

Maintaining a level Playing field for Small businesses

**Comments from the
Insurance Brokers
Association of Canada**

Submission to:

Canada's Competition Policy Review
Panel
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INSURANCE BROKERS ASSOCIATION OF CANADA
ASSOCIATION DES COURTIERS D'ASSURANCES DU CANADA

IBAC is the umbrella organization of eleven regional member associations of property and casualty (P&C) insurance brokers in Canada. These associations represent over 31,000 insurance brokers in virtually every community across the country. Insurance brokerages are the principal distribution channel for P&C insurance companies, which offer risk-management products for real estate, motor vehicles and other non-life assets.

Insurance brokers provide their clients with independent, unbiased advice with respect to insurance coverage, legal issues related to insurance policies, and they act as claims advocates on their behalf with the insurance company. The client base of brokers is very diverse, ranging from individual clients to large commercial accounts. It is also sizeable, as brokers write approximately 75 percent of personal and commercial insurance policies in the country.

The property and casualty industry has assets of more than \$110 billion, and employs approximately 100,000 people nationally.

We have taken an approach with this paper whereby we do not answer directly the questions posed in the consultation document because most of these do not apply to our industry, however with your indulgence, we believe that there are some general principles on this topic that affect our profession and the consumers that we deal with.

BACKGROUND

During the last twenty years, the regulation of the financial services sector has changed significantly, both globally and in Canada. The pressure to harmonize regional market practices with global trends has intensified. "Globalization" as a term and market standard has been accepted as shorthand for increased competitiveness. Current wisdom holds that in order to maximize competitiveness, financial institutions must be permitted to compete across what have traditionally been regarded as the four "pillars" of the financial services sector that were, historically, protected by legislation, those pillars being: banks, trust companies, insurance companies and investment dealers.

In Canada, the current regulatory approach accepts, for the most part, that cross-pillar activity improves market competition and conduct standards, trusting the consumer as the ultimate arbiter of performance. The philosophical companion of this model is the concept of risk versus rules-based regulation; the notion that sophisticated and responsive financial institutions, dependent on sustaining a viable market share, must and will manage their affairs in accordance with

legislated standards of operation, freeing the regulator to turn its attention to serious failures or other breaches. When talking about consumer protection, it seems clear that rules based regulations are solely intended to ensure this since they are more of a preventative regime as opposed to a compensatory one as found with principle based regulations.

Canada and the Office of the Superintendent of Financial Institutions (OSFI) have consistently recognized and distinguished the unique role of the property and casualty insurance sector, and intermediaries associated with that sector, throughout decades of intense deliberation and change. As stated in the *Report of the Standing Senate Committee on Banking, Trade and Commerce*, "A Blueprint for Change, Volume II: Sections A, B, C, D, and E, Response to the Report of the Task Force on the Future of the Canadian Financial Services Sector, Chaired by The Honourable Michael Kirby, and issued in December, 1998 (the "Senate Report"), the P&C sector represents a unique set of skills and interests compared to the other three pillars; that being that P&C is focused solely on risk management, whereas the other sectors, at their core, are about wealth management. Put differently, the Senate is stating that the expertise required to service the P&C market is distinct and, in the public interest, this expertise must not be blurred with the skills required to professionally service the wealth management sector.

Since the mid 1980s, Canada has undertaken several comprehensive reviews of various issues related to the regulation of the financial services sector. The overwhelming consensus of all reviews is that property and casualty insurance products require highly specialized knowledge and expertise which is quite distinct from the skills required to service the other three pillars. The catalyst for much of this public debate has been Canada's largest financial institutions wishing to remove regulations prohibiting them to retail insurance products. Specifically, as set out in the Senate Report, at page 8:

The banking and life insurance industries have as their principal focus the provision of financing services, wealth management services, and investment services.

The committee feels that property and casualty insurance fits into none of these services. Property and casualty insurance is essentially "a pure risk protection product." It has none of the investment or wealth management characteristics of life insurance. Therefore the Committee has concluded that the current rules, whereby banks can own a property and casualty insurance company but cannot sell property and casualty insurance in their bank branches, should not be changed.

In June, 2006, the federal government issued a White Paper entitled: “2006 Financial Institutions Legislation Review: Proposals for an Effective and Efficient Financial Services Framework”, which clarified the government’s position that no change with respect to the retailing of insurance products in retail branches of banks is warranted or in the interest of consumers. This reflects the recognition, by all governments, of the strong public interest inherent in maintaining the *status quo* with respect to the balance of bank and insurance powers.

COMPETITIVENESS

We believe that the following general principles should govern the policy debate when it comes to competition:

- 1) The importance of maintaining a level playing field for all types and sizes of businesses in a particular field.
- 2) The importance and value of foreign capital investment in the domestic economy.
- 3) The recognition of the distinct nature of provincial and regional economic characteristics, and their respective regulatory requirements.

