

13 May 2010

John Hawkins
Committee Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Via e-mail: economics.sen@aph.gov.au

Dear Mr Hawkins,

Re questions on notice regarding *Field Sales Industry – Minimum Accepted Standards*

We are pleased to provide the Senate Economics Committee (the Committee) our views in relation to the *Field Sales Industry – Minimum Accepted Standards* (Minimum Standards), tabled by Salmat, Aegis and CPM to the Committee on Thursday 29 April 2010, and in particular how this affects our views on the *Trade Practices Amendment (Australian Consumer Law) Bill No. 2 2010* (the Bill) regarding unsolicited sales.

ACCAN supports the Bill's current protections in relation to unsolicited sales. We do not believe that the Minimum Standards are an acceptable alternative for three key reasons:

1) Lack of applicability

The Minimum Standards only has limited application to organisations which *choose* to sign-up. This voluntary framework is unacceptable as it does not comprehensively protect consumers.

2) Lack of enforceability

The Minimum Standards contains no penalties or remedies when member organisations breach the standard. This contrasts with the potential penalties under the Bill of between \$50,000 and \$100,000 per breach.¹ The only complaint handling requirement is that a member must have complaint handling system.² The absence of any sanctions under the Minimum Standards renders any enforcement meaningless – this is not an acceptable outcome for consumers.

¹ Part 5-2 Enforcement and Remedies, *Trade Practices Amendment (Australian Consumer Law) Bill No. 2 2010*

² 5.21, *Field Sales Industry – Minimum Accepted Standards*

3) Weakening of protections

ACCAN is satisfied with the standards in the Bill, including the requirement:

- for consumers to be able to terminate the agreement up to 10 *business* days after making it, and up to 3 or 6 months later if certain important protections for consumers are not complied with
- to give the document to consumers within 5 business days of making the agreement, and
- for door-to-door salesperson to advise a person, before starting a negotiation, that they (salesperson) must leave the premises immediately upon request.

The Minimum Standards would significantly weaken consumer protections, as it

- would only allow termination of the agreement, for up to 10 days from making it
- is silent on the timeframe within which a sales company must provide the agreement to the consumer and the requirement of the salesperson to advise a person, before starting a negotiation, that they (salesperson) must leave the premises immediately upon request.

ACCAN does not believe that the Minimum Standards is in any way an acceptable alternative to the protection provided for under the Bill for unsolicited sales. Most of the Minimum Standards document deals with the business processes and systems needed to facilitate compliance, not with the basic protections around this form of selling. Business processes can be usefully coordinated through an industry association, but it is different to the issue of what should be the content of the legal standards.

We strongly encourage the Committee to support the stronger and more robust consumer protections contained in the Bill.

ACCAN has consulted with the Consumer Action Law Centre on the contents of this letter and Consumer Action endorses our views. If you have any further questions, please contact me on (02) 9288 4000 or at elissa.freeman@accan.org.au.

Yours sincerely,



Elissa Freeman
Director, Policy and Campaigns