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Insurance Ombudsman Review
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Independent Review of the Insurance Ombudsman Service

Insurance Australia Group (IAG) welcomes the Independent Review of the Insurance Ombudsman Service and appreciates the opportunity to provide comments to The Allen Consulting Group.

IAG understands the Review's *Terms of Reference* focus on identifying issues and strategies for improvement of the Insurance Ombudsman Service and require examination of the Service's performance against the objectives of:

- Accessibility;
- Independence; and
- Effectiveness

However, IAG notes that the Australian Securities and Investments Commission's (ASIC) guidelines for approval of external dispute resolution schemes require that such schemes satisfy six criteria: accessibility, independence, fairness, accountability, efficiency and effectiveness.

What is IAG's interest in the Review?

IAG is the largest general insurance group in Australia and New Zealand (by reference to premium written in these countries). It provides personal and commercial insurance products under some of the most respected and trusted retail brands including NRMA Insurance, SGIO, SGIC, CGU and Swann Insurance in Australia, and State and NZI in New Zealand.

IAG has a crucial interest in the long-term viability of insurance as a product valued by the Australian community. IAG believes that there are four principal ways in which the insurance industry can best meet these objectives. These are:

- Investing in robust risk control frameworks and mechanisms that protect policyholders and provide certainty to shareholders;
- Pricing products realistically;
- Ensuring that consumers understand what they are buying when they purchase a policy, and that products do not arbitrarily advantage or penalise particular individuals or groups; and
- Committing to, and supporting, on a continuing basis a comprehensive and clearly defined regulatory framework that facilitates more affordable premiums and more predictable claims costs, particularly in the more volatile classes of long tail liability.



Due to the very strong emphasis that IAG places on customer service and meeting high standards we are particularly interested in the handling of enquiries and the resolution of disputes within the general insurance industry. Consequently, we welcome the opportunity to comment to the Review.

Accessibility

IAG believes because the insured is notified as part of the dispute resolution process of the availability of the Insurance Ombudsman Service that insureds are aware of the Insurance Ombudsman Service.

IAG believes our existing process concerning advising consumers at the time of the final decision letter of their access to the Insurance Ombudsman Service is appropriate and working well. We also provide brochures, policy documentation and correspondence containing details of the external dispute resolution body.

IAG believes the Service provides sufficient information about its functions, its operations and services.

Independence

IAG believes the current processes for appointing the Board and Adjudicators, Referees and Panel members are independent, transparent and appropriate.

The success of the Insurance Ombudsman Service in fostering compliance and providing an alternative independent dispute resolution for Australian insurance consumers is largely due to their having been created and supported by the Australian insurance industry which understands the importance of, and need for, public confidence in its integrity and commitment to protecting the interests of consumers.

Effectiveness

In the Australian insurance industry, the Insurance Ombudsman Service provides an effective forum for consumer complaints, at no cost to Government.

IAG believes that there is no need to consider any changes to the present financial limits of the Insurance Ombudsman Service, which were revised with effect from 1 January 2004.

While the Insurance Ombudsman Service has worked well, particularly from the point of view of providing consumers with an independent means of addressing their concerns, IAG believes that there are some opportunities to improve the process.

From IAG's perspective it would be useful for the Review to consider the following issues and possible amendments to the Terms of Reference to emphasise these issues:

Educative Role

IAG believes the Insurance Ombudsman Service has an ongoing role in educating insurers and insureds in relation to the handling of claims and the resolution of disputes. In relation to insurers, however, in order that this educative role plays an influential role in improving insurer performance in relation to claims handling and dealing with disputes, it is vital that the Service's determinations are utilised as learning tools.

Therefore the Terms of Reference could include wording to the effect that the Service's determinations should always provide sufficient reasons to fully explain the reasons for the decision.

Consistency of Determinations

It would be useful to incorporate into the Terms of Reference a need for consistency in determinations subject, of course, to the evolving nature of the law (eg new judicial decisions), the individual facts of each case and the submissions raised by the parties that may raise new matters not considered in previous determinations. This would enable the decisions to be of precedent value.

Lack of appellability or further review of the Scheme decisions

We believe the current Review provides an opportunity to look at the provision of an appeal process in relation to determinations. An appeal process would encourage increased transparency and accountability of Decision Makers.

While IAG is happy for a decision to be binding in accordance with the Terms of Reference or for recommendations to be made in accordance with the those Terms, IAG considers this process should be subject to a limited right of appeal, within the Scheme itself, where it is alleged the decision is erroneous at law, it is alleged the facts as presented are not capable of supporting a finding or it is alleged the decision maker has acted outside the Terms of Reference.

Procedural fairness

The Review may be aware of the decision in Masu Financial Management P/L v FICS and Julie Wong (No 1) (2004) NSWSC 826 and Masu Financial Management P/L v FICS and Julie Wong (No 2) (2004) NSWSC 829. While the decision deals with a different dispute resolution body it is nevertheless a relevant decision for the Insurance Ombudsman's Service. It would be useful to include in the Terms of Reference a term to the effect that if the Insurance Ombudsman Service intends to take into account matters not raised in the submissions of the parties in determining a matter it should always give parties to the dispute an opportunity to submit on those matters. Further wording could be incorporated to the effect that as a matter of procedural fairness adequate reasons for a decision should always be provided

We at IAG are happy to discuss this submission and to assist the Review in any way we can. If you wish to discuss this matter or make further inquiries please contact David Wellfare, Senior Adviser, Economics & Policy on (02) 9292 8593.

Yours sincerely



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