



27 June 2014

By email: [insuranceconsultation@treasury.gov.au](mailto:insuranceconsultation@treasury.gov.au)

Insurance and Superannuation Unit  
Financial System and Services Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir or Madam

### **Insurance Duty of Disclosure Notices—Draft Regulation**

Thank you for the opportunity to comment on the Insurance Duty of Disclosure Notices Draft Regulation. We broadly support the regulations, but recommend the notices be reworded. In their present form they will not be understood by most consumers.

### **About Consumer Action**

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action offers free legal advice, pursues consumer litigation and provides financial counselling to vulnerable and disadvantaged consumers across Victoria. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

### **Need for notices be redrafted for clarity**

The proposed notices need to be redrafted. At present they are overly complex and legalistic. For example, the notice relating to contracts for life insurance in Part 2 of Schedule 1 reads:

If we are, or have been, entitled to avoid a contract of life insurance but do not avoid it, we may elect, at any time, to reduce the sum that you have been insured for in accordance with a formula that takes into account the premium that would have been payable if you had disclosed all relevant matters to us.

If the contract is for insurance of the life of another person, any failure by him or her to tell us a matter that he or she knows, or could reasonably be expected to know, is relevant to our decision whether to enter into the contract and, if so, on what terms may be treated as a failure by you to comply with your duty of disclosure.

### **Consumer Action Law Centre**

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We submit that even tertiary-educated consumers would have difficulty understanding the two paragraphs quoted above. Consumers with literacy problems or those who speak English as a second language will find all of the proposed notices difficult or impossible to understand.

The consequences of a consumer misunderstanding their duty to disclose are very serious. If they innocently fail to mention something they are obliged to disclose, their insurer may limit or avoid providing cover. In addition, wording these statements in an inaccessible way perpetuates the impression consumers already have that disclosure documents are too confusing to invest the time required to fully understand them. This does little to build trust and confidence in the industry, where consumers feel they have no ability to negotiate terms and conditions and have an underlying sense that insurers will do all they can to avoid paying out on claims.

Insurers will not be obliged to use the prescribed notices until the end of 2015, so there is plenty of time for Government to ensure they are accessible. This should be tasked to a professional with a proven track record in plain English communications. The associated cost will be worthwhile if it enables consumers to engage with and understand the notices. The alternative (releasing notices that consumers cannot understand) will be a waste of the resources already put into this process because the notices will not achieve their objective.

### **Recommendation**

The Government should have the notices re-worded by an appropriately qualified communications professional to ensure they will be understood by consumers.

Please contact David Leermakers on 03 9670 5088 or at [david@consumeraction.org.au](mailto:david@consumeraction.org.au) if you have any questions about this submission.

Yours sincerely

**CONSUMER ACTION LAW CENTRE**



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