

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2016 - 2017

Division/Agency: Australian Securities and Investments Commission (ASIC)

Question No: 158

Topic: Add-on insurance

Reference: Written

Senator: Ketter, Chris

Questions:

1. Referring to ASIC's recent report, *A market that is failing consumers: The sale of add-on insurance through car dealers* (REP 492), as well as earlier reports, in which significant consumer detriment in the sale of add-on insurance through motor vehicle dealers is identified. Has ASIC taken a view on the ACCC's decision to deny authorisation to a group of insurance companies who had proposed to jointly limit commissions to car dealers to 20 per cent of premiums?
2. In the absence of ACCC authorisation for the insurers' plan, what should insurers be doing to address the problems of add-on insurance identified in REP 492? What powers does ASIC have to compel or encourage insurers to improve their practices?
3. In regards to the high-pressure sales environment in add-on insurance sales, has ASIC explored delayed and opt-in sales models that have successfully been implemented abroad? What assessments has it made of the suitability of such models to the Australian context?
4. Has ASIC formally or informally briefed any Minister on the issues raised by REP 492? If so, which Minister(s)?
5. Is ASIC preparing any proposals for legislative or regulatory change to address the issues with add-on insurance sales?

Answers:

1. The ACCC's decision to deny authorisation to the Aioi Nissay Dowa Insurance Company Australia Pty Ltd & Ors – Authorisation application ("the application") was made on the basis of the ACCC's statutory obligations. ASIC supports the ACCC's decision, and notes the ACCC's public conclusion that the proposed arrangement could 'significantly delay the development of more effective solutions to the problems that ASIC has identified'.

ASIC's view is that there is a need for comprehensive improvements in this market to ensure better consumer outcomes. However, there were limitations in the application that led the ACCC to form the view that the proposed cap on commissions was, in itself, an insufficient response to the concerns identified in this market. For example, the proposal did not have a commitment any mechanism that would address the market failures relating to transparency in price and competition. The result of these limitations was that the application raised the risk of delaying other measures that will be needed to improve market outcomes and did not unambiguously lead to consumer benefits.

These limitations have contributed to the ACCC forming the view that the application, in and of itself, was unlikely to adequately address the failures of this market.

2. As set out in ASIC's Report 492, ASIC's view is that insurers need to undertake a range of actions involving changes to the design, distribution and sale of their add-on insurance products to ensure better market outcomes. These actions could include:

- Improved products – re-structuring add-on insurance products to better meet the needs of consumers and small businesses, and improve consumer outcomes such as increased claims ratios.
- Improved sales practices – take steps to improve the sales practices, including the potential to separate the sale of insurance from the sale of the underlying vehicle and/or credit (a 'deferred sales' model).
- Remediate consumers who have been inappropriately sold add-on insurance products (ASIC notes that some insurers have already made a commitment to compensate consumers for past unfair sales, and discussions on this issue are continuing with industry participants).
- Improved pricing – reducing commissions paid to the car dealership distribution channel and passing the reduction onto consumers via lower premiums (noting that some insurers have either already reduced prices or have committed to doing so in the near future, in response to ASIC's concerns).

ASIC is engaging with insurers to negotiate improvements and/or remediation without necessarily having to undertake court action. ASIC chaired a Working Group that met in January and February 2017 and discussed improvements in detail (for example, it identified a series of problems in relation to the five add-on insurance products discussed in REP 492). ASIC expects insurers to make changes in response to the concerns identified in the Working Group (unless they can provide claims data that may indicate the outcome for consumers is better in practice at an individual level).

If this process does not achieve satisfactory outcomes, ASIC will consider enforcement action against individual insurers and their authorised representatives where there have been breaches of the Corporations Act 2001, the ASIC Act 2001 or the Insurance Contracts Act 1984.

3. ASIC has examined in detail the deferred sales model implemented in 2015 in the United Kingdom by the Financial Conduct Authority, aimed at addressing market failures analogous to those occurring in the Australian market.

ASIC considers that such a model has potential to improve consumer outcomes in Australia. ASIC proposes to consult with stakeholders on this issue.

4. ASIC provided a briefing on REP 492 to the office of the Minister for Revenue and Financial Services.

5. ASIC is not preparing any proposals for legislative change. Insurers who sell add-on products need to take significant actions to address problems that ASIC has identified such as remediating customers who have been mis-sold add-on product. ASIC is also undertaking further regulatory work, and we will continue our current liaison with the industry to look at how product design and sales practices can be improved.