

April 2021

Response by the National Insurance Brokers Association of Australia to the Australian Small Business and Family Enterprise Ombudsman Insurance Inquiry Report, December 2020

The National Insurance Brokers Association (NIBA) welcomes the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) report into small business insurance and recognises the significant work carried out by members of the Small Business Ombudsman's office.

Background

The report makes many recommendations that NIBA believes will bring considerable benefits to the affordability and availability of insurance for small businesses and consumers alike. Many findings of the report match the experiences of our members, both as insurance intermediaries and many as small businesses themselves. In particular, insurance brokers regularly experience and observe reductions in insurance availability in many sectors and regions, products that are unfit for purpose, in some cases a lack of confidence in claims outcomes and the time-consuming process of finding and comparing different insurance products.

Role and Value of Insurance Brokers Recognised

It is for these reasons that so many small businesses engage the services of a qualified insurance broker, who are 'experts' in helping business owners identify and understand their risk and insurance needs, and subsequently matching the insurance needs of small businesses with the appropriate insurance or non-insurance products. Where the insurance needs of a business cannot be met by existing products in the market, brokers are often able to work with underwriters to create an insurance program that best meets the needs of the business.

This matching process leads to better outcomes for small businesses. The 2020 Deloitte Access Economics report into the economic value of insurance broking found that prior to engaging a broker, 40% of clients were either under-insured or not insured at all.

Brokers are able to communicate detailed aspects of policies in a way that is easily understood by their clients, helping them to understand the often major implications of minor differences in policy wording. In addition, insurance brokers are able to provide small businesses with the confidence that should an insured event occur, their insurance will respond in the way they expect.

The 2021 Vero SME insurance index found that SMEs were significantly more likely to be satisfied with their claims experience through a broker when compared to those who bought

their insurance cover directly from an insurance company.¹ Brokers are also able to save their clients on average 11 hours searching for the right insurance products to meet their needs. This equates to more than \$230 million in time savings for business customers.²

For these reasons NIBA warmly welcomes the findings outlined in the report that acknowledge the role and value of insurance brokers and support their use by small businesses.

Insurance Broker Remuneration

At the same time, NIBA is disappointed that ASBFEO has recommended a ban of so-called conflicted remuneration. NIBA strongly rejects the proposition that commissions are inherently conflicted.

Insurance brokers have an obligation to act in the best interest of their clients at all times. This obligation is more than aspirational, it is the legal foundation on which Australian insurance law is built. While the Royal Commission into Misconduct in Banking and Financial Services found evidence of commission payments leading to poor consumer outcomes in other areas of financial services, no such evidence was found in the intermediated general insurance industry. In fact, the Royal Commission found no evidence of misconduct by general insurance brokers despite brokers being well within the commission's terms of reference.

Further evidence of broker's commitment to their clients best interest can be seen in the extremely low number of AFCA complaints against insurance brokers. For example of the 607 complaints received by AFCA in relation to small business insurance less than 8 percent were complaints against an insurance broker³.

Rather than providing incentives for conduct which leads to widespread client detriment (for which there is no evidence at all), general insurance commissions provide a number of benefits small business clients, especially when a client's business risks are difficult to place in the insurance market, and when a client has a challenging claim that needs to be negotiated with the insurance company. In both of these cases, the insurance broker acts without charging for the time and effort involved.

NIBA notes Royal Commission recommendation 2.6 in relation to the proposed 2022 review of remuneration arrangements for general insurance products, and we look forward to making a substantive submission to that review. It would be premature for the Federal Government to take action in relation to general insurance remuneration arrangements prior to that review being undertaken.

The Impact of Insurance Taxes and Levies

NIBA is pleased to see the ASBFEO report acknowledge the impact of taxes and other state-based levies on the price of insurance, especially in regards to affordability of many types of

¹ Vero SME Insurance Index 2021

² Economic value of insurance brokers

³ AFCA Datacube 2019-20 FY

commercial insurance. NIBA has long argued that insurance-based taxes are inherently unfair and act as a disincentive for maintaining appropriate levels of insurance.

This view is shared by many, with a number of major inquiries calling for the abolition of these unfair and inefficient taxes. Most notably the Victorian Royal Commission into the Black Saturday bushfires, the New South Wales Financial Relations Review and the 2008 IPART review of state taxation all recommending such taxes be abolished.

Despite acknowledging the significant financial burden such fees and taxes place on Australian businesses (especially those who insure property located in New South Wales where insurance taxes and levies increase the cost of property insurance premiums by between 40% and 70%), the report failed to recommend their abolition. This is a most serious omission on the part of the Ombudsman.

While NIBA supports the recommendation that these taxes should be clearly identified and singled out as part of the insurance documentation (which invariably occurs now) we fail to see how this will result in better outcomes for Australian businesses. NIBA is disappointed that the report failed to recommend the abolition of insurance-based taxes and levies, whose impact had been so well documented in the report itself and in various submission provided to the inquiry.

Insurance Brokers Code of Practice

NIBA notes Recommendation 3 in the Ombudsman's Report relating to suggested changes to the Insurance Brokers Code of Practice. The Broker Code of Practice is currently being thoroughly reviewed with an independent review undertaking detailed consultation with a range of stakeholders, and the suggested changes will be taken into consideration as part of that review.

NIBA notes that the Insurance Broker Code of Practice is monitored and administered by an independent Insurance Brokers Code of Practice Code Compliance Committee, which operates within and is supported by the Australian Financial Complaints Authority (AFCA). The Code Compliance Committee has the power to investigate alleged breaches of the Code of Practice, and to make a range of orders where the breach has been found to have occurred.

Consumer Data Rights and General Insurance

NIBA notes Recommendation 14 in the Ombudsman's Report relating to the extension of consumer data rights into the insurance market. In this regard, NIBA notes that if a small business client wishes to change their insurance broker, the client simply completes a Letter of Authority in favour of the new broker, following which insurers will then deal with the new broker on behalf of the client. Nothing further is required from the client in that regard, and all relevant policy and claims information is made available to the new broker.

Where the client of an insurance broker is dissatisfied with the products or service provided by their insurance company, the insurance broker is able to place the business with another insurance company at the time of renewal. Of course, the insurance broker will take steps

to ensure the new insurer offers appropriate insurance cover, terms and conditions, that are appropriate for the client and are at a price the client is happy to pay.

In these circumstances, it is easy and straightforward for small business owners to change their insurance broker or to change their insurance company if required.

Conclusion

The general insurance market in Australia remains difficult and challenging for small and medium business owners. The market has also been challenging for the insurance companies, with very significant claims costs being experienced in recent years. Very significant support has been provided to Australian citizens and businesses in recent years, during and following the Black Summer fires, major hail and other weather events, and the significant flooding that has occurred on the east coast. The insurance industry is currently responding to Cyclone Seroja and is assessing the losses sustained by the towns and the farming communities in Western Australia.

The ASBFEO Insurance Report has provided a sound assessment of many of the issues and challenges facing small businesses at the present time.

The National Insurance Brokers Association of Australia remains committed to working with the Ombudsman and his office to address the ongoing issues and challenges in these markets.

Dallas Booth

Chief Executive Officer