



Submission re ASIC Consultation Paper 317

Unsolicited telephone sales of direct life insurance and consumer credit insurance

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

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About Financial Counselling Australia and Financial Counselling

Financial counsellors provide advice to people with money and debt issues. Working in community organisations, their services are free, confidential and independent.

Financial Counselling Australia (FCA) is the peak body for financial counsellors in Australia. FCA's members are the State and Territory financial counselling associations.

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1 Introduction

We welcome the review by ASIC of unsolicited telephone sales of direct life insurance and consumer credit insurance. This submission responds to the issues raised in Consultation Paper 31 (the consultation paper).

Financial counsellors sometimes assist clients who have been sold insurance from a telephone call. This is a particular problem for Aboriginal and Torres Strait Islander people living in remote communities. In our experience, a range of vulnerable people are likely to be sold insurance from a telephone call. This insurance is usually completely inappropriate and people are “talked into” the sale.

2 Unsolicited telephone sales

The consultation paper has covered the issues related unsolicited telephone sales which includes pressure selling, inadequate explanations, and misleading conduct. The experience of financial counsellors supports those identified problems. We would also add the following further problems:

- that some people are sold “double insurance”. This occurs, for example, if a person is sold life insurance when they already have life insurance in their super;
- people being sold insurance they cannot afford. For example, a person on Centrelink Newstart is unlikely to be able to afford funeral Insurance. These types of sales can lead to, or exacerbate financial hardship.

The harm caused by unsolicited telephone sales is considerable and includes:

- People going without basic needs because a direct debit for an insurance policy premium comes out of their account
- Not being able to claim on what can be “junk insurance”.¹ Some insurance is difficult to claim on and very poor value, for example, consumer credit insurance.
- Paying twice. People can often have life insurance both outside and in their superannuation.

We agree with ASIC’s conclusion that the existing provisions in the Corporations Act and industry self-regulation are inadequate and do not address consumer harm.

3 Proposed ban

We support the proposal to ban unsolicited sales of life insurance and consumer credit insurance when sold with general advice or no advice. There is comprehensive and compelling evidence outlined in the consultation paper that means the ban is necessary.

¹ See the campaign by Consumer Action Law Centre on Junk Insurance at <https://consumeraction.org.au/junk-insurance-and-rubbish-warranties/>.

We also support the proposal for ASIC to use its modification powers under the Corporations Act.

The proposed ban should be expanded to include:

- 1) all insurance products
- 2) all unsolicited sales (not just telephone sales)

3.1 Ban on the unsolicited sales of all insurance products

Insurance products are a complex financial product. Many people struggle to understand the detailed terms of an insurance policy and whether it suits their needs. Decisions to take out insurance necessarily need consideration and time. There is therefore no place for the unsolicited sale of any insurance product.

There is also a high risk of pressure selling in the sale of insurance. Cooling off periods do not mitigate that harm. People need protection from any unsolicited pressure selling.

A comprehensive ban is also desirable because it ensures that there are no loopholes, an issue that the recent Financial Services Royal Commission highlighted as a particular problem in financial services regulation. If all unsolicited sales of insurance are banned then this also avoids arguments about different product types and whether they are covered by the ban or not.

Recommendation

The proposed ban on the sale of life insurance and CCI by telephone should extend to all unsolicited sales of insurance.

3.2 Anti-avoidance provisions

It is not sufficient to make a ban on telephone sales and this is discussed further below at 3.3. We believe it is very likely that whatever ban is introduced that industry will locate a loophole or work-around. For this reason, we urge ASIC to consider anti-avoidance provisions to ensure the ban is effective.

Recommendation

The ban should include an anti-avoidance provision to ensure the ban is effective.

3.3 Unsolicited sales (not just telephone sales)

Bans on selling need to be technologically neutral. It is very likely that in coming years that web chat or other direct chat could be used for pressure selling of insurance. A similar argument also applies for text messaging. Many people prefer chat and texting over phone calls.

It is also unclear why unsolicited emails are permissible given that unsolicited emails are spam. A similar issue applies to pop-ups or any other unsolicited method that is intrusive.

Recommendation

The ban on unsolicited sales of insurance should not be limited to telephone sales. It should include any sales method that is unsolicited and could be used for pressure selling.