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 Committee Secretary
 House of Representatives Standing Committee
 on Social Policy and Legal Affairs
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Inquiry into the Do Not Knock Register Bill 2012
Submission by the Direct Selling Association of Australia Inc.

1. The Direct Selling Association of Australia Inc. (DSAA) is a trade association representing over 70 direct selling organisations supplying consumer products through independent distributors in the direct sales channel. Some members use business models that have elements of what is described as door-to-door selling in the Do Not Knock Register Bill.
2. DSAA members offer a wide range of consumer products particularly in the skin care, personal care and therapeutic products markets. The Association does not represent other suppliers using direct selling methods, such as major energy and telecommunications retailers.
3. As a condition of membership members must observe the Association's Code of Practice. Reflecting privacy principles and commercial reality Clause 14 of the Code requires a member or distributor to respect any consumer request to not be contacted regarding the possible supply of a product. A request could take any form and would include, for instance, a "Do Not Knock" sticker prominently displayed at premises.
4. The Standing Committee on Social Policy and Legal Affairs is tasked with examining the Bill's constitutionality but also invites comment on any other issues with the Bill. DSAA cannot support the Do Not Knock Register Bill. The Association believes by objective analysis it is ill-conceived and confused.
5. The Bill has significant issues for some DSAA members and by extension the broader direct selling industry. Its proponent claims that the "heart of the Bill" lies in privacy, but this belies its underlying effect of further attacking legitimate door-to-door selling.
6. In the Australian Consumer Law ("ACL") all Australian governments have agreed on an approach to regulate consumer privacy and irresponsible selling techniques in door-to-door selling. Questionable selling techniques and the potential for consumer vulnerability in some home selling is addressed with pre-contractual disclosures and point of sale requirements, as well as expanded and liberal cooling-off rights. Privacy considerations are dealt with in calling hour restrictions and consumer empowerment for terminating unwelcomed home selling approaches.

7. Justification for the proposed register is supported by anecdotal evidence and claimed research in the form of a self-serving energy services biased survey that is extrapolated unqualified to the broader home selling environment. The Association would welcome empirical support for the proposed register as it relates to its members' activities.
8. It is claimed, but not explained how the Bill meets Australia's human rights obligations, notably rights to privacy and to participate in public affairs and elections. Doorstop selling is heavily regulated by the ACL which from inter-governmental agreement survives constitutional limits throughout Australia. All governments considered privacy issues in developing the ACL with the result that calling hours are restricted, and unsolicited approaches must cease immediately if requested by a consumer. Curiously in exempting unsolicited approaches by political parties the Bill ignores that the rights to privacy and to participate in public affairs and elections are mutually exclusive. The Bill denies a person who does not wish to engage in this activity a right to privacy. It is also noted that reference to human rights criteria in the Bill is selective. The Explanatory Memorandum ignores a fundamental right to work in Article 6.1 of the *International Covenant on Economic, Social and Cultural Rights*. Given more than 400,000 Australians are contracted to our members in distributing their products, where is the justification for denying their internationally recognised right to work?
9. Against a paucity of factual information to support the Bill no assessment apparently exists of its economic or social impact, nor is there any assessment of its likely effect on particular markets. It is understood this is not a Government Bill and technically therefore requires no regulatory impact statement, but it proposes serious market intervention and should be considered against principles of effective policy development and COAG Best Practice Regulation policies to identify the impacts of its proposed measures. The Explanatory Memorandum claims the Bill will have no financial impact. The absurdity of this claim is evident in the cost of establishing and maintaining the Do Not Call Register. In a DSAA member context at least, the proposal will have obvious financial and practical implications for distributors that are small and micro businesses.
10. The proposed register is substantially based on the principles and operation of the Do Not Call Register. However there are significant differences between that scheme and what is proposed. The key head of power for the Do Not Call Register is section 51(v) of the Constitution relating to postal, telegraphic and telephonic services. DSAA does not claim constitutional expertise and doubtless the Committee will defer to professional advisers but it seems the reach of the Bill will be limited in its reliance on the corporation's power. Again in a DSAA context while its members are usually incorporated, the vast majority of their distributors who operate under wholesale business arrangements are not. It seems the Bill will not have universal reach without supporting State and Territory legislation and in its current form could potentially mislead to the public as there may be an expectation that door knocking will no longer occur if a person registers.
11. There are practical issues in applying a telephone number register concept to physical home selling. For example, if a property has no visible address number will it be incumbent on the owner or occupier to ensure its identity? According to the latest census data 13.6% of Australia's population lives in units and apartments: how would the proposal work for those premises? And must it be assumed that a person acquiring premises and disposed to home selling would have as a matter of course to search the register? These and many other examples show not only difficulties in applying and enforcing the proposal but also how different it is to the Do Not Call Register.

12. Questions also exist about the operation of the Register. What timeframes must the Registrar observe in providing registration details sought by businesses? And at what cost to small and micro business in securing information?
13. DSAA does not doubt the superficial attraction of a register for calling purposes but as shown above a raft of considerations militate against its introduction. A cumbersome and costly exercise will only affect legitimate businesses. Even with significant penalties and assuming an appropriate government commitment of resources to compliance activity, the proposal is unlikely to overcome exploitation of vulnerable consumers. Nefarious scammers are unlikely to identify themselves to someone they have door knocked. Given that the complaint provisions that lead to infringement notices and other penalties rely on identification, the impact of this Bill will be felt only by genuine traders who already abide by the stringent consumer protection regime in existing law.

DSAA appreciates this opportunity to comment on the Bill.



John Holloway
Executive Director
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