At the forefront of our preoccupation with the issue of competitiveness, is the fundamental concept that we believe consumers should not be denied healthy competition and choice. In today’s marketplace, Canadians are offered P&C insurance products from over 200 insurers distributed by over 36,000 insurance brokers, countless insurance agents and direct writers. Many of these insurers are foreign-owned. Canadian banks also own insurance companies which compete head to head with everyone else.

Current regulatory provisions are intended to ensure the competitiveness of small and medium sized enterprises (SMEs), notably insurance brokerages, when facing giants. SMEs account for nearly half of the Canadian GDP, and it is no wonder that these provisions exist. By ensuring a level playing field, Canadians are much better able to make choices from both large and small providers offering goods and services.

One of the major concerns underlying our position is the threat of coercive tied-selling to consumers. We believe that the credit application process is one that should not be used as an inducing exercise to pressure a consumer for another product. For example, during the mortgage application or auto financing processes, insurance products should in no way be presented as a factor. Despite assurances given by credit-granting institutions, this is extremely difficult to police and enforce, and we believe continues to occur.

If Canada wants to maintain a strong SME sector in the insurance industry, then allowing Canada's banks to retail insurance from their branches would clearly provide a predatory and unfair advantage that small businesses simply cannot match. As a result, this industry would follow the path that others have taken over the past 20 years; namely stock brokerages, trust companies, mortgage brokers, and so on. The result is a concentration of consumer choice in the hands a few players, as we have seen in these industries, which goes against the goal of healthy competition and choice.

There exists a natural assumption that by removing restrictions and regulations in the interest of improved competitiveness, one will achieve such a goal. However, we would suggest that in some instances, intelligent legislative restrictions allow for small players to compete on a level playing field with giants. The result is in effect more competition, not less. We ask that the government keep in mind that due to their sheer size, the behaviour of large financial institutions be monitored through regulations that allow the growth of non-banking institutions. If allowed this ability to compete and grow, smaller players will provide consumers with even more choices to purchase goods and services.

This is why we believe that the on-going debate of allowing banks to retail P&C insurance products from their branches is not in the best interest of Canadian consumers. It will provide giants an advantage to exploit their behemoth networks to drive out smaller players and centralize even more insurance powers into fewer and fewer hands; and thus make the market even less competitive.

The second point that we consider important on the competition question is the role of foreign insurers and foreign investment. As mentioned earlier, one of the reasons for consumers of insurance having so much choice in the marketplace is the number of foreign-owned insurers. Out of the ten biggest P&C insurers in Canada, only five are Canadian-owned. This is evidence of the maxim that the insurance industry is a global one. Were it not for the global nature of the industry, large losses such as the urban earthquake in Vancouver, or the ice storms of eastern Ontario and southern Quebec, or hurricane Juan in Atlantic Canada, would have had major negative impact on the viability of the domestic industry.

Allowing a wide-open and un-regulated environment would provide Canada's large financial institutions to squeeze out yet another much needed component of an industry that requires international exposure to domestic risk; namely foreign insurers. This liberalization would have also not allowed the growth of small insurers who have carved out a specialized niche where the larger players have refused to provide needed coverage.

The third aspect to this debate is the recognition of the clearly unique nature of the various provincial economies. In a country with the second largest land mass

on earth, it seems unrealistic to assume that the most effective and competitive regulatory regime would be a harmonized one; a one size fits all.

The framers of the Constitution came to the realization that, for the most part, centralized governing would be a failure for a country with such different economic realities. We suggest that the current provincial regulations dealing with market conduct in the insurance field work effectively in consumers interests. Harmonizing regulatory regimes governing point-of-sale transactions would not take into account the different consumer requirements and therefore be against their interests.

CONCLUSION

We would respectfully present the following conclusions for your consideration, and would end by thanking you for the opportunity to provide our comments:

Canadians want, and indeed deserve, a competitive market-place for their insurance needs. The current restrictions on the question of retailing insurance provide an environment of a level playing field between small business and global giants. This allows SMEs (notably insurance brokerages) to compete head to head within the same rules. In fact, removing this restriction would only create less competition, and Canadian consumers would lose choice in their buying decisions.

The Canadian marketplace requires healthy foreign investment in the insurance field; as is evidenced with the market-share of foreign-owned P&C insurers. If Canada is to remain competitive, and be allowed to spread domestic risk internationally through reinsurance, maintaining a regulatory level playing field between large and small, foreign and domestic owned players, is recommended.

Market conduct regulatory regimes work most appropriately and efficiently when drawn up at the provincial level. Harmonizing these regulations would make one provincial market uncompetitive relative to others, and consumers in those markets would be disadvantaged.