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January 23, 2019

Financial Services Regulatory
Authority of Ontario (FSRAO)
130 Adelaide Street West, Suite 800
Toronto, Ontario M5H 3P5

Attn: Bryan Davies, Chair & Mark White, Chief Executive Officer

Dear Sirs:

Re: FSRA Priorities and Budget Consultation Document - January 21, 2019

This is our submission for the above Consultation Document.

We noticed that FSRA did not include anything in the Consultation Document about Incidental Sales of Insurance ("ISI") products. One of these products is Creditors Group Insurance ("CGI") which now forms a large part of the insurance market and are heavily promoted by industry organizations such as CLHIA and CAFII.

Our understanding is that Life and Health (LAH), Property and Casualty (P&C) as well as Incidental Sales of Insurance (ISI) are **ALL** regulated under the provincial Insurance Act. The fact that ISI products are exempt from licensing and are sold through unlicensed channels does not relieve insurers from their obligations under the Insurance Act and Regulations.

We believe that there are a lot of problems with these products – especially related to insufficient disclosure and consent. In particular, there has been a lot of coverage in the media about problems with CGI products like Mortgage and Home Equity Line of Credit Insurance due to lack of oversight and regulation. People are losing their homes and nothing is being done about it! Insurers are not complying with existing legislation that is already in place to deal with consumers fairly. We believe information and material facts are being intentionally left out by insurers and we have provided some examples of that below.

The main problem is that insurers are providing **inadequate disclosure** in order to obtain the consent of consumers – **which is illegal**. This is a serious problem that the industry knows about that is so detrimental to consumers - yet it is being overlooked and ignored. Based on communication with FSCO and the Ministry of Finance we are aware that they are not enforcing Section 185 & 439 of the Insurance Act - yet Section 183 is being enforced. That would solve the problem of inadequate disclosure and would level the playing field.

There are many other problems with CGI products including: conflict of interest, inadequate quality assurance and false advertising among others. We are aware of numerous cases in the courts and in the media about how people's lives have been ruined by this! The Globe and Mail at one point even referred to **mortgage credit insurance** as a "junk product".

The current system as it exists today needs to be fixed for these CGI products that are sold by insurers to consumers through various unlicensed channels. How can consumers make an informed decision when all of the relevant information has not been disclosed to them?

Examples of how Insurers are providing inadequate disclosure to obtain consent for CGI products:

1. By answering “YES” or “NO” on the application form you are actually doing your own “underwriting” - even though consumers aren't being advised of that material fact.
2. Consumers are “automatically accepted” for **enrolment** in the CGI contract but not “automatically accepted” for **coverage** – this is not disclosed and is false advertising.
3. Consumers are paying insurance premiums simply to be enrolled – that has not been disclosed and they do not know whether they are insured or not (“Ineligible Insureds”).
4. When a claim is put in to the insurance company, insurers then include “Post Claim Underwriting” (which is assessing the **risk** and **eligibility** for coverage) as an additional step to the “Claim Investigation” (which is only supposed to be for assessing the **loss**).
5. The application form and the insurance certificate and product guide booklet are misleading on important material facts that are very significant such as the following:

An example of this is how the word “accurately” is being selectively misused in the documents. It appears in a section of the application form but it does not appear in the very same section of the Certificate of Insurance and in the Product Guide Booklet.

Another example is how the term “Life Insurance” is used on the application form in a misleading way. People assume they are buying life insurance - when they are not.

If insurance companies are going to change the way they do underwriting of their insurance products then they have a responsibility to tell consumers that in a clear and concise way that is not vague or misleading. That should apply regardless of what type of product it is!

We are aware that FSCO issued a Bulletin in 2018 about improving consumer protection and encouraging fair treatment of consumers which is entitled Superintendent's Bulletin # 03/18. However, that Bulletin is a voluntary guideline only and does not provide for enforcement. The CLHIA Guideline G7 is also irrelevant because points 1-5 above have not been clarified.

We believe that this is a serious problem that is affecting consumers everywhere and the provincial government (FSRA and the Ministry of Finance) has a responsibility to correct this injustice by enforcing proper disclosure by insurers – not just by the consumers. We don't understand why the Office of the Consumer has not been established as intended.



Ernie Dellostritto