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Economics
References Committee

Australia's general insurance industry: sapping consumers of the will to compare

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Abbreviations and acronyms

ACCC	Australian Competition and Consumer Commission
AFS	Australian Financial Services
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ASIC Act	*Australian Securities and Investments Act 2001*
CDI	California Department of Insurance
CPCC	Competition and Consumer Protection Commission
CTP	Compulsory Third Party
Consumer Action	Consumer Action Law Centre
Corporations Act	*Corporations Act 2001*
The Taskforce	Effective Disclosure Taskforce
FCA	Financial Conduct Authority
Financial Rights	Financial Rights Legal Centre
FSG	Financial Services Guide
FSR	Financial Services Reform
FSI	Financial System Inquiry
The Code	General Insurance Code of Practice
GEP	Gross Earned Premium
GWP	Gross Written Premium
Insurance Act	*Insurance Act 1973*
Insurance Contracts Act	*Insurance Contracts Act 1984*
ICA	Insurance Council of Australia
IAG	Insurance Group Australia
KFS	Key Facts Sheet
NIBA	National Insurance Brokers Association of Australia
NRMA	National Roads and Motorists' Association
NQHI	North Queensland home insurance website
OCN	Owners Corporation Network
PCW	Price Comparison Website
PC	Productivity Commission
PHIO	Private Health Insurance Ombudsman
PDS	Product Disclosure Statement
UCT	Unfair Contract Terms
VCOSS	Victorian Council of Social Service
WPI	Wage Price Index

Recommendations

Recommendation 1

2.68 The committee recommends that the government release its response to the final report of the Northern Australia Insurance Premiums Taskforce.

Recommendation 2

2.71 The committee recommends that the government conduct a review into competition in the strata insurance market in North Queensland to establish a fact base and explore avenues to improve insurer participation in this region.

Recommendation 3

3.76 The committee recommends that the government strengthen the transparency of general insurance pricing by amending the product disclosure regime in the *Corporations 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.

Recommendation 4

3.77 The committee recommends that the government initiate a review of component pricing to establish a framework for amending the

Corporations Act 2001 to provide component pricing of premiums to policyholders upon them taking out or renewing an insurance policy, as well as an assessment of the benefits and risks to making such a change.

Recommendation 5

3.78 The committee recommends that the government initiate an independent review of the current standard cover regime with particular regard to the efficacy of current disclosure requirements.

Recommendation 6

3.79 The committee recommends that the government work closely with industry and consumer groups to develop and implement standardised definitions of key terms for general insurance.

Recommendation 7

3.80 The committee recommends that the government undertake a review of the utility of Key Facts Sheets as a means of product disclosure, with particular regard to the:

- effectiveness of Key Facts Sheets in improving consumer understanding of home building and contents policies; and
- merit of extending the use of Key Facts Sheets to other forms of general insurance.

Recommendation 8

4.96 The committee recommends that the government complete a detailed proposal for a comparison tool for home and car insurance, consistent with the proposal made in the FSI Interim Report and similar to the structure of the Irish model. The proposal should include a detailed evaluation of the international evidence base of the costs and benefits of comparison services on consumer outcomes, as well as the likely benefits in the Australian context.

Recommendation 9

4.98 The committee recommends that the Australian Securities and Investments Commission undertake a comprehensive review of the efficacy of the North Queensland home insurance website.

Recommendation 10

4.100 The committee recommends that the government consider introducing legislation to mandate compliance with the ACCC's good practice guidance for comparison website operators and suppliers.

Recommendation 11

5.14 The committee recommends that the government introduce the legislative changes required to remove the exemption for general insurers to unfair contract terms laws.

Recommendation 12

5.33 The committee recommends that the government strongly consider introducing legislation to require all insurance intermediaries disclose component pricing, including commissions payable to strata managers, on strata insurance quotations.

Recommendation 13

5.34 The committee recommends that state and territory governments strengthen disclosure requirements in relation to the payment of commissions to strata managers.

Recommendation 14

5.48 The committee recommends that the Australian Government reconsider its response to the Productivity Commission's inquiry on National Disaster Funding Arrangements.

Recommendation 15

5.49 The committee recommends that, as a matter of urgency, the Australian Government work with states and territories through the Council of Australian Governments to reform national disaster funding arrangements.

Chapter 1

Introduction

Terms of reference

1.1 On 22 November 2016, the Senate referred matters relating to Australia's general insurance industry to the Senate Economics References Committee for inquiry and report by 22 June 2017.[1] On 20 June 2017, the Senate granted an extension to the committee to report by 10 August 2017.[2]

1.2 The terms of reference for the inquiry are:

(a) the increase in the cost of home, strata and car insurance cover over the past decade in comparison to wage growth over the same period;

(b) competition in Australia's $28 billion home, strata and car insurance industries;

(c) transparency in Australia's home, strata and car insurance industries;

(d) the effect in other jurisdictions of independent home, strata and car insurance comparison services on insurance cover costs;

(e) the costs and benefits associated with the establishment of an independent home, strata and car insurance comparison service in Australia;

(f) legislative and other changes necessary to facilitate an independent home, strata and car insurance comparison service in Australia; and

(g) any related matters.[3]

1.3 Several submitters to the inquiry highlighted the fact that strata insurance is a specialised commercial product that is very different to home and motor[4] insurance and that, as such, some of the inquiry's terms of reference are less relevant to this form of insurance. Consequently, most of the evidence received for the inquiry and discussed in this report relates primarily to home and motor insurance.

