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By Email: code@centralbank.ie

Consumer Protection Code/CP47

Dear Sirs,

ACE European Group Limited and Combined Insurance Company of Europe welcome the opportunity to provide a submission to the Central Bank on consultation paper CP47 entitled "Review of Consumer Protection Code" dated October 2010. Before commenting on particular sections of the proposed revised Consumer Protection Code, we have set out by way of introduction the underlying basis for our submission, under three headings:

1. Public benefit and societal importance of insurance

Insurance is a public good that benefits society as a whole and the availability of comprehensive, affordable and generally accessible insurance products is a fundamental need.

The International Association of Insurance Supervisors (IAIS) and the MicroInsurance Network released a paper in late October 2010 (*The Role of Mutuals, Cooperatives and Community-based* emphasising the importance of such access:

"...access to insurance is a key issue to facilitate economic wellbeing particularly for those with limited resources to protect themselves from adversity. It may be, at the same time that those of limited resources may be more exposed to particular vulnerability. However, in many markets, there can be challenges that limit access to insurance particularly for the most vulnerable including low-income populations, and small enterprises. For effective access to insurance services, customers and

*insurance providers need to be able to come together to understand risks and insurance needs, provide product information, enrol in insurance programs, make payments of premiums, advise, assess and settle claims, and **deal with other administrative processes in a cost effective way, that is economically viable, and consistent with market needs.*** (our emphasis).

Undeniably, high standards of regulation are essential to an orderly insurance market and ultimately benefit the industry as well as the general public. However as the IAIS paper emphasises, that regulation should be **clearly proportionate**, so as to ensure that the consumer is protected, while not going so far as to render impractical or discourage entry into the provision of particular insurance products, or inhibit sales to particular categories of customer who might not otherwise have access to adequate sources of personal insurance..

Access needs for particular sectors

The IAIS has also emphasised the importance of access to insurance for *"groups of the population that would otherwise be underserved or not served at all"*.

Statistical modelling suggests that both income level and the level of financial strain are relevant factors in determining whether a household has insurance cover. A Financial Services Authority report on Financial Exclusion (July 2000) develops that point further:

"If some people in society are unable to insure themselves against unforeseen events such as fire, burglary, loss of income due to ill health or job loss, the inequity this creates will further compound the effects of financial and social exclusion. These reports highlight the importance of the accessibility of insurance products for low income socio-economic groups".

Recent price increase announcements from private health insurers make the case for access to reasonably priced sickness cover such as that offered by Combined Insurance Company of Europe all the more important.

Direct selling is an appropriate point of access

Direct selling, particularly face-to-face in-home sales, provides an important point of access to those individuals most in need of the security of protection policies, and affords access to those who don't have the opportunity to access through more conventional channels.

The IAIS paper specifically addresses "Challenges due to socio-economic circumstances" and notes that *"in some markets, conventional insurance services are oriented to serve some markets but not well oriented to serve others such as those in the informal workforce, those with highly variable and unreliable incomes, and those with particularly low incomes, or groups of the population who may perceive that conventional insurance is only for the wealthy people"*.

Low income populations, the elderly, the disabled or otherwise impaired are often excluded from accessing financial products for a range of reasons including reduction in the number of insurance and banking retail outlets, the lack of personal resources such as home computers with internet access, ownership of cars and other cultural factors.

Through direct selling, standardised and simple protection policies can be made available to customers in their homes. It is therefore extremely important that this form of selling remains a viable and cost-effective way for insurance companies to sell their products, and for customers to get access to those products.

Effective regulation is extremely important, but it is submitted must be proportionate to ensure that the direct selling channels are not over-regulated to the extent that they become impracticable or inoperative.

Review of Consumer Protection Code

New Category of Vulnerable Consumer

We note that it is proposed that a new category of "Vulnerable Consumer" will be included in the Code with a view to increasing the level of protection afforded to particular categories of consumers. The proposed definition of Vulnerable Consumer, which is included in Chapter 13, provides an indicative list of 10 such categories of persons. We have a number of concerns with the current proposal:

