Submission

Consultation paper –

Exposure draft regulations on sales incentives under new conduct regime

Completed by:

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Submission on Exposure draft regulations on sales incentives under new conduct regime

Your name and organisation

Name	Charles Slogrove
Organisation (if applicable)	Kiwi Adviser Network Limited

Responses to consultation document questions

Prohibited incentives

1 *Do you consider that the draft regulations give effect to Cabinet's decision to prohibit sales incentives based on volume or value targets? If not, why not?*

No I do not. I am concerned that the current draft legislation will have an unforeseen and ill-considered effect on the financial services industry, unintentionally prohibiting commission incentives on a much wider scale. Cabinet's decision to prohibit sales incentives based on volume or value targets is intended to address particularly problematic incentives that could lead to poor outcomes for clients. The proposed wording may have the unintended consequence of capturing all commission that is paid with a residual income component attached. Adding the words 'or other thresholds' has significantly changed the intent of the cabinet paper and does not clearly reflect the intentions of the decision.

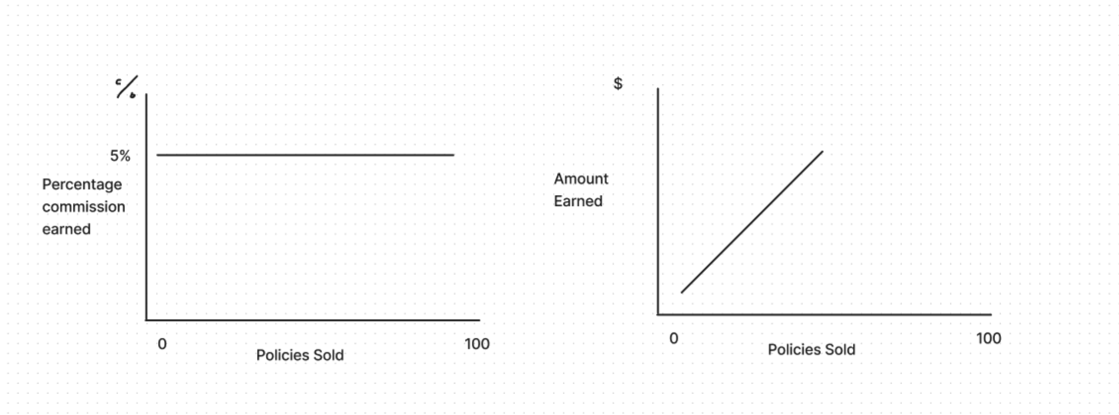
As an example, lenders and insurers pay a residual income stream to financial advisers to help support the ongoing advice and management of a product that is sold to a client. As an example, a mortgage adviser might earn 0.5% as a commission up front for arranging a home loan. The adviser might also receive a further 0.1% ongoing residual payment each year that the loan remains in place. While this is technically a linear commission structure, it could also be argued that there is an inbuilt threshold (time) that needs to be achieved for more commission to be paid. The cumulative commission earned as a percentage starts at 0.5%, and technically increases to 0.6% after one year. After two years, the adviser's commission is technically 0.7% of the product sold.

The legislation does not address non-linear commission structures that account for the mutually beneficial outcome all of the industry's wider legislation is trying to support; where a client is sold the right product, receives ongoing product advice to ensure the product remains for purpose, and also has a strong relationship with a stable and high quality financial institution, who ensures the product is delivered to a high standard. I expect that is the type of outcome this commission structure is trying to support. I expect this represents the majority of commission based structures provided to mortgage and insurance advisers.

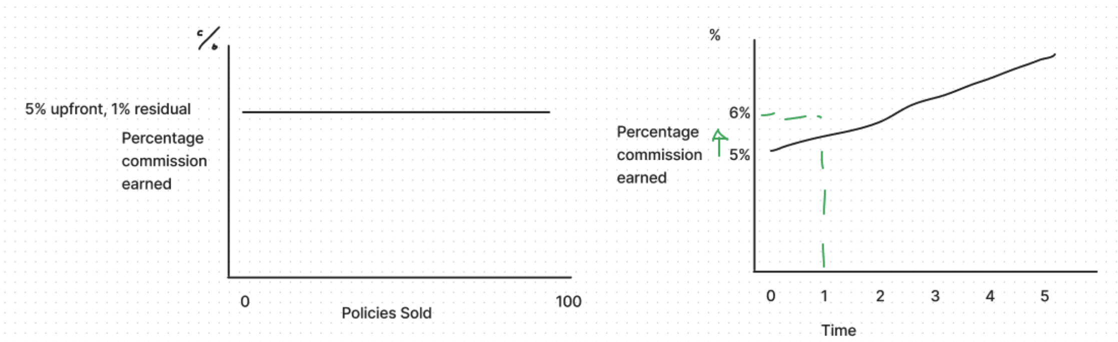
2 *Do you have any comments on the examples chosen of a prohibited incentive and a non-prohibited incentive?*

As a continuation of my previous statement,

Example A states incentives on a linear basis are not prohibited.



What about example C, whereby the commission also considers time as a variable, suddenly the commission is no longer 'linear' and is no longer well covered by the draft legislation examples.



3 *Do you have any other comments on the way the draft regulations define prohibited incentives?*

n/a

Recipient of incentive

4 *Do you have any comments on the definition of 'relevant person' in relation to a financial institution or an intermediary?*

	n/a
Exclusion of senior managers and executives from the incentive prohibition	
5	*Do you have any comments on the application of the draft regulations to senior managers and executives?*
	Senior managers and executives are the key people responsible for setting up incentives. They should not be excluded from this definition.
6	*Do you have any other additional general comments on the exposure draft regulations?* *For example, do you see any unintended consequences arising from the draft regulations in relation to any other matters? Are there any areas where the application of the draft regulations is unclear and could benefit from additional examples or guidance?*
Other Comments	
	I am generally concerned that this legislation goes against the initial intention of the COFI legislation in regulating sales incentives. Specific reference is made to NOT regulating incentives as a whole, but specifically targeting incentives that lead to poor outcomes. The current drafting will stifle the industry's ability to come up with innovative, positive, and meaningful commission structures.