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General Manager
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Australian Competition and Consumer Commission
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**Submission to the Australian Competition and Consumer Commission
opposing renewal of the authorisation of the Australian Direct Marketing
Association's Code of Practice by Consumer Credit Legal Centre (NSW) Inc.**

The Consumer Credit Legal Centre (NSW) Inc. ("CCLC") is a community based legal centre specialising in financial services, particularly matters and policy issues related to consumer credit, banking and debt recovery. It is the only such Centre in NSW and has been operating for 15 years. In March 2003 the Australian Securities and Investment Commission released a report completed by CCLC in relation to finance and mortgage brokers. The purpose of this submission is to draw the ACCC's attention to some of the direct marketing issues raised in that report and the complete failure of the ADMA Code to address the behaviour.

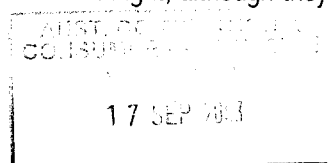
The research conducted by CCLC found that 21% of brokers surveyed used cold calling as method of initiating contact with potential clients. Of 32 caseworkers that reported their clients experienced problems with finance and mortgage brokers, 41% reported that their clients had received unsolicited calls or visits from brokers sometimes or often.

The vulnerability of consumers in their own home is well established and recognised in various legislative instruments such as the various Door-to-door Sales Acts and provisions in Fair Trading Acts or equivalent. The difficulties consumers experience are well demonstrated by the following case studies drawn from the report:

Case Study 1

Ms Y received an unsolicited call from a finance broker, who said that he could "save her money" on her home loan. Ms Y and her husband were interested, and arranged for the broker to visit their home on a weekday evening. The broker arrived at 8 pm, and explained that he would need to get an idea of their financial position and goals, and then discuss the specific home loan product he endorsed and how it would help them, given their financial position.

Ms Y and her husband were genuinely interested in hearing about the product. By 11 pm, the broker had not finished his presentation. Ms Y and her husband explained that they were too tired to concentrate and that they would not sign any contracts that night, although they would



Winner of the 2001 NSW Consumer Protection Award for Community Organisations

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be happy if the broker came back another time to continue their discussion. Ms Y asked the broker to leave, but he refused, saying, "You promised me a cup of coffee". The broker continued to pressure Ms Y and her husband to sign a contract that evening, and said that it would be unlikely he could visit again, as he was too busy.

After many pointed requests to leave, the broker eventually left Ms Y's home at 12.15 am. He refused to leave any documentation or contracts for Ms Y and her husband to review. At no time during the meeting did he describe the interest rate, or the terms and conditions of the loan. He was even reluctant to leave a business card. The next day, Ms Y made an official complaint about the broker's conduct to the broker's head office. However, the office was unsympathetic, and said only that their staff were very enthusiastic about making sure their clients received "a good deal".

Case Study 2

Ms J had a standard variable interest rate home loan with an outstanding balance of \$114,000. Ms J was cold called by a telemarketer offering to talk to her about how she could save money on her mortgage. Ms J was interested in increasing her loan to buy a computer (to work from home) and agreed to a visit.

The person who visited Ms J only discussed finance with one particular lender, and did not disclose that he was a broker. He led Ms J to believe he acted for that lender, and that she would only have to pay the lender's application and loan fees. The broker gave Ms J a series of documents to sign. These included a broker agreement (which was not explained to her) and an application for a loan of \$120,000. In fact, the loan was to be provided through a line of credit. This type of finance was completely inappropriate and unnecessary for Ms J, while the interest rate was more expensive than on her existing loan.

When the loan settled, Ms J paid around \$4000 in fees, including nearly \$3000 to the broker, as well as the lender's application fees and solicitor's costs. This meant there were insufficient additional funds available for her to buy a computer.

Case Study 3

Mr. K was cold called by a mortgage broker and agreed for the broker to visit him at home to discuss refinancing options. Mr. K told the broker that he was concerned about whether he would be able to refinance, given that he only worked on a casual basis. The broker assured him that this would not be a problem. Mr. K then signed a broker agreement entitling the broker to \$3000 if she was successful in finding Mr. K a loan.

The broker subsequently forwarded a loan agreement to Mr. K. However, when Mr. K examined the loan he found that it was too expensive for him, due to the costs associated with the loan, including monthly account keeping fees and a considerable application fee. Mr. K would also have to pay the lender's costs of arranging mortgage insurance. The broker also quoted the wrong interest rate on the credit card that was part of the loan package. As a result, Mr. K decided not to go ahead with the loan. The broker has now demanded payment of its \$3000 brokerage fee.

Another growing concern of consumer credit legal services in several states is the increase in the number of "bogus" mortgage reduction scheme companies which charge consumers thousands of dollars for inappropriate and largely unregulated financial plans (usually involving a refinance of existing mortgage commitments to another lender) and predominantly use telemarketing followed by home visits to promote their services to unwary consumers. We are unaware of any of these firms being members of the ADMA.

Furthermore, there is little in the ADMA Code of Conduct that would have assisted these consumers had it applied.

CCLC strongly opposes authorisation of the renewal of the authorisation of the Australian Direct Marketing Association's Code of Practice as it does not provide effective protection for many of our clients and therefore appears to needlessly inhibit competition. It is also of great concern to CCLC that ACCC approval for the Code could potentially inhibit or delay other initiatives that could provide more effective controls and remedies than the Code.

Please feel free to contact the writer for more information.

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