

# **Senate Select Committee on Superannuation and Financial Services**

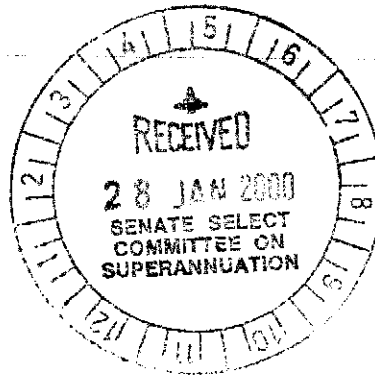
## **Main Inquiry Reference (a)**

**Submission No. 12**

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**Patience, Saxon (SEN)**

**From:** Carolyn Bond [bond@vicnet.net.au]  
**Sent:** Thursday, 27 January 2000 5:59 PM  
**To:** super.sen@aph.gov.au  
**Subject:** Senate Inquiry



FROM:  
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27th January 2000

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The Secretary  
Senate Superannuation and Financial Services Select Committee  
Parliament House  
Canberra ACT

By email: super.sen@aph.gov.au

Dear Sir/Madam,

We have only recently become aware of the Senate Inquiry. We hope that you are able to take into account these brief comments.

(a)

As an organisation which assists many consumers with consumer credit and debt problems, we are concerned that resources available to consumer organisations often limit the amount of input we can have on a range of issues such as industry regulation, consumer education, and industry codes of conduct. Peak organisations (such as Consumer Federation of Australia) have little or no funding to co-ordinate input from consumer groups.

Another issue for us, is the difficulty in identifying which "consumer watchdog" is the most appropriate for a particular complaint. This would be very difficult for consumers wishing to raise complaints themselves. While these agencies are often helpful in ensuring that a complaint is directed to the appropriate regulator, there would be some benefit if links and referrals were formalised.

The following case study illustrates the difficulty in identifying the appropriate authority.

Certain finance companies made unsolicited phone calls to consumers at their homes. They asked questions of consumers in relation to their current financial obligations and how they intended to meet these. Consumers were told a "money plan" or "projection" was being prepared and that by refinancing their loans or mortgages with these companies, they would save money. Representatives would then visit these consumers' homes and wait there until they had entered into the plan by paying a deposit (in one case the representative stayed for 7 hours and in another case, left the consumer's place at 3.00 a.m.). When the consumers felt pressured and subsequently wished to withdraw from the plan they were charged in excess of \$2000 for "preparation fees" – i.e. the alleged cost of preparing the actual piece of paper which was the "budget" or "projection" plan. The conduct raised possible issues in relation to financial advice, finance broking, credit, "door to door" selling and unconscionability and misleading conduct.

The CCLS initially approached ASIC on behalf of the complainants on the basis that the fees charged appeared to relate to a type of financial planning service. ASIC found that it was unable to do anything because the specific activity of these companies did not fall within the definition of "financial services." ASIC then forwarded the complaint to the ACCC and the Victorian Office of Fair Trading and Business Affairs. The ACCC informed CCLS that it would not pursue the matter as OFTBA was more appropriate and "administered legislation of a similar nature to the (Trade Practices) Act" and because "contact sales" were involved, this was deemed to be a "state – based matter." The OFTBA are currently investigating the companies involved.

Yours faithfully,

CONSUMER CREDIT LEGAL SERVICE INC.  
Registration No. A0023361K