**Submission by the**

**Financial Rights Legal Centre**, and the

**Consumer Action Law Centre**

Emergency Services Levy Insurance Monitor

Standard profile quotations: Mid-term review, Discussion Paper, April 2018

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## About the Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. Financial Rights took close to 25,000 calls for advice or assistance during the 2016/2017 financial year.

Financial Rights also conducts research and collects data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

This submission is an example of how CLCs utilise the expertise gained from their client work and help give voice to their clients' experiences to contribute to improving laws and legal processes and prevent some problems from arising altogether.

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## Introduction

Thank you for the opportunity to comment on the NSW Emergency Services Levy Insurance Monitor's Standard profile quotations Discussion Paper.

## Relative Consistency of Cover

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Consumer representatives note the significant complications and difficulties that the Insurance Monitor is currently experiencing in settling on an easily comparable quote for a premium across all insurers.

Attempting to formulate standard specification for a property scenario is one issue. Applying this scenario to the vast array of complexities relating to insurance product and the multitude of factors used to develop a price is another and is in short, a very difficult process.

The recent Senate Economic References report into General Insurance quoted consumer journalist John Rolfe in relation to the complexities involved in figuring out which is an appropriate product. He stated

> *If you are in any doubt [of] the need for change, try finding the best-value insurance for your own car. It will sap you of the will to live. It shouldn't be that way.*

The quote led to the title of the Report: *Sapping the Will to Compare*. This Survey discussion paper demonstrates the incredible complexities and difficulties that consumers face every day, and at the same time is a materialisation of these difficulties.

According to the insurers who raised concerns with the Insurance Monitor's approach, the Insurance Monitor, and by extension consumers, need to be aware of some if not all of the following factors when looking to compare products:

- the time and day of the quote;
- the type of cover being offered (so-called 'classic' building and contents, versus combined, multiple or comprehensive policies etc);
- the variety of excess structures;
- the sum-insured, total replacement cover or other policy features that defined the way a product pays out;
- innumerable listed events or accidental damage inclusions;
- the variety of exclusions;
- the variety of definitions for every term included;
- discounts relating to:
    - special promotions or marketing campaigns;
    - loyalty discounts;

- purchasing channel discounts – online, versus phone;
- no-claim discounts;
- multiple policy discounts;

- other unique policy features including legal liability cover, temporary accommodation, professional fees and debris etc.

Add to this branding impacts, advertising campaigns and other behavioral biases and factors impacting a purchase decision and being able to compare apples with apples becomes a nightmare for consumers.

And the differences listed above are not insignificant. These are all vital factors to understanding what product you have bought, what you are covered for, and how you will dealt with when it comes time to claim. It is not hyperbole to state that most clients that we speak to have very little idea of the cover they hold and the product they own. Expecting consumers to be aware of the above factors before purchasing, let alone weighing up all of these and factoring them into a purchase decision is almost laughable. No amount of financial literacy training will ever address the complexities embedded in a market wrought by information overload and a manipulation of the spirit of the standard cover regime.

We believe the survey that the Insurance Monitor is undertaking is valuable – not just to examine price variations and the level of competition in the market but also in demonstrating the difficulties consumers face in making a comparison at all.

Originally, the *Insurance Contracts Act 1986* set out standard cover for some general insurance products but allowed insurer's to deviate from standard cover provided this was clearly disclosed, in writing – ie consumers are provided with a PDS. These standard cover provisions are close to useless because consumers rarely read the Product Disclosure Statement setting out these deviations. And it is not clear from the PDS what is standard anyway.

This is why consumer representatives have long argued for the need to implement a genuine minimum standard cover regime for insurance products.

Introducing standard minimum cover and more standardised definitions has the potential to greatly improve consumer outcomes.

We note that the recent Senate Economic Reference Report into the General Insurance Industry[1] recommended, and the Federal Government has accepted[2], recommendation that the Government:

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[1] Economic References Committee, Australia's general insurance industry: sapping consumers of the will to compare, 10 August 2017, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Generalinsurance/~/media/Committees/economics_ctte/Generalinsurance/report.pdf

[2] Australian Government Response to the Economic References Committee, Australia's general insurance industry: sapping consumers of the will to compare, December 2017 https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Generalinsurance/~/media/Committees/economics_ctte/Generalinsurance/report.pdf

- initiate an independent review of the current standard cover regime with particular regard to the efficacy of current disclosure requirements; and
- the government work closely with industry and consumer groups to develop and implement standardised definitions of key terms for general insurance.

We believe that the Insurance Monitors work in this survey can contribute to this work, and recommend the Insurance Monitor work with Treasury closely in finalising this survey, to ensure that the data gathered can make an appropriate contribution.

And such complexity itself undermines the principle of a competitive market. As Lauren Solomon of the Consumer Policy Research Centre recently wrote:

> *One fundamental criterion of perfect competition is perfect information: that both buyer and seller have perfect or complete information about the transaction…. When sellers have more information than buyers about the transaction, …this can lead to "adverse selection", with buyers often ending up with a lemon of a used car.*

If consumers do not have access to the information they need because it is too complex and obfuscated by the sheer size of the information, then there really is no competition. What occurs in reality is that because of the complexity, people make choices based on one variable – that is, price – and end up not being covered when they need to be because the lower price tends to equate with less cover. Purchasing on price alone opens these consumers to more unfair contract terms that tend to find their way into more lower value products. This is not a competitive market. This is a market and a consumer population being manipulated by cut price, low coverage insurers taking advantage of the confusion and complexity brought about by the lack of standard products and definitions.

