



22 May 2020

The Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

By email: adjudication@accc.gov.au

**Suncorp Group Limited and Ors application for authorisation AA
1000485 – SME Policyholder Relief**

The National Insurance Brokers Association (**NIBA**) welcomes the opportunity to provide a submission to the Australian Competition and Consumer Commission (**ACCC**) in response to the interim authorisation granted to Suncorp Group Ltd, Allianz Australia Insurance Ltd and QBE Insurance (Australia) Ltd to provide relief to policyholders suffering financial hardship as a result of the COVID-19 pandemic.

About NIBA

There are over 460 insurance brokerage firms and around 16,000 insurance brokers in Australia.

NIBA is the peak representative body for the intermediated insurance industry, represents over 90% of insurance brokers operating in cities, towns and regional areas across Australia. NIBA's membership ranges from large international brokerage firms to smaller brokerage firms and sole traders.

NIBA is committed to maintaining and promoting high levels of professionalism among its members, including measures to establish appropriate educational qualifications, ensuring ongoing professional learning and development, and a world-leading Insurance Brokers Code of Practice.

Insurance brokers perform a number of valuable services for their clients including -

- Helping clients to understand, manage and minimise their risk exposure;
- Identifying and arranging appropriate insurance or other risk financing mechanisms; and
- Acting as the client's advocate when an insured event occurs.

In performing these duties, insurance brokers act as agents of their client and have statutory, common law and professional obligations to act in the best interests of their client at all times. Insurance brokers represent the interests of the purchasers of insurance, the policy- holders, and not those of

insurance companies. Consequently, comments made by NIBA are made on behalf of its members and the public that purchases insurance not on behalf of insurance companies.

Insurance brokers process around \$22 billion in insurance premiums each year in the Australian and international insurance markets, around half of the total Australian general insurance premium pool.

Interim Authorisation

NIBA has carefully reviewed the interim authorisation (the authorisation) dated 2nd April 2020, and has consulted with its members and board of directors about their experiences since the authorisation was issued.

NIBA notes that it was not consulted before the application for interim authorisation was submitted to the ACCC which may explain many of the comments set out below. Nevertheless, NIBA welcomes the moves by Suncorp, QBE and Allianz to develop proposals to assist small and medium-sized businesses (SMB's) who are experiencing hardship as a result of the COVID-19 pandemic.

The following comments are offered as general comments on the interim authorisation, and to indicate our understanding of the experience of insurance brokers since the authorisation was issued.

As previously mentioned, insurance brokers have statutory, common law and professional obligations to act in the best interests of their clients. These obligations become increasingly important when clients are facing financial hardship as a result of the COVID-19 pandemic. As part of these obligations, insurance brokers consult closely with their clients to ascertain and review their risk profile, their insurance needs and their ability to meet the cost of a recommended insurance program.

Every business is different. As a result, each business will be assessed according to its circumstances. This results in insurance programs being developed and implemented specifically for each client. In some cases, a client will instruct their broker to reduce the level of cover, or to remove some elements of the insurance program, as a result of their inability to afford premiums.

Insurance policies are usually issued for 12 months. Once the cover is put in place, the insurance broker will collect the agreed insurance premium from the client for submission to the insurer.

In some cases, the insurance broker will arrange a premium funding arrangement from one of many insurance premium funding finance companies.

This facilitates the payment of the premium to the insurer, with the repayment of the premium funding loan by instalments over the period of the insurance policy. While the overall cost of the insurance cover is increased by the interest payable to the premium funder, the client receives cash flow benefits as a result of instalment payments.

It is important to note that general insurance is therefore different to small business lending, in that the main contract (the insurance policy) is for 12 months only, and does not extend for 3, 5 or 10 years as a small business loan may do. Banks and finance companies have been able to provide relief to small business owners by extending the time frame of the business loan. That is not possible with a general insurance policy, which always ceases at the expiry date.

Insurance brokers engaging in the approved conduct

NIBA does not understand the comment in paragraph 6 regarding insurance brokers engaging in the approved conduct “either as an intermediary for an insurer or on its own behalf”. While insurance brokers may sometimes act as an agent of the insurance company, the overwhelming majority of brokers act for and on behalf of the client.

NIBA was surprised by the need for insurance brokers to notify the ACCC in advance if they wished to engage in the approved conduct. Insurance brokers do not engage in the approved conduct, rather they facilitate their clients accessing the assistance and support that constitutes the approved conduct.

Nevertheless, NIBA has arranged for insurance brokers who may wish to support their clients to utilize the approved conduct to give the appropriate notice to the ACCC.

Deferral of insurance premiums

Paragraph 7(a) authorises the deferral of premium payments for up to 6 months. This allows the insurance policy to be put in place, with the premium to be collected up to 6 months after inception.

NIBA members have discussed this proposition with clients, and the current experience is that relatively few clients have taken advantage of this offer. The key issue is that if the client is struggling to meet the cost of the insurance cover at the present time, there will be a real doubt as to whether the client would be able to fund 100% of the premium cost in 6 months' time. In addition, when the following year's premium is due, there could be two large 100% premiums payable close together, which could well generate further difficulties for the client in terms of capacity to pay.