Conduct of the inquiry

1.4 The committee advertised the inquiry on its website and wrote to relevant stakeholders and other interested parties to draw attention to the inquiry and invite them to make written submissions.

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1 *Journals of the Senate*, No. 17, 22 November 2016, p. 561.

2 *Journals of the Senate*, No. 46, 20 June 2017, p. 1494.

3 *Journals of the Senate*, No. 17, 22 November 2016, p. 561.

4 Home insurance is also commonly known as householders, homeowners, or residential building and contents insurance. For the remainder of this report, the term 'home insurance' is used to refer to insurance covering both an individual's home building and home contents unless otherwise specified. The terms car and motor insurance are used interchangeably throughout this report.

1.5 The committee received 23 submissions as well as additional information and answers to questions taken on notice, which are listed at Appendix 1.

1.6 The committee held two public hearings: Sydney on 12 April 2017 and Melbourne on 13 April 2017. The names of the witnesses who appeared at the hearings are listed at Appendix 2.

1.7 References to the Committee Hansard are to the Proof Hansard and page numbers may vary between the Proof and Official Hansard transcripts.

1.8 The committee thanks all the individuals and organisations who assisted with the inquiry, especially those who made written submissions and appeared at hearings.

Background

1.9 Insurance touches many aspects of human activity. Adequate insurance cover is integral to protecting consumers' most valuable assets and to maintaining and protecting the living standards of all Australians and the economy overall. As seen in the wake of a number of natural catastrophes, unsuitable financial products, including insurance, can have significant and devastating impacts on people's lives. To that end, accessibility, transparency, affordability and competition are crucially important features of a well-functioning general insurance market.

Principles of insurance

1.10 Insurance is based on the principles of pooling and spreading risk. Insurance products allow individuals to shift some or all of their personal risk to another party, an insurer. A policyholder pays a premium to an insurer to take on their personal risk relating to certain assets, such as their home or motor vehicle. In return, that insurer finances the risk by covering the policyholder for certain losses when an agreed event occurs. Allianz explained the principles of pooling and spreading risk in their submission:

Pooling risk

> Insurance is based on the principle of pooling risk. That is, a large number of policyholders pay a relatively modest premium into a 'pool', out of which is paid larger amounts of money to a relatively small number of policyholders that make a claim during the period of insurance, which is normally 12 months.
>
> A basic, but difficult, task of an insurer is to calculate the size of the premium pool that will be required. To do this, insurers need to estimate how many claims might be received (the claims 'frequency') and what the cost of those claims will be (the claims 'severity').
>
> For 'short tail' insurance, the objective is that, in each year, the premium 'pool' collected by an insurer (e.g. for car or home insurance) is sufficient to pay the claims made by customers, as well as to cover the operational and other costs (e.g. commissions paid to intermediaries) of running the

insurance company, including a fair and reasonable profit (out of which is paid a return to shareholders).[5]

Spreading risk

Insurance is also based on the principle of spreading risk across policyholders with different risk profiles. Insurers will seek to spread their risk geographically, for example, so they don't have a concentration of home insurance policyholders in areas particularly vulnerable to natural perils (e.g. flood, cyclone or bushfire).

…

If an insurer is over-represented in an area vulnerable to a particular natural peril, then it will be more adversely impacted than its competitors when such an event occurs.[6]

The role of insurance

1.11 As explained above, the key role of insurance in an economy is the mitigation of insurable risk. Through the pooling and efficient allocation of risk across policyholders, insurance encourages and enables individuals and businesses to pursue economic activities, expansionary initiatives, and investments that would otherwise be cost-prohibitive. In other words, by transferring risk to an insurance provider, insurance cover frees economic resources (including government taxpayer funded resources) and provides a safety net that allows those resources to be used more productively with a lower threat of social and economic harm. Events such as the global financial crisis and natural catastrophes like that recently seen with Cyclone Debbie emphasise the importance of a robust and sustainable insurance industry.

1.12 Governments play a significant role in insurance by providing efficient and effective policy or regulatory oversight of the industry. Furthermore, they can assist by ensuring adequate mitigation strategies are developed and employed in areas prone to natural catastrophe, thereby alleviating pressure on insurance premiums. Other forms of intervention include levies, such as the fire or emergency services levies, designed to cover the risk of those who may not be fully insured, especially in cases of natural catastrophe. Mitigation is discussed in more detail in chapter 5.

What is general insurance?

