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SENT BY E-MAIL AND MAIL

May 19, 2004

Ms. Maria Policelli
Policy Manager
CCIR Secretariat
5160 Yonge Street, Box 85
17th Floor
Toronto, Ontario
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Dear Ms. Policelli:

Re: Consultation Paper on Issues Related to Inducements, Rebating and Tied Selling prepared by the Canadian Council of Insurance Regulators (CCIR)

I would like to thank you for the opportunity to comment on issues outlined in the consultation paper entitled Issues Related to Inducement, Rebating and Tied Selling. I am pleased to be able to convey our thoughts on this initiative.

Before I provide our specific views, it may be helpful to provide some background on Advocis.

Background

Advocis is the largest professional membership association of financial advisors in Canada. As a voluntary organization, Advocis is committed to professionalism among financial advisors.

Our Association traces its origins to the founding of the Life Underwriters Association of Canada (LUAC) in 1906. Advocis continues an uninterrupted history of serving Canadian financial advisors, their clients and the nation for almost a century. The Association operates under the legal name of The Financial Advisors Association of Canada and carries on business as Advocis.

Our members are financial advisors licensed to sell life and health insurance, mutual funds and other securities. Advocis comprises 16,000 voluntary members, organized into 50 chapters. Advocis' members provide financial products and services to over 12 million Canadians. Our common goal is to assist individuals and families to achieve their financial security through the optimal application of individual and group financial products.

Overview of Issues

Before addressing your specific questions, we would like to offer our interpretation and views on inducements, rebates and tied selling.

Inducements/Rebates

While the rebating of premiums is financial in nature, and whereas inducements are generally non-financial, both involve the danger of tainting the fiduciary nature of the relationship between insurers and agents, on the one hand, and the consumer on the other. Both encompass the possibility of tempting the consumer to purchase products for reasons other than the value to the particular consumer of the product in question. For this reason, we believe that all insurance products should be treated the same way. That being said, however, we are of the view that rebates and inducements have different characteristics and should be considered separately.

(a) Rebates

Advocis is of the opinion that the reasons for the original implementation of restrictions on rebating, as described in the consultation paper, are as valid today as they were when first introduced, notwithstanding the contention of proponents for market conduct change "that the marketplace has evolved significantly". As a result, Advocis does not support any loosening of the restrictions on rebating.

At the same time, we would like to clarify that negotiations between licensed agents and insurers with respect to the amount of premium should not be considered rebating, and, therefore, should not be prohibited, providing the client is not involved in the discussion.

(b) Inducements

As stated, inducements, as opposed to rebates, are generally non-financial in nature. However, regardless of the value of an inducement, Advocis strongly opposes permitting inducements that are "tied" to the purchase of a product, for the same reasons that we oppose rebates.

We have no objection to an inducement offered for obtaining a quote, as opposed to being offered for purchasing a product. We also have no objection to "gifts" to existing clients that are not given in the context of a product purchase.

Tied Selling and Bundling of Financial Products

Advocis supports the proposition that the bundling of financial service products should not be considered tied selling providing there is no requirement for a consumer to purchase an unwanted product. This should be made clear to the consumer at the time. Regulators should, however, keep in mind that the “requirement” to purchase an unwanted product is difficult to determine. Real or perceived pressure to purchase an unwanted product may be felt by a client, especially if the consumer is already indebted to the provider of financial services.

Summary of Responses

In summary, our responses to the specific questions posed in the consultation paper are as follows:

1. Should rebating of premium provisions and inducement provisions be considered together or separately?

Rebates and inducements have different characteristics and should be considered separately.

2. If rebates or inducements are allowed, should there be any restrictions on their use or value?

Current restrictions on rebating and inducements should continue to apply. Rebates should not be allowed. Inducements to obtain a quote are acceptable. Inducements to purchase a product are not acceptable. Inducements to existing clients (gifts) unconnected to the purchase of a product are acceptable.

3. What is the impact of the suggested changes on existing methods of distribution of insurance?

The suggested changes will have no impact on the existing methods of distribution of insurance.

4. Should all insurance products be treated the same? Life? P&C? A&S? Other?

All insurance products should be treated the same.

5. Should an inducement be restricted to a quote or request for information, but prohibited when “tied” to a purchase?

Inducements to obtain a quote are acceptable, but inducements to purchase a product are not acceptable.

6. Should there be any differentiation between an insurer and an agent/broker offering a rebate or inducement?

There should be no differentiation between an insurer and an agent/broker offering a rebate or an inducement.

7. Are there any regional or local issues that need to be addressed?

Rebating is allowed in Alberta. Alberta is hoping for harmonization, i.e. that rebating be allowed in other provinces.

8. Are there any options or implications concerning the elimination of the prohibition on rebates and inducements that are not discussed above?

Bundling should not be considered to be tied selling as long as the consumer is not required to purchase unwanted products.

On behalf of Advocis and its 16,000 members, I wish to again thank you for extending this opportunity to present our comments and recommendations.

Yours truly,

A handwritten signature in black ink, appearing to be a stylized name, possibly "A. J. ...".