

14 August 2018

Manager
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The Treasury
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By email: productregulation@treasury.gov.au

RACQ Insurance attended the briefing by Treasury on 8 August 2018 in relation to the progress and plans for the establishment of the financial services product design and distribution obligations. At that briefing stakeholders were advised that submissions relating to the exposure draft bill and associated extraneous materials were required to be made to Treasury by COB 15 August 2018.

Please consider this submission in relation to the matters discussed at that briefing. In particular we would note:

- RACQ's position as both a large general insurer and a mutual, member-owned, enterprise.
- Prospects of negative consumer outcomes from application of principles-based regulation to renewals
- Potential for a deterioration in the availability, affordability and competitiveness of the insurance market for small and vulnerable consumer classes.

A TRUSTED MUTUAL INSURER

RACQ Insurance policyholders are members of RACQ - a mutual with over 1.7M members across Queensland, and a relationship with over 60% of Queensland households. RACQ is also a trusted consumer advocate in its own right.

Whilst not immune from individual failures, or the risk of unforeseen systemic issues arising, RACQ Insurance is an objectively 'fair' insurer. RACQ Insurance provides a view on this matter that originates from a different perspective to leading industry peers. In particular, RACQ Insurance operates to provide valuable, cost effective, trusted and responsive risk mitigation solutions for our members. Our approach to product design, distribution and service fulfilment is not driven by a motive to return value to shareholders, but rather to return sustainable value to members through enhanced products and services.

On that basis, RACQ Insurance seeks that Treasury might pay particular attention to the matters addressed where we foresee a net negative impact on consumers arising if appropriate mitigation is not taken in the formulation, execution and supervision of the legislation, regulation and regulatory guidance on this matter.

RENEWAL TARGET MARKET ASSESSMENT

Challenge

RACQ is concerned that there is potential that the regime could have unintended consumer impacts in mass market products if the balance between assessment of the target market and efficiency and accessibly for renewals is not appropriately balanced.

Considerations

RACQ understands the intention is that the Target Market Determination (TMD) is applicable to renewal contracts. The implications of this will depend on how the obligation is interpreted and applied.



Currently insurers offer renewals and request consumers to update any information if not correct. Importantly, insurers are able to continue to provide insurance with confidence where there is no response due to the deeming provisions contained in the *Insurance Contracts Act (Cth)* (the 'IC Act'), pursuant to s21B(10).

If the obligation requires a positive response from consumers, this will fundamentally change the way in which mass market products are bought and sold, and while this will drive a significant cost increase that will ultimately be passed on to consumers, of greater concern is the introduction of a barrier to accessing cover that could lead to greater consumer harm.

Experience shows that even where there is a positive outcome (ie a consumer is able to access a refund), response rates are significantly lower than expected. The potential impact at a market level for home and motor is significant. Our analysis indicates that for every 1M insured motor risks, there is a risk of approximately \$126M uninsured losses being required to be self-funded by consumers. This analysis is based on a long-term experienced consumer response rate of 70% (prior to the renewal effect date) where positive communications are necessary, and motor claims frequency and claim size history.

The impact of influencing insurers to enforce a positive obligation in response to inspecific, principles-based, legislative requirements (and therefore simply transfer political risk from the legislature to capital and compliance risk to industry), will almost certainly be an increased risk for every insured of ignorant uninsurance, at least for a period of time until a response is able to be obtained. RACQ considers that the objectives of the legislation can be met that where the TMD has not been changed, and that there has been no change to the consumer circumstance, that insurers are not required to reconfirm information that is already known.

This could be achieved by incorporating a similar provision to section 21B(10) of the IC Act.

ACCESSIBILITY, AFFORDABILITY & COMPETITION

Challenge

RACQ Insurance is concerned that there is strong possibility that there will be an industry response, in part, to withdraw from products that provide small cohort or vulnerable class consumers with insurance solutions.

This response would be an economically rational response for profit-driven insurers where the market opportunity in small cohort or vulnerable class consumers is not sufficient to adequately cover the operational, compliance and risk costs of establishing, maintaining and monitoring products that target those markets. This would result in a likely rise in uninsured consumers in the economy, and a concentration risk for both insurers and economy regulators.

Considerations

RACQ Insurance has considered how the proposed scheme of regulation may deal with this risk to consumers. The likely trigger for this type of response by industry participants will be the application of a blanket approach to target market determination requirements which may be articulated in regulations or regulatory guidance – in particular a lack of nuance in the nature of the general insurance product offered.

For clarity, we suggest that there is significant characterisation differences between general insurance products that have little variable operational effect based on the personal circumstances of the policyholders (such as comprehensive motor insurance) and those product classes that are highly dependent on the personal circumstances of the policyholders (such as travel or consumer credit insurance).

We would be pleased to discuss these issues with Treasury directly if there is an opportunity to test and challenge the issues we have raised, and the possible considerations identified for Treasury and the Government. Please contact Tracy Green, General Manager Insurance Products and Pricing on



██████████ if we can be of any further assistance in your consideration of this important change to the industry and its role in the economy.

Yours faithfully,

Tracy Green
General Manager
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