



NATIONAL INSURANCE BROKERS ASSOCIATION OF AUSTRALIA (NIBA)

KEY FACTS SHEET DISCUSSION PAPER: HOME BUILDING AND HOME CONTENTS INSURANCE POLICIES

ABOUT NIBA

NIBA is pleased to be able to respond to the Key Facts Sheet Discussion paper which is a significant initiative and one which can have important ramifications for consumers and the insurance industry.

NIBA is the voice of the insurance broking industry in Australia. NIBA represents 500 member firms and over 2000 individual Qualified Practising Insurance Brokers (QPIBS) throughout Australia.

Brokers handle almost 90% of the commercial insurance transacted in Australia, and play a major role in insurance distribution, handling an estimated \$16 billion in premiums annually and placing around half of Australia's total insurance business. Insurance brokers also place substantial insurance business into overseas markets for large and special risks.

Over a number of years NIBA has been a driving force for change in the Australian insurance broking industry. It has supported financial services reforms, encouraged higher educational standards for insurance brokers and introduced a strong independently administered and monitored code of practice for members. The 500 member firms all hold an Australian financial services (AFS) licence under the Corporations Act that enables them to deal in or advise on Risk Insurance products.

ABOUT INSURANCE BROKERS

The role of insurance brokers

The traditional role of insurance brokers is to:

- assist customers to assess and manage their risks, and provide advice on what insurance is appropriate for the customer's needs;
- assist customers to arrange and acquire insurance; and
- assist the customer in relation to any claim that may be made by them under the insurance.

In doing the above the insurance broker acts on behalf of the customer as their agent. Insurance brokers offer many benefits to customers and consumers:

- assistance with selecting and arranging appropriate, tailored insurance policies and packages
- detailed technical expertise including knowledge of prices, terms and conditions, benefits and pitfalls of the wide range of insurance policies on the market;



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- assistance in interpreting, arranging and completing insurance documentation;
- experience in predicting, managing and reducing risks; and
- assistance with claims and a higher success rate with settlements (about 10 per cent higher than claims made without a broker).

In limited cases insurance brokers may act as agent of the insurer not the insured but where such a relationship exists the customer is clearly advised up front.

The above puts NIBA and its members in a prime position to provide practical feedback on the KFS.

EXECUTIVE SUMMARY

NIBA has provided a detailed response to all of the discussion papers questions. NIBA's responses are inserted in the attached paper in **yellow**.

NIBA's general position can be summarised as follows:

- NIBA supports the KFS initiative and what it is trying to achieve given the fact that it is generally acknowledged that consumers tend not to read the PDS and even where they do so, are generally not well equipped to understand and compare insurance policies given the broad variety of cover available.

However, consumers should not be encouraged to rely on the KFS as a tool for comparison purposes except at a very high level and it is crucial this message be given clearly.

This is because by the very nature of the KFS' limited content the end result is that a consumer *will not be making a decision based on all of the information they need to take into account to properly protect their interests.*

The KFS should be identified as a document setting out information that the Government believes consumers should generally consider before deciding to buy the insurance. Consumers must be made aware that the information does not cover all relevant matters they need to consider as what is right will depends on their circumstances.

- In relation to the types of policy content NIBA has concerns that this may mislead consumers. NIBA provides a detailed explanation of why it believes this is the case.
- In relation to the what is covered and not covered content, the real cause of potential confusion for the consumer is that insurers will generally (as permitted by the law) seek to meet their obligations under section 35 of the *Insurance Contracts Act 1984 (Cth) (ICA)* by providing the policy wording containing the covers.



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In many cases the basic cover will be provided at a high level but there will be qualifiers attached (in the cover section itself, definitions, exclusions conditions or endorsements etc) that restrict the cover to less than the minimum cover.

For example:

- earthquake cover has a 72 hour limitation in many cases.
- The definition of “family” and “flood” used in a policy can impact on whether it is minimum cover or not depending on the view taken as to the meaning of the relevant term which are not defined in the regulations.

As insurer wordings do not typically identify where cover provided is in fact less than the minimum cover specified in the regulations, it is left for the consumer to determine this.

As much can depend on the inclusion or exclusion of a single word in various or multiple locations, it is a difficult task. NIBA does not believe the above proposal will address this issue. The net result seems to be that the insurer will be required to say yes or no to the prescribed cover event being covered or not.

Obviously there will be an incentive for the insurer to cover these minimum events to avoid saying “no”. However, depending on the event and reinsurance availability they may all have to say “no” for certain events. This **means insurers would simply say no to the minimum cover and a consumer would be left having to seek to identify to what extent if any, cover is provided for the event.**

One option may be to have insurers identify where the cover is less than the prescribed ICA:

- : minimum cover; and
- : minimum limits (which is not dealt with in the paper)

with the assumption being that minimum cover is otherwise provided. The insurer could do a cross reference to the part of the policy that is less than the minimum cover and limits or explain it in the KFS (obviously there will be space issues with the second option for some insurers).

If the above is not done NIBA sees little benefit in the proposal.

- NIBA notes that a full review of the prescribed cover provisions and their continued relevance etc has not been done since the Insurance Contracts Act’s inception in any detail. NIBA believes that consultation with consumer groups and an analysis of the determinations issued by FOS



may provide the most useful means of identifying other cover areas of concern. Discussion with insurers is also required to determine what is practically possible.

- The issues the KFS is seeking to address emphasises the importance of a consumer seeking personal advice from a licensed insurance broker in making a decision about an insurance policy.

This is especially the case where most government discussions with stakeholders acknowledge the reality that consumers are not inclined to read or even where they do, are not well equipped to understand, the relevant policy documentation. The KFS will not solve the above problem.

A recommendation that a consumer considers seeking personal advice from a licensed insurance broker is a valuable recommendation and should be included in the KFS. It is no different to contracts recommending consumers seek legal advice before entering into the contract.

- NIBA recommends that a meeting be arranged in which key stakeholders can discuss the key issues identified by the discussion paper further.

If you would like to discuss any aspect of this matter further do not hesitate to contact us.

Dallas Booth

Chief Executive Officer

Direct: +61 (0)2 9459 4305

Email: dbooth@niba.com.au

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