



11 May 2018

Committee Secretary
Standing Committee on Economics
PO Box 6021
Parliament House
Canberra ACT 2600

By email: economics.reps@aph.gov.au

Dear Sir/Madam

Inquiry into Impediments in Business Investment

The Insurance Council of Australia (the Insurance Council) welcomes the opportunity to comment on the Committee's Inquiry into Impediments in Business Investment (the Inquiry). The Insurance Council is the representative body of the general insurance industry in Australia and our members, both insurers and reinsurers, are a significant part of the financial system. They provide insurance products ranging from those usually purchased by individuals (such as home and contents, travel and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability, professional indemnity, commercial property, and directors and officers insurance).

Continual business investment by the industry, particularly in information technology capability, is critical to the industry's ability to innovate to better meet consumer needs. The consumer experience with purchasing general insurance products is currently undergoing a transformation; with growing consumer empowerment enabled by widespread use of the internet, interactive digital mobile technology, and social networks. The industry recognises the benefits that innovation in insurer processes and products can have on improving consumer outcomes. However, members advise that the greatest impediment to investment in innovation is the current and apparently increasing need for significant expenditure of resources on regulatory compliance.

The Inquiry's terms of reference include inquiring into the interaction between regulatory frameworks across all levels of Government and how the cumulative regulatory burden can be reduced to support greater business investment. The Insurance Council's submission focusses on this aspect of the Inquiry.

The general insurance industry in Australia is extensively regulated through a framework of federal and state-based legislation. The industry is subject to prudential regulation by the Australian Prudential Regulation Authority (APRA), as well as conduct and consumer protection regulation by the Australian Securities and Investments Commission (ASIC)¹. Some insurance covers, such as workers compensation insurance and Compulsory Third

¹ ASIC oversees the conduct and consumer protection protections under the *Corporations Act 2001*, *ASIC Act 2001* and *Insurance Contracts Act 1984*.



Party (CTP) motor insurance, are also subject to state-based regulatory regimes. In addition, there are also a range of other obligations insurers must comply with, including under the *Privacy Act 1988* and federal and state-based anti-discrimination law.

Given the critical importance of the general insurance industry to the protection of individuals, communities and the efficient functioning of the Australian economy, the industry recognises the importance of robust regulation of the products and services it provides. While there is no argument that a strong regulatory regime is required, the industry has participated, in recent years, in a proliferation of inquiries, reviews and reform consultations. The attachment to this submission lists the substantial number of major reviews and inquiries in which the Insurance Council and its members have participated since 2011.

While not underplaying the issues being addressed by these reviews and inquiries, our experience has been that many of these activities have not led to genuine improvements to the regulatory framework or good policy-making. From our experience, issues are often picked up, inquired into and dropped once political attention fades. Some issues, such as natural disasters in Northern Australia, are inquired into multiple times without substantive outcomes. Even where reviews result in agreed reforms, there could be substantial delays to the reforms being implemented; this was the case for the recommendations of the 2004 Cameron/Milne review into the *Insurance Contracts Act 1984*, which were not legislated until 2013. The current process surrounding policy reform is often not conducive to effective or efficient policy-making.

Parliamentary, government and regulator reviews and inquiries place a substantial demand on industry, where considerable time and resources are required to compile submissions, prepare for and attend consultation meetings and hearings, and respond to data and information requests. Some reviews could encompass lengthy processes of responding to initial discussion papers, further options papers, then draft reports, and if accepted by government, exposure draft legislation. These costs are often not considered when assessing regulatory burden. To the extent that these reviews and inquiries are partially or wholly duplicative and not genuine attempts to improve the regulatory framework, these costs represent wasted resources that could be invested in business processes and consumer initiatives.

The Insurance Council submits that a more deliberated approach to the introduction of new reviews and inquiries would be beneficial, whereby attention is given to inquiries already conducted, their outcomes, the outcomes of any recently introduced reforms, any pending reforms announced and industry self-regulatory initiatives. This would reduce the likelihood of repetitive inquiries into the same issues, and provide for a longer-term focus and more strategic approach to policy-making.