Finally, we do think there is value in refining the survey to include the specifications for: type of cover, treatment of discounts, flood cover, excesses and certain minor idiosyncrasies; as much as possible for each individual property. Obviously attempting to create the most standard survey possible, accounting for the huge number of variables is important. However this is really not the fault of the Insurance Monitor but more the fault of an insurance sector relying on complexity to obfuscate and confuse consumers and regulators with the façade of competition.

Consumer representatives agree that underwriting criteria and risk appetites play a significant role in price variation. That much is obvious. But it is also clear that consumers do not have knowledge of or access to that information. We therefore believe that a component pricing regime is critical to help consumers know how much those factors play in price variations.

We also believe that the range of variables identified by the Insurance Monitor including Sum Insured or Total Replacement Cover, Listed event or accident damage, events listed and policy features that define the financial payout or other support are all material to the level of cover someone receives from an insurance product.

**Base premiums**

Consumer representatives believe that the Insurance Monitor should also seek more detailed information with respect to the base premium.

The Monitor has previously outlined some of the key components of a premium including:

- net reinsurance costs
- expected claims costs
- administrative and overhead expenses
- profit margin/cost of capital

This is then further adjusted to incorporate further considerations including:

- Customer discounts
- Price moderation
- Business Pricing
- Profit margin
- And further adjusted to incorporate Government taxes, levies and duties

Insurers will continue to claim that the components of their base premium will be commercial in confidence. We do not mind if the Insurance Monitor does not provide identifying details on these matters. Consumer Representatives are keen to learn more about the components of the base premiums and any information that the Insurance Monitor can garner from insurance companies will be incredibly valuable and instructive.

Component pricing would provide a 'signal to consumers of the risk factors taken into account when premiums are set.' This 'risk signal' would be particularly helpful in parts of Australia that face severe weather risks. Knowing that a huge portion of your base premium is made up of fire, flood or storm risk, is incredibly valuable information to a homeowner.

The Productivity Commission[3] identified two forms of information asymmetry that impact upon a consumer's ability to make efficient and appropriate choices to their insurance - where

- consumers have access to relevant information, but it is not in a usable format (e.g. it is too complex) or
- consumers cannot access the information they need (e.g. insurers not providing information).

The former is revealed by the issues described in the previous section, the latter relates directly to the issues at the heart of our component pricing ideas.

We note that the recent Senate Economic Reference Report into the General Insurance Industry[4] recommended, and the Federal Government has accepted[5], that a review be

[3] Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 2,December 2014, p. 434.

[4] Economic References Committee, Australia's general insurance industry: sapping consumers of the will to compare, 10 August 2017, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Generalinsurance/~/media/Committees/economics_ctte/Generalinsurance/report.pdf

conducted into providing component pricing of premiums to policyholders at purchase and renewal.

We believe that there is an opportunity here for the Insurance Monitor to add significant value to the Federal Government's review into component pricing. By gathering data on the different elements that make up a base premium this current survey could provide valuable input into the review. We recommend the Insurance Monitor support the Federal Government's recommendation and gather the data required via this current survey.

**Year on year premiums changes**

What the survey does not examine are the factors regarding year on year premium increases. We believe there would be value in incorporating a year on year aspect to the survey to find out how much variation takes place year on year and why this variation occurs.

Given the Federal Government has agreed to examine introducing amendments to the Corporation Act 2001 to require insurers to:

- disclose the previous year's premium on insurance renewal notices; and
- explain premium increases when a request is received from a policyholder,

there is significant value in the Insurance Monitor building this into the survey design.

Again there is an opportunity for the Insurance Monitor to add significant value to the Federal Government's review into year on year pricing, via this survey and we recommend the Insurance Monitor support the Federal Government's work in this area by gathering the appropriate data required via this current survey

## 3.4 Treatment of Price Discounts

Consumer representatives note that the application of most discounts in quotes were not identified and standardized by the Insurance Monitor in undertaking the first iteration of the survey. The discussion paper identified a whole range of different discounts applied by insurers in their quotes. The Insurance Monitor cannot be blamed for not taking this into account because it is rarely clear if at all to consumers that a discount has been applied at the time of purchase or why. The sheer variety of discounts is confusing. What is more confusing is why insurers do not make these discounts clearer in the first place. If the purpose of a discount is to make your brand more attractive than a competitor's, wouldn't it make more sense to highlight and explain these discounts up front? We note the following case study from a few years back is still instructive on the complete lack of transparency that consumers face in pricing with respect to discounts:

[5] Australian Government Response to the Economic References Committee, Australia's general insurance industry: sapping consumers of the will to compare, December 2017 https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Generalinsurance/~/media/Committees/economics_ctte/Generalinsurance/report.pdf

**Case study –Matthew's story - Unexplained decrease in premiums**

Matthew has an apartment in Queensland. He was paying contents insurance of $740 in 2012, and then $841 in 2013 but his renewal in 2014 was for $231; a reduction of $500 and over 50%. He rang them and asked what the reason for the reduction was and the insurer has told him they can't tell him, maybe a discount was applied. Now he wonders whether they calculated it correctly before and whether he has been overcharged. He worries he may not be covered for events and is now suspicious.

*Source: Financial Rights Legal Centre*

## Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact Financial Rights on (02) 9212 4216.

Kind Regards,

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