1. The concept of Vulnerable Consumer, if introduced, will apply to the sale of all financial products without regard to the nature of the underlying product. The vast majority of protection policies are simple, uncomplex products but yet they will be subject to this additional layer of regulation that is more appropriate, and indeed justified, in the sale of tailored or more sophisticated investment products. Applying a global definition of Vulnerable Consumer irrespective of the product being sold ignores the fact that certain simple products, such as payment protection policies, are vastly different from complex financial arrangements, such as derivatives, which are developed for entirely different classes of consumers. **To date, there has been little factual evidence that consumers do not understand how such simple products work. In the absence of such evidence, the speculative advantages of additional layers of regulatory barriers do not outweigh the likelihood that these barriers will cause actual detriment both to insurers and to low-income consumers.** In the current climate, over regulation in these markets will depress the level of new entrants and ultimately restrict access to those who would be better served with a proportionately regulated and workable distribution channel for what are effectively standardised products. Accordingly there must be some balance between increased consumer protection, which the amendments to the Code are seeking to achieve, and the public benefit of giving a particular socio-economic grouping access to efficiently priced protection products in a proportionately regulated manner.
2. In addition to our reservations about the demonstrated need for regulations that make no distinction between sophisticated and simple personal insurance products, we also observe that the proposed definition of "Vulnerable Consumer" is, in our view, too broad and subjective and is likely to lead to economically-inefficient levels of regulatory uncertainty. For example, the definition includes a category of persons who have a low level of educational attainment, yet it does not prescribe how that level is to be determined by the Insurer and its representatives. Does the lack of a third level education of itself

constitute a low level of educational attainment? To the extent that it is appropriate and necessary to differentiate between Vulnerable Consumers (having regard to the points made in paragraph 1 above) and other classes, there must be objective and well defined criteria on which to make that differentiation.

We also note the lack of evidence in the Consultation Paper put forward in support of the inclusion of certain categories of persons in the definition of Vulnerable Consumers. In 1998 the Office of Fair Trading in the UK published its report on the quantification of vulnerable consumer groups which was supported by a level of analysis and empirical evidence that is not present in the Consultation Paper. We believe that a clear and reasoned basis should be put forward in support of those changes.

Provision of Information to the Consumer – Verbal Interaction

Chapter 12 of the Consultation Paper proposes that any regulated entity that engages in “verbal exchange” must maintain a contemporaneous record of the verbal interactions. This requirement is onerous, extremely difficult in practical, field-worthy application, and, in our view, unsupported by an empirical demonstration of need.

We would welcome further detail from the Central Bank as to how this requirement will, in fact, increase the protection which is already afforded to consumers under existing consumer protection measures, legislative and otherwise and the requirements relating to knowing your customer and suitability.

While we are in full agreement that consumers are best served by a properly regulated selling environment, we do not agree that the contemporaneous record requirement will add anything to the current regime for the sale of *simple and standardised products*. This additional recording step is in our view likely to confuse the sales process further and realistically is part of the additional regulatory layer likely to discourage market entry or indeed, any type of face-to-face sales, which in turn impacts on a customer sector most in need of access to these products.

Unsolicited Contact – Follow up

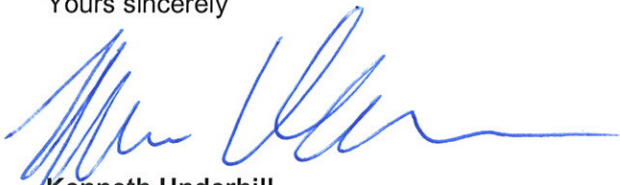
Chapter 13 of the Consultation Paper proposes that an unsolicited visit or call for a protection policy can only be concluded on a subsequent visit or call. We have significant concerns about the need for, and practicality and consequences of this proposal:

1. For the most part, unsolicited calls and visits are the economically viable distribution channel for simple and standard protection policies. Sales of these products, in addition to the various suitability and know your client requirements, can be made subject to statutory or contractual cooling off periods. We do not see how this further regulation, in the manner being proposed, will add anything to the level of consumer protection that is already in place.
2. Our experience in this business leads us to believe that a more likely consequence would be to effectively close down this sales channel (with consequent loss of access for an underserved market sector).

3. Even if a requirement prohibiting a consumer from purchasing personal insurance in less than two steps does not make this distribution channel uneconomic for the insurer, the increased administrative costs are likely, at least in part, to be passed onto the customer. Yet those who purchase protection products through face to face sales channels are the ones most in need of affordable insurance.
4. The timescales set out in the Consultation Paper for subsequent calls and visits (and indeed the proposed timescales for unsolicited calls generally) are very restrictive and we would question how workable those are in practice. Removing weekends from the permissible calling hours is unjustified and onerous in light of fact that the majority of households will have one or more persons absent from Monday to Friday. Again, the proposal has the unintended effect of making it more difficult for consumers to obtain needed personal protection. In addition, these restrictions would not protect consumers from either deceptive sales practices or ill-considered purchases. The suitability of these personal protection plans is not dependent upon the day of the week in which they are purchased.

In summary, we agree and indeed welcome workable and proportionate provisions that will better protect those who are in need of being so protected. However, this must be balanced against the need to facilitate real and affordable access to certain insurance products for those with limited recourses to protect themselves or otherwise hedge against risk. In our view, introducing the amendments to the Code which have been addressed in this letter in the sale of **all financial products**, irrespective of the nature of the product, will only serve to hinder access for those low income populations to standardised and simple protection policies by over-regulating to the point where it becomes unviable for operators.

Yours sincerely



Kenneth Underhill

General Counsel