The Insurance Council also submits that a more collaborative approach between industry and government to policy reform is more likely to result in effective solutions and outcomes that address the issues identified. Where policy changes are required, government agencies and regulators are already required to meet the Government's requirements for best practice regulation, including the need to undertake a Regulatory Impact Analysis (RIA). In undertaking an RIA, policy-makers are required to identify a range of genuine and viable



alternative policy options². At this stage of the reform process, the Insurance Council has observed examples of where collaboration with industry in identifying the solutions has been extremely effective. One such example is the comprehensive consultation process at the initial design phase undertaken by APRA in developing a new data collection solution to replace the existing D2A system³. For this project, APRA has recognised the importance of the alignment of its data collection solution with insurer data systems and processes, and has engaged extensively with industry technical experts on its design.

Where the government or regulators are tasked with designing new regulatory measures, the requirement to conduct a RIA and the Government's guidance on the considerations that should be taken into account provides a good starting point. While the Regulatory Burden Measure (RBM)⁴ tool developed as part of the Government's Deregulation Agenda is useful in estimating the cost of regulatory proposals, it underestimates the entirety of the costs associated with regulatory change. This is because the tool appears to only envisage minor amendments to existing regulation rather than more substantive changes, for example, regulatory change that may require businesses to make significant changes to their operating model. The Insurance Council identified this shortcoming when using the tool to estimate the impact of the Government's proposal to introduce a product design and distribution obligation⁵.

Yours sincerely

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² Commonwealth of Australia, Department of Prime Minister and Cabinet (March 2014), *The Australian Government Guide to Regulation*, https://www.pmc.gov.au/sites/default/files/publications/Australian_Government_Guide_to_Regulation.pdf

³ <http://www.apra.gov.au/CrossIndustry/Pages/Data-collection-solution.aspx>

⁴ <https://rbm.obpr.gov.au/home.aspx>

⁵ Exposure Draft Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2017.



ATTACHMENT: Major Inquiries and Reviews Since 2011

2011

- Natural Disaster Insurance Review
- Review into the economic potential of older Australians (Advisory Panel on the Economic Potential of Senior Australians)

2012

- Review of strata title insurance price rises in North Queensland (Australian Government Actuary)
- Consultation on unfair contract terms protections for insurance contracts (Treasury)

2013

- Inquiry into older workers and Commonwealth laws (Australian Law Reform Commission)
- Inquiry into volunteers, age and insurance (Anti-Discrimination Commissioner Tasmania)

2014

- Financial System Inquiry
- Review of the sale of home insurance (ASIC)
- Review of strata title insurance price rises in North Queensland (AGA)
- Review of home and contents insurance prices in North Queensland (AGA)
- Inquiry into serious invasions of privacy (Australian Law Reform Commission)

2015

- Review into age discrimination and insurance (Australian Human Rights Commission)
- Australian Consumer Law Review
- Inquiry into disaster funding (Productivity Commission)

2016

- Review of general insurance sold through car dealerships (ASIC)
- Review by the Northern Australian Insurance Premiums Taskforce
- Reform to privacy breach notification (Treasury)
- Introduction of an industry funding model for ASIC (Treasury)

2017

- Inquiry into general insurance (Senate Economics References Committee)
- Inquiry into consumer protection in the banking, insurance and financial sector (Senate Economics References Committee)
- Reforms to the Emergency Services Levy in NSW
- Review into ASIC's enforcement powers (ASIC Enforcement Review Taskforce)
- Inquiry into data availability and use (Productivity Commission)
- Review of the financial system external dispute resolution framework (Treasury)

Current and ongoing

- Inquiry into competition in the Australian financial system (Productivity Commission)
- Inquiry into the supply of insurance in Northern Australia (Australian Competition and Consumer Commission)
- Royal Commission into Misconduct in the Financial Services industry