Add-on insurance regulation unclear

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While sales practices around add-on insurance have been widely criticised, and the creation of a deferred sales model (DSM) to regulate them was explicitly recommended by Commissioner Kenneth Hayne, the shape a regulatory approach will take in this area is still unclear and the industry is being forced to look more broadly for guidance.

High pressure sales methods, poor value and poorly explained products, difficulty with claims, and high commissions for distributors were just some of the reasons behind increased regulatory scrutiny and action in this area.

It was unclear, however, what a deferred sales model (DSM), as recommended by Hayne, would look like, forcing the industry to look at external sources for comparison. The Code of Banking Practice, for example, could offer guidance, already imposing a four-day deferred sale period for consumer credit insurance (CCI) on credit cards and personal loans.

The United Kingdom's approach, too, could guide the Treasury working group considering DSM here, as it had acted on the deferred sale of both CCI and guaranteed asset protection (GAP), imposing periods of seven and four days respectively. Further, more rigid rules around the information given to consumers and the ability to buy the products stand-alone also applied.

Finally, a blog by the Fold Legal also suggested that earlier discussions and consultations from the Australian Securities and Investments Commission (ASIC) could offer guidance.

"ASIC's 2017 report into car-yard sales gave a thorough explanation of the perceived issues. A subsequent Consultation Paper 294 on DSM for motor dealers postulated anywhere from four days to 30 days deferral and possibly longer for extended warranty because the product does not give cover until other warranties have expired," the blog said.

Actuarial and insurance consultant, Finity, believed that while remaining in the add-on market would involve a lot of work for distributors and insurers, most would adapt rather than withdraw. They would see higher selling costs however, meaning expenses not commission, and thinner margins.

Finity principal, Geoff Atkins, also said that DSM regulations should be applied to a narrow range of products, not all add-on insurances.

"Firstly, there is a risk of onerous changes being applied that are against consumer interests rather than protecting them, and secondly, the DDO and ASIC's Product Intervention Powers are a more nuanced set of measures that should focus directly on consumer interests," he reasoned.

The Fold Legal backed up this view but felt that while a narrow range was best at first, regulation should then be gradually implemented in relation to other types of add-on insurance. According to its solicitor director, Jaime Lumsden Kelly, this approach would make unintended consequences, such as consumer detriment, less likely.

Also worth considering is the fact that while attention had been on a DSM, other regulatory tools could also deal with add-on insurance. These included anti-hawking measures and the new product design and distribution obligations.