



3 March 2017

Mr Gavin Jones
Director, Adjudication
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

By email: adjudication@acc.gov.au

Dear Mr Jones

Submission: ACCC draft decision on car dealer add-on commission cap (A191556-A91557 Aioi Nissay Dowa Insurance Company Australia Pty Ltd & Ors)

Thank you for the opportunity to comment on the ACCC's draft decision on the application by insurers to cap add-on insurance commissions paid to car dealers at 20%.

Consumer Action welcomes the ACCC's statement that it intends to deny authorisation of the commission cap because it will not deliver a net public benefit. We agree with the ACCC's reasons for the draft decision.

Whether or not the ACCC's final decision is to deny the application, consumers will continue to pay high prices for low value add-on insurance at car yards. In our view, the application is a somewhat cynical attempt to delay badly-needed regulatory and/or legislative intervention. A commission cap would not deliver any real benefit to consumers, but there is a high likelihood that it would boost insurer profits on poorly-designed products.

A commission cap has proven not to be an effective consumer protection in the car yard. While the same commission cap applies to personal-use Consumer Credit Insurance (**CCI**), exactly the same problems persist with CCI as with every other add-on insurance product.

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Consumer Action notes the Australian Securities and Investments Commission's view that insurers should implement a delayed opt-in sales model. We reiterate our view that, provided it was appropriately formulated and monitored, a delayed opt-in model would be a significant step and could provide a genuine public benefit.

We also note that financed single premiums on which interest is paid persist—they make the total price of insurance unclear and make add-on products even worse value. Another important step would therefore be an end to financed single premiums and the introduction of regular instalment payments without interest.

Consumer Action's DemandARefund.com website helps people claim refunds on add-on insurance which they were sold inappropriately. We recently saw the total amount in claims through DemandARefund.com exceed \$500,000. One in five people who made those claims did not know they had bought add-on insurance. However, this is just a small percentage of the people who have bought add-ons that they did not want or need. An effective remediation program is needed to identify the many others who have been mis-sold add-on insurance and to refund their premiums.

Finally, we reiterate that poor design and inappropriate sales practices are significant problems in the add-on market. In light of the proposed Product Intervention Power for ASIC and the Product Design and Distribution Obligations for product issuers and distributors, insurers will need to overhaul the design of add-on products, clearly define target markets and take effective measures to ensure they only sell products to the target market. However, waiting until the commencement of the new power and obligations is not an acceptable outcome for consumers, who will continue to be ripped off until there is an effective intervention.

We note the lack of progress by insurers towards any effective self-regulation in the add-on market. This is despite ASIC identifying that the market is 'failing consumers' and putting insurers on notice that action must be taken. In our view, enforcement action and legislative change are now the appropriate options to curb the widespread consumer harm happening at car yards.

Please contact Susan Quinn on 03 9670 5088 or at susan@consumeraction.org.au if you have any questions about this submission.

Yours sincerely,

CONSUMER ACTION LAW CENTRE

A handwritten signature in black ink that reads "Gerard Brody". The signature is written in a cursive, flowing style.

Gerard Brody
Chief Executive Officer