constraint.

We commend ASIC for their proposal to ban unsolicited phone calls selling insurance products. Many of our clients are those with limited resources, who may not be aware of the suitability of financial products for their circumstances. Unfortunately, these same people are often targets for insurers and distributors seeking to sell financial products through unsolicited phone calls. As a result, those most vulnerable to predatory lending practices are those likely to encounter them.

C1Q2 & C1Q2

We strongly support ASIC's proposed outright ban on unsolicited telephone sales of direct life insurance and consumer credit insurance (CCI) using the modification power under section 992B(1)(c) of the Corporations Act. We agree that the pressure selling by insurers and their agents and the inadequate provision of financial advice over the phone has resulted in consumers being unable to properly consider the suitability of these products for their needs. In our experience we have found it is the vulnerable and disadvantaged consumer that suffers the most and has the most to lose when entering into unsolicited insurance contracts as the following case study illustrates.

Case Study

Robert, a man in his early 40s, whose only income is the Disability Support Pension has a mental disability. He was, however, able to live independently with the assistance of support workers. In 2013, he received a telephone call from an insurer offering funeral insurance. It would have been apparent to the salesperson from talking to Robert that he had a disability. Robert could not understand complex information and usually answered in 'yes', 'no' or 'I don't know' when a complex question was put to him. Nevertheless, he was sold a funeral insurance plan and began making regular monthly payments.

In 2014, Robert received a telephone call from the same insurer and took out another funeral insurance plan and again began making regular monthly repayments. In the same year he was cold called by a different insurance company and sold another funeral insurance plan and again began making regular monthly repayments. In 2016 the same thing happened again with another insurance company. In total, Robert had four insurance plans with three insurance companies. All of these contracts of insurance were entered into over the telephone and were unsolicited.

It was Robert's support worker that initially approached the Consumer Law Centre (CLC) because she was concerned at the number of insurance payments coming out of Robert's account. The CLC investigated the matter and agreed to take on the case for Robert. The CLC was able to obtain a full refund of all premiums paid to the three insurers over the years, which amounted to over $8000, but this should never have happened in the first place.

There are also numerous case studies cited in Volume 2 of the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Finance Services Industry from page 303. The case studies reveal appalling conduct on the part of insurers or from Commissioner Hayne's view the insurers were acting in a way that was "(at the least) unscrupulous". We also agree with ASIC that CCI delivers poor consumer outcomes. This is because the product offers little in return for the very high premiums charged.

For these reasons, we consider the proposed ban as an appropriate measure to reduce the harm done to members of the community that deserve the protection of the law.

C1Q3

We do not see that any inadvertent consumer harm will result from a ban on unsolicited phone calls. Consumers are often provided with the opportunity to purchase insurance at the time of purchasing a credit product, where an assessment has been made of the suitability of that product for the consumer. We do not think that banning unsolicited calls will prevent consumers who want or need this type of insurance from accessing it – they may purchase it at the point of purchase of the credit product, or they may approach an insurance provider for further insurance later. Moreover, in this electronic age there is no shortage of advertising being conveyed to consumers whether via radio, television, searching and browsing online, walking through a shopping centre, on a billboard, within an app and so on. Thus, we consider consumers will not be disadvantaged by the banning of telephone advertising and soliciting.

C1Q4

We support any intention ASIC has to expand the ban on unsolicited calls to all products currently regulated by hawking provisions in the *Corporations Act 2001*. The introduction of Chapter 3 of the *National Consumer Credit Protection Act 2009* was a considerable improvement in protection for consumers against unsuitable lending practices. The responsible lending obligations require that credit providers assess consumers personal and financial circumstances to determine whether a product is affordable and suitable for their needs.

Insurance products associated with credit products should be held to a similarly high standard. The practice of unsolicited phone calls avoids any rigorous assessment of a consumer's financial and personal circumstances and requires consumers to make that assessment on their own, without the relevant information, often under sustained pressure from sales representatives. The result is that consumers are left with financial products that are unsuitable for their needs and can result in financial difficulty.