Insurance brokers have found that most clients prefer to enter into either an instalment payment process, which permits periodic payment of the cost of

the premium over a 12 month period, or a premium funding process which permits periodic payment of the cost of the premium over a 10-month period.

The consistent view expressed to NIBA by insurance brokers is that it is invariably more beneficial for the client to have the capacity to pay their insurance premium over time. This assist the client's cash flow in these difficult times, as the premium is paid over the period of the insurance policy. The deferral of the premium payment for six months continues the obligation to make a single major payment. We also note that the general insurance industry already has mechanisms and procedures to facilitate periodic payment of insurance premiums.

Insurers have indicated to insurance brokers that if the premium payment is deferred for up to 6 months, and a claim occurs while the premium has not been paid, the cost of the premium will be deducted from the claim payment. Insurance brokers are concerned that this could severely limit the effectiveness of the insurance cover if the cost of the claim is not fully met at the time the loss occurs. Of course, the premium needs to be paid at some point in time, but if the business was in difficulty and unable to pay the premium at inception, failure to meet the full cost of the claim could well jeopardise the position of the client. A premium funding solution results in the premium being paid at inception (by the premium funder), so any claim is assessed and paid on its merits in accordance with the terms of the policy, thereby providing the protection of the insurance policy to the insured client.

Cancellation of insurance and refund of unused premium

NIBA welcomes the offer to cancel insurance premiums and refund all unused premium with no administration or cancellation fees. Insurance brokers remain concerned that cancellation of SMB insurance cover should only be considered as a last resort measure, as businesses continue to be exposed to risks, even if "in hibernation" or the business is no longer trading. NIBA believes cover should not be cancelled unless and until the client has had a detailed discussion with their insurance broker and has received advice on their risk exposure after a policy is cancelled. This would allow clients to make an informed decision regarding their risk.

Cover for closed premises without additional premium

NIBA welcomes the offer by insurers to continue to provide cover for unoccupied premises without changes to premium. This move is warmly welcomed.

Travel insurance

NIBA welcomes the offer by insurers to provide a credit or refund for any unused premium for travel insurance policies with no administration or cancellation fees. Insurance brokers are concerned that travel insurance policies usually contain several areas of cover and believe that any policy

should not be cancelled unless and until the client has received advice on the potential need for ongoing cover from some component parts of the policy.

Reducing payment times for suppliers and contractors

While this offer by insurers does not directly affect insurance brokers, the proposal is warmly welcomed.

NIBA notes that the type of conduct set out in paragraphs 7 (b) – (e) of the authorisation are matters that are regularly discussed between insurance brokers, on behalf of their clients, and the insurance company. These types of initiatives are no doubt being discussed with insurance companies who are not applicants for the purposes of the authorisation, including Insurance Australia Group which has announced similar initiatives. It is not clear to NIBA that the discussion of these matters with insurance companies (noting the discussion would be between a client and their existing insurance company) would amount to a lessening of competition. No doubt the ACCC has considered this matter carefully.

Detriment to insurance brokers

NIBA notes the comments in paragraph 24 to the effect that deferral of the payment of premiums for up to six months may result in detriment to insurance brokers, mainly smaller ones. While there has been only very limited take up of the offer to defer premiums for 6 months, if there is a widespread acceptance of this offer the financial viability of smaller insurance broking firms could well be at risk as most of their revenue comes from commission since their clients usually pay little by way of fees.

If a proposal of this nature results in the failure of small or other insurance broking firms and/or a restriction of services and advice to clients who fall within the definition of SME as set out in paragraph 12 of the authorisation, there will be a lessening of the availability of professional advice and support to SME businesses who have the greatest need for support and assistance in these difficult times.

Most insurance broker clients by number are SMEs. Hence, there would be a detriment sustained by the owners of the affected insurance broking firms and their staff, and there would be a consequential detriment sustained by SME business owners who would otherwise have relied on the advice and support of brokers to assist with their insurance cover and claims.

NIBA notes the approved conduct relates to insurance renewals up to and including 30 June 2020, so the potential for ongoing detriment is also limited.

As noted above, the experience to date has been a preference to consider instalment payment of premiums (most likely with the support of insurance premium funding) rather than the deferral of payment for 6 months. If this continues to be the case, the level of detriment to insurance broking firms and

to clients who would lose access to advice and support of their insurance broker will remain limited.

The payment of insurance premiums by instalments or with the support of insurance premium funding usually results in the insurance broker being paid their agreed remuneration promptly. This helps to maintain the cash flow of the insurance broker, and helps to minimize the risk of failure by small or other insurance broking firms or any restriction on the nature of services and advice being offered to clients, especially SME clients.

Conclusion

We hope these comments are of assistance to the ACCC in its further consideration of this matter.

Please do not hesitate to contact NIBA if you wish to discuss any aspect of this submission.

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