

Regulatory Burdens Review  
Productivity Commission  
GPO Box 1428  
CANBERRA CITY ACT 2601  
**Email:** regulatoryburdens@pc.gov.au

**Attention:** Mr Frank Nugent  
Research Manager

10 August 2010

Dear Mr Nugent

**ANNUAL REVIEW OF REGULATORY BURDENS ON BUSINESS: BUSINESS AND CONSUMER SERVICES – GENERAL INSURANCE**

The Insurance Council of Australia Limited<sup>1</sup> (Insurance Council) welcomes the opportunity to comment on the Draft Research Report by the Productivity Commission (PC) for its Annual Review of Regulatory Burdens on Business: Business and Consumer Services (the Draft Report). Our comments are limited to the sections of the Draft Report dealing with financial services. The Insurance Council appreciates the assurance from Mr Nugent that despite a technical problem delaying the PC's receipt of the Insurance Council's initial submission of 26 February 2010, the issues raised will be taken into account in the development of the PC's Final Report.

The Draft Report is a comprehensive examination of the issues raised in submissions. It is useful that, even where the PC judges that a matter is outside the scope of its Review, attention is still given to industry concerns. As evidenced by its earlier submission, the Insurance Council shares the view of other financial services sectors cited in the Draft Report (page 81) that the advice definitions in the Corporations Act 2001 prevent financial services providers, in our members' case – general insurers, from providing consumers with simple advice on their products.

Fulfilling the personal advice requirements of the Corporations Act, which may make sense for investment products, is overly cumbersome for general insurance products that are typically simple in nature, run for a set period of time, can generally be cancelled at any time with a refund of the balance of premium and changed at renewal, have a cooling off period and do not involve any risk in terms of lost income or investments. The inclusion of this issue

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The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. December 2009 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross premium revenue of \$32.9 billion per annum and has total assets of \$94.2 billion. The industry employs approx 60,000 people and on average pays out about \$95 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

in the PC's Final Report would help industry efforts to have this matter looked at more broadly as part of Federal Treasury's work on the Future of Financial Advice (FOFA) reforms initiated by the current Government.

Furthermore, the Insurance Council notes the PC in its Draft Report suggested that the terms of reference for an expert advisory panel established under the FOFA reforms to review professional standards in the financial advice industry should include explicit consideration of the training requirements applicable to simple financial services (page 66). This matter has been a long standing concern of Insurance Council members and was put in a submission to the ASIC review of RG 146 referred to in the Draft Report (page 64). The PC's proposal therefore has the Insurance Council's strong support and we would urge that the PC make this an explicit recommendation in its Final Report.

Even though the PC may decide that the issues are ultimately out of scope, the Insurance Council considers that there would be merit in the PC mentioning in its Final Report the arguments put in the Insurance Council's initial submission for the reform of State taxes on insurance and for harmonisation of the regulation of State-based insurance. Further public exposure of the issues involved would help build momentum for these reforms. We note that the Federal Government, while acknowledging that they are State responsibilities, has endorsed the positive recommendations on these matters in the recent report by the Australian Finance Centre Forum (the Johnson report).<sup>2</sup>

Since the Insurance Council's submission of 26 February, Federal Treasury has held a public consultation on consumer protection from unfair terms in consumer contracts. We note that this issue was mentioned in the Draft Report, although judged to be out of scope. If the PC is interested in a comprehensive explanation of why the Insurance Council considers that the consumer protection provided already by the Insurance Contracts Act 1984 is satisfactory, we recommend the PC refer to our submission to Treasury which can be found at [http://icareview.treasury.gov.au/content/insurance\\_options\\_submissions.asp?NavID=23](http://icareview.treasury.gov.au/content/insurance_options_submissions.asp?NavID=23).

As a general comment, we note that the Draft Report's discussion of Government reforms to achieve more effective consultation (page 39) is placed after a lengthy examination of industry criticisms of consultation practices at the Federal level. While not wishing to suggest that these criticisms are without substance, the current structure of the Draft Report may not give enough attention to Government efforts to consult meaningfully. As explained in the Insurance Council's initial submission, our experience has generally been of a stronger commitment by Federal departments and regulators to effective consultation.

However, the Insurance Council would reiterate its concerns about regulatory reform overload. The financial services industry has faced major regulatory change for more than a decade. This began in 1996 with the Wallis Inquiry, the lead up to and development of the FSR reforms, implementation of a new regulatory regime, continual refinements to eliminate problems with the new regime, and major extensions of regulation through for example the National Credit Code and the Australian Consumer Law. A considerable impediment to industry providing well considered, comprehensive feedback on a regulatory proposal is the number of financial services changes open for consultation at any one time.

We would stress that this is not to say that the Insurance Council disagrees with the policy intent of these regulatory initiatives. However, constant regulatory change and adjustments

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<sup>2</sup> Government Responds to Australia as a Financial Services Centre Report, Media release by the Assistant Treasurer and the Minister for Financial Services, 11 May 2010.

does come at a cost, not only through changes to policies and practice by financial services providers but especially in terms of the management attention that is diverted from the actual business of financial services to ensuring that an organisation's regulatory compliance is satisfactory.

As discussed with the Review team on 9 December 2009, the problem is a difficult one and serious consumer detriment should not go unaddressed. However, the Insurance Council suggests that in relation to some measures the consumer benefit may be so relatively minor, there would be advantage in staging financial services reform over a period of time, leaving industry to focus on meeting the financial services needs of their customers.

If you require any further information, please contact Mr John Anning, the Insurance Council's General Manager Policy – Regulation Directorate on (02) 9253 5121 or [janning@insurancecouncil.com.au](mailto:janning@insurancecouncil.com.au).

Yours sincerely



Robert Whelan  
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