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DEALER BULLETIN

Final Report and Government Response into the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

4 February 2019

To: ALL AADA MEMBERS

- Today the Royal Commissioner handed down the final report into Misconduct in the Banking, Superannuation and Financial Services Industry.
- Simultaneously, the Government handed down its response.
- There are a number of recommendations which have been accepted and that will affect the businesses of franchised new car Dealers.
- The government has decided to support the Royal Commission's recommendation to **remove the point-of-sale exemption for retail dealers providing finance**, including new car Dealers. The AADA will work to ascertain the impact this will have on the wider membership and will be reaching out to members in the coming days to gauge the number of members which currently operate with Australian Credit Licences.
- The **Government will also task Treasury with developing a deferred sales model for the sale of add-on insurance products**. This will build on work already underway by ASIC and may present AADA with an opportunity to positively influence the nature of a deferred sales model, including the provision of an informed consumer waiver.
- The **Government has agreed to empower ASIC to cap commissions that may be paid to vehicle Dealers in relation to the sale of add on insurance products**. The capping of commissions has been in place informally for some time due to the practice by insurers. AADA will work with ASIC to achieve the best possible outcome in this regard.
- Furthermore, there will be a **review on commissions for general insurance and consumer credit insurance to test whether the exemption to the ban on conflicted remuneration remains justified**. AADA will participate in this review.
- The AADA is concerned with the lack of consultation on the response to these recommendations and will express this view to the Government.
- We will work with Government and the regulators to ensure that their response to the recommendations are implemented responsibly, and in a manner that limits the damage to our industry and our customers.
- Below is the full text of the recommendations affecting our industry, as well as the Government's response:

ROYAL COMMISSION RECOMMENDATION	GOVERNMENT RESPONSE
<p>Recommendation 1.7 — Removal of point of sale exemption</p> <p>The exemption of retail dealers from the operation of the NCCP Act should be abolished.</p>	<p>The Government agrees to remove the point of sale exemption. The Government recognises that this change may impact on many businesses and will carefully consider how these reforms are implemented to ensure balance is achieved between consumer protection and access to products and services.</p> <p>The Royal Commission identified that the provision of inappropriate loans and other financial products has led to consumers experiencing financial hardship. Removing the point of sale exemption will require third party vendors, as well as lenders, to only recommend loans that are not unsuitable for the borrower.</p> <p>This also responds to the recommendation of the Productivity Commission’s report Competition in the Australian Financial System to review the current exemption of retailers from the NCCP Act.</p>
<p>Recommendation 4.3 — Deferred sales model for add on insurance</p> <p>A Treasury led working group should develop an industry wide deferred sales model for the sale of any add on insurance products (except policies of comprehensive motor insurance). The model should be implemented as soon as is reasonably practicable.</p>	<p>The Government agrees to mandate deferred sales for add on insurance products and has tasked Treasury to develop an appropriate deferred sales model.</p> <p>A deferred sales model would require consumers to separately engage with the insurance product that is being purchased rather than considering it at the same time as purchasing a typically much more expensive product.</p> <p>The Government has also introduced the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018 into Parliament. The Design and Distribution Obligations (DDOs) and the PIP seek to promote the provision of suitable financial products to consumers and to enable ASIC to proactively reduce the risk of consumer detriment from unsuitable products. These regimes will assist in preventing consumer detriment resulting from poor design or inappropriate distribution practices such as those in the design and sale of add on insurance products.</p> <p>ASIC has agreed to consider the Royal Commission’s findings and recommendation in relation to the sale of add on insurance in its administration of the DDOs and potential use of the PIP.</p> <p>This also responds to the recommendation of the Productivity Commission’s report Competition in the Australian Financial System to mandate a deferred sales model for all sales of add on insurance by car dealerships.</p>

ROYAL COMMISSION RECOMMENDATION	GOVERNMENT RESPONSE
<p>Recommendation 4.4 — Cap on commissions</p> <p>ASIC should impose a cap on the amount of commission that may be paid to vehicle dealers in relation to the sale of add on insurance products.</p>	<p>The Government agrees to provide ASIC with the ability to cap commissions that may be paid to vehicle dealers in relation to the sale of add on insurance products.</p> <p>The value of the commissions paid in relation to add on insurance products sold through vehicle dealers has significantly exceeded the amounts paid out to consumers through claims. High levels of commissions have contributed to poor consumer outcomes.</p> <p>Providing ASIC with the ability to cap commissions will ensure an appropriate cap is set and varied if required in response to any future concerns.</p>
<p>Recommendation 2.6 — General insurance and consumer credit insurance commissions</p> <p>The review referred to in Recommendation 2.3 should also consider whether each remaining exemption to the ban on conflicted remuneration remains justified, including:</p> <ul style="list-style-type: none"> • the exemptions for general insurance products and consumer credit insurance products; and • the exemptions for non monetary benefits set out in section 963C of the Corporations Act. 	<p>The Government agrees to review the remaining exemptions to the ban on conflicted remuneration in the course of its review in three years' time on the effectiveness of measures to improve the quality of advice.</p>

For further information, please contact:

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