

6 November 2017

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

Banking Insurance and Capital Markets Unit Manager  
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Langton Crescent  
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Dear Sir/Madam,

### **Insurance Contracts Regulations 2017**

Thank you for the opportunity to make this submission on the exposure draft of the Insurance Contracts Regulations 2017 (**Exposure Draft**). We appreciate the improvements to enhance the readability and clarity of the Exposure Draft.

Throughout 2017 there has been high-profile discussion about the need for changes to insurance regulation. Scandals in the insurance industry have emphasised the need for law reform. For example, the CommInsure scandal in 2016 revealed the devastating impact of outdated policy definitions and harsh exclusions in life insurance policies.<sup>1</sup> Ongoing work by ASIC and consumer advocates has shone a light on the shady practices used to sell expensive, poorly-designed add-on insurance to people when they buy cars.<sup>2</sup>

The review of the Australian Consumer Law and the recent Senate Economics References Committee inquiry into general insurance both proposed measures to better assist and protect people when they buy or claim on insurance.<sup>3</sup> The Senate Committee made 15 recommendations for reviews and reform of existing laws.<sup>4</sup>

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<sup>1</sup> ABC 'Money for Nothing', Four Corners, 7 March 2016.

<sup>2</sup> See ASIC, *REP 470 Buying add-on insurance in car yards: Why it can be hard to say no*, 26 February 2016; *REP 471 The sale of life insurance through car dealers: Taking consumers for a ride*, 29 February 2016; *REP 492 A market that is failing consumers: The sale of add-on insurance through car dealers*, 12 September 2016. See Consumer Action, *Junk Merchants: How Australian are being sold junk insurance and what we can do about it*, December 2015.

<sup>3</sup> The *Australian Consumer Law Review: Final Report*, March 2017, page 6, Proposal 10 recommended an unfair contract terms regime for insurance contracts.

<sup>4</sup> Senate Economics References Committee report *Australia's general insurance industry: sapping consumers of the will to compare*, August 2017.

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We acknowledge that this Exposure Draft consultation process is not designed to respond to these problems and proposals. However, we note that there are several Senate Committee recommendations relevant to the *Insurance Contracts Regulations 1985* (Cth) (**existing Regulations**) which we strongly support. As the Exposure Draft is largely a remake of the existing Regulations, there is significant room for improvement in the Exposure Draft.

The Senate Committee's report, *Australia's general insurance industry: sapping consumers of the will to compare*, made three key recommendations relevant to the Insurance Contracts Regulations.

### **1. Review standard cover**

The Committee recommended an independent review of the standard cover regime, in response to concerns that the regime is not operating effectively.<sup>5</sup>

As we submitted to the Committee during its inquiry, the standard cover regime is not operating as intended, and it is 'nigh on impossible' for people to compare insurance policies and shop around.<sup>6</sup> This systemic problem will persist until standard cover is revived in line with its intended purpose, or other measures are introduced to make insurance policies easier to understand and compare.

A review of the content of standard cover will also reveal how it can be updated to better reflect the needs and realities of insurance customers.

### **2. Implement standard definitions of key terms**

The Committee also recommended that standard definitions for key terms in general insurance.<sup>7</sup> This could include, for example, 'actions of the sea', which is defined differently between policies.<sup>8</sup>

This reform would attempt to deal with the same problem which was addressed by the introduction of the standard definition of 'flood' in 2012, that is, people being sold policies with cover that they do not understand and which is unsuitable for them and their circumstances.

### **3. Review Key Fact Sheets**

The Senate Committee recommended a review of the effectiveness of Key Fact Sheets as a method of disclosure.<sup>9</sup>

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<sup>5</sup> Senate Economics References Committee, *Australia's general insurance industry: sapping consumers of the will to compare*, August 2017, page 41, Recommendation 5. Standard cover under Part II of the *Insurance Contracts Regulations 1985* (Cth).

<sup>6</sup> Senate Economics References Committee, August 2017, paras 3.52-3.55.

<sup>7</sup> Senate Economics References Committee, August 2017, page 41, Recommendation 6. The report highlighted the discrepancies in definitions—see

<sup>8</sup> See CHOICE in Senate Economics References Committee, August 2017, paras 3.61 and 3.62.

<sup>9</sup> Senate Economics References Committee, August 2017, para 3.78.

The Committee heard during the inquiry that Key Fact Sheets can oversimplify what is in insurance policies and potentially mislead people.<sup>10</sup> We submitted that there should be an evaluative study of Key Fact Sheets and what type of disclosure really works for people who are buying insurance.<sup>11</sup>

We strongly support the Senate Committee's recommendations, which would enhance insurance regulation and improve people's experience of buying and claiming on insurance. We will provide detailed comment on how they can be effectively implemented in the relevant consultation periods.

If you have any questions about this submission, please contact Susan Quinn on (03) 9670 5088 or at [susan@consumeraction.org.au](mailto:susan@consumeraction.org.au).

Yours sincerely,

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<sup>10</sup> See Senate Economics References Committee, August 2017, paras 3.68-3.71.

<sup>11</sup> Consumer Action in Senate Economics References Committee, August 2017, para 3.72.