

The Americans are the world leaders in direct mail marketing techniques and this method has been used to sell legal expenses insurance. Unfortunately the insurer most closely identified with this effort was sold and its new owners decided to pull out.

There are wide differences in the cover offered by the schemes on the USA market. The most comprehensive are those operated by the trades unions, on a non profit-making basis. With these schemes you are even covered for the cost of making a will and conveyancing. At the other end of the scale there are the "access plans" which guarantee their policyholders legal advice on any problem. If the problem cannot be solved on the 'phone there is no cover for further legal costs.

In the USA and in Europe interest in legal expenses insurance continues to increase, with more and more insurers selling the cover and more and more lawyers handling the claims. This book is essential reading for anyone involved in the subject – the editors are to be congratulated for providing such a thorough survey of the state of the market and its turbulent history.

**OUR LIFE CORRESPONDENT,
(M.L. DAWBARN, – CANNON LINCOLN GROUP,)
REPORTS:-**

**1. PROPOSAL FORMS AND APPOINTED
REPRESENTATIVES**

At time of writing it seems to be becoming clear that the Securities and Investment Board versus the Office of Fair Trading controversy will be resolved in favour of SIB and that polarisation will prevail. Insurers, unit trust managers, brokers and other intermediaries will be assessing the market place and positioning themselves for the changes which will overtake them within the next few months.

Practitioners of insurance law will need to study the legislation and rule books for the changes that may become necessary in their procedures. The law of agency for instance seems to be directly affected. At present a Life insurer will generally maintain that where an intermediary fills in the answers on a proposal form, he does so as agent for the proposer, not the insurer. In this way the insurer hopes to pre-empt any suggestions that a wrong statement or non-disclosure was the intermediary's responsibility rather than the proposer's.

It seems that this will now be less valid for insurers who use appointed representatives for selling investment contracts which, of course, includes many life policies. The insurer will have to accept responsibility for those who sell in that capacity and this includes responsibility for advice given on answering questions on the proposal form. The insurer might therefore be in difficulty, particularly in borderline cases where the representative cannot be traced or where he cannot recall the interview.

It seems that best advice rules are going to make it necessary for intermediaries, even appointed representatives, to keep full notes of the advice given. Insurers might do well to require a simple statement to be included, dealing with any advice given as to how underwriting questions should be answered.

Perhaps insurers should also look again at their proposal forms. Marketing executives of life insurance companies have long pressed for shorter forms which can be completed more quickly and simple. This trend has often been in opposition to legal advice on the subject. Perhaps though the marketers are right! If a proposer only has to answer three or four simple worded questions which do not contain any technical medical or insurance jargon, it must be more difficult for him (or his estate) later to disclaim responsibility for the answer.

2. CAPITAL GAINS OF LIFE COMPANIES – BUDGET 1987

Although the talk is of level playing fields, life insurance as a savings medium continues to be regarded as a fair subject for tilting at. This year we have seen in the Chancellor's budget tax on realised capital gains within life funds increased to 35%, without benefit of the yearly exemption for policyholders, against a rate of 30% for unit trust investors, which is deferred until the units are sold, at which time they enjoy the full yearly exemption.

Unit linked and with-profits policies still enjoy a few fiscal advantages over more direct forms of investment in securities. Firstly there is the freedom to switch from one sector to another. This can still be achieved for unit linked holders without charge to tax. Secondly there is the freedom from higher

rates of personal tax which makes a life policy a particularly valuable form of investment for trusts and in the case of systematic premiums for higher rate tax payers.

With all the inroads in recent years into the advantages previously enjoyed by life funds, perhaps the time has now come when further discrimination is no longer seen as necessary.