

Australian Consumer Law Review Submission

from Clare Petre

Summary of this submission

The Australian Consumer Law (ACL) should be amended to prohibit unsolicited door to door selling. This submission is based on the proposition that:

- there are significant disadvantages for consumers in unsolicited door to door selling
- unsolicited door to door marketing practices do not lend themselves to an overall market in which consumers can operate with trust and confidence and therefore do not assist competitive markets
- unsolicited door to door selling is not in keeping with the spirit of the ACL in terms of open, competitive and effective consumer markets.

Introduction

I am making this submission as the former Energy & Water Ombudsman NSW (EWON) for over 16 years. In this role I had experience of many complaints about unsolicited door to door selling and the impact on consumers.

I note that this is a personal submission and not a submission on behalf of EWON.

While most energy retailers have ceased door to door selling after high numbers of consumer complaints, there are reports of serious problems with door to door selling of products such as vocational training courses and funeral insurance. In fact, it has been suggested that some of the former energy marketers may have moved to other areas of door to door sales.

This brief submission is based on my experience and understanding of unsolicited door to door selling. It does not refer to door to door selling where the consumer has given prior agreement to a sales representative attending their home on appointment.

The issue with unsolicited door to door selling

The object of Australian Consumer Law is “to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection”.

Unsolicited door to door selling is counter to this objective in that:

- it does not promote competition, as it is a ‘take it or leave it’ option for the consumer faced with a marketer on their doorstep
- door to door marketers are generally selling one product only, thereby inhibiting consumer choice
- in those few situations where marketers might purport to be acting as ‘brokers’, the range of products or choice of company is generally limited
- it is a confrontational situation often associated with high pressure sales tactics, misleading information, and in some cases intimidation and bullying

- it often targets or impacts on people who have a vulnerability, e.g. through age, health, disability, language, poor literacy.

The unsolicited door to door selling model

As I understand it, most door to door marketers work on a commission basis. The success rate for sign-up is low (<5%), so there is great pressure on marketers to achieve a sale and obtain their commission. Marketers therefore need to find as many consumers at home as possible during their working hours. Ironically, this means that they may be less likely to walk down streets with large houses on big blocks with access issues (eg gates, long paths, steps), and more likely to target more accessible apartment blocks and smaller communities.

Consumers likely to be at home during the hours when door to door marketing is permitted include older retired people, people with a disability or with health issues, carers, people who are unemployed, newly arrived migrants or refugees.

The marketer presents themselves - unsolicited - at a consumer's door. If there is a *No Marketing* sticker on the premises the marketer should not approach, but my former office received reports of energy marketers ignoring these signs and advising the resident that the sign did not apply to them.

Issues raised by consumers regarding unsolicited visits by energy marketers included:

- Many people complained about feeling intimidated by a marketer who would not take no for an answer. Some said that they agreed to a contract as the only way to get them to leave.
- A woman said the marketer became quite aggressive when asked to leave the property and she was quite frightened that they would return to further harass her as they knew where she lived.
- Advocates for some newly arrived migrants or refugees said that their clients assumed that official looking people at the door with briefcases were 'from the government' and that they had no choice but to agree to any offer.
- A family member said that their relative with an intellectual disability was able to live independently because regular arrangements had been put in place for payment of utilities and other services. Door to door marketers persuaded this person to sign up for three different energy contracts, significantly disrupting the established payment arrangements.
- Residents reported being given a range of misleading information including
 - *I'm from the government*
 - *I'm not here to sell you anything, I'm just here to make sure you are receiving full discounts*
 - *Everyone in the street has signed up.*

- After advising a marketer that she was not interested, a woman said that the marketer burst into tears and said they had not made a sale all day and that they were in a desperate financial position. The woman said she felt sorry for the marketer and signed up on that basis.
- Even though the visit might be within permitted hours, in winter months this meant that marketers were knocking on doors in the dark in the early evening. It was of great concern to some older people and people living alone to have a stranger knocking on their door when it was dark outside.

While most door to door selling of energy contracts has ceased, there have been reports of widespread unsolicited door to door selling of high cost vocational courses with the offer of a free laptop, and selling of funeral insurance to people in Indigenous communities where the potential lifetime cost of the insurance is extortionate. I note that when I worked at Redfern Legal Centre many years ago we assisted a pensioner who had been persuaded to buy an expensive vacuum cleaner from a door to door salesman, despite the client having a very small area of carpet in his public housing flat.

Are there any advantages to unsolicited door to door selling?

It is difficult to identify any advantage for consumers in this form of selling. It does not provide consumers with choice. It is quite confrontational, and consumers are asked to make a decision on the spot. Marketers are generally reluctant to leave information with the consumer to consider at their leisure.

It is easier for consumers to hang up if they are contacted by an unsolicited phone marketer. Consumers can ignore media advertising, or walk past a display in a shopping centre. Alternatively, consumers can choose to speak to a telemarketer, respond to media advertising, or walk up to a shopping centre display - this is their choice instead of having to deal with a stranger on their doorstep. With the 'Mr Whippy model', a van might park right outside a person's home, but it is the resident's choice whether to engage with them, and the van is not on an individual's property.

Conclusion

Prohibition of any activity is not to be taken lightly. However, I submit that there is overwhelming information that unsolicited door to door marketing has significant disadvantages for consumers, particularly for many consumers with vulnerabilities. Unsolicited door to door marketing does not contribute in any way to an open, competitive and informed market in the spirit of the ACL.

A prohibition on unsolicited door to door selling will mean that companies will have to find other more creative ways of reaching customers.

I therefore ask that the ACL review consider amendment of the Australian Consumer Law to prohibit unsolicited door to door selling of any consumer products.

Clare Petre
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