1.13 General insurance is broadly defined as insurance policies that provide cover for events that cause financial losses, property damage or personal injury. It does not include life or health insurance. Home building and contents and motor vehicle insurance are some of the most common forms of general insurance, with these classes

5 Allianz, *Submission 4*, pp. 2–3.

6 Allianz, *Submission 4*, p. 4.

accounting for over 40 per cent of the industry's gross earned premium (GEP)[7] for the year ending 30 September 2016.[8]

1.14 General insurance products may be purchased either directly from an insurer or through an intermediary, such as an insurance broker, financial institution or online comparator.[9] In Australia, most general insurance is sold directly to consumers by insurance companies.[10]

1.15 General insurance products, such as home and motor insurance, are types of 'short tail' insurance, referring to policies where the premiums received and related claims are generally paid within the same 12 month period.[11]

Home insurance

1.16 Home insurance provides cover for financial losses resulting from damage to an individual's house or personal household belongings. Consumers can choose to take out home building cover, home contents cover, or both. Home insurance generally provides cover for damage caused by weather events, vandalism and theft, water damage, accidental damage and essential temporary repairs.[12]

Motor insurance

1.17 Motor insurance provides cover for financial losses resulting from damage to a motor vehicle, and related legal liability. There are varying levels of motor insurance cover available to consumers. The highest level of motor cover is comprehensive insurance, which typically includes accidental damage, fire and theft, as well as damage caused to another person's vehicle or property. Alternatively, a consumer can choose to take out third party insurance. This lower cost form of motor insurance covers damage caused to another person's vehicle or property, but not the policyholder's vehicle.[13]

Strata insurance

1.18 Strata insurance, also sometimes known as body corporate cover, provides cover for common property which is under the management of a strata title or body corporate entity, such as residential apartment buildings or multi-unit townhouses. Typically, strata insurance covers common or shared property, such as the building

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7 Gross earned premium (GEP) is the total premium on insurance earned by an insurer or reinsurer during a specified period on premiums underwritten.

8 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, p. 5.

9 QBE, *Submission 16*, p. 2.

10 Mr Timothy Wedlock, President, National Insurance Brokers Association, *Proof Committee Hansard*, 12 April 2017, p. 9.

11 Allianz, *Submission 4*, p. 3.

12 QBE, *Submission 16*, p. 18.

13 QBE, *Submission 16*, p. 18.

structure, lifts, car parks, pools and gardens. It also provides public liability cover in the event that a person is injured on common property.[14]

1.19 Strata insurance is a statutory product mandated by each state and territory's relevant strata legislation. Strata managers or body corporates generally negotiate strata cover through an insurance broker or specialist underwriting agency.

1.20 Unlike home and motor insurance, strata insurance is a specialist commercial insurance product and premiums are tailored to the needs of each strata property. Owners of strata titles typically share the premium costs of strata insurance as part of their strata fees and liabilities.

General insurance pricing

Risk rating

1.21 An insurance premium is the amount of money that an individual or business pays for an insurance policy for a set timeframe. Premiums for general insurance policies are set using a 'risk rating' approach. That is, higher risk policyholders, such as younger drivers or those living in flood or cyclone-prone regions, are charged a higher premium than lower risk policyholders. In other words, policyholders are charged a premium that reflects, and is commensurate with, their assessed level of risk.[15] This pricing approach can result in apparently similar people, even those living on the same suburban street, having very different assessed levels of risk, and consequently, very different insurance premiums.

1.22 When an individual or business applies for a general insurance quote, insurers collect information in order to assess the applicant's level of risk. For example, for home insurance policies, insurers will seek information regarding where a property is located, the size of the property, and what materials it is built from. Likewise, when assessing an individual's risk for comprehensive motor insurance, an insurer will ask an applicant about the model and age of the vehicle, as well as the age and driving history of the drivers.[16]

Components of a premium

1.23 For insurance to be sustainable and adequately meet its claims liabilities, insurers must collect enough shared premium from policyholders to cover the cost of claims, internal expenses, acquisition costs (including commissions to intermediaries), reinsurance, profit margins, taxes, levies and stamp duty.[17] The most significant component of an insurance premium for home, strata and motor classes is claims costs.[18]

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14 QBE, *Submission 16*, p. 18.

15 Allianz, *Submission 4*, p. 6.

16 QBE, *Submission 16*, p. 3.

17 QBE, *Submission 16*, p. 3.

18 QBE, *Submission 16*, p. 5.

Relevant reviews and inquiries

1.24 There have been a range of government and industry reviews carried out in recent years that are of relevance to this inquiry.

1.25 The Financial System Inquiry (FSI) brought renewed attention to the efficacy of disclosure practices in the general insurance industry, finding that while disclosure 'plays an important part in establishing the contract between issuers and consumers', mandated disclosure, in itself, 'is not sufficient to allow consumers to make informed financial decisions'.[19] The FSI also found that 'although general insurance has a specific product disclosure regime, the industry lacks standard practice in describing a policy's key features and exclusions'.[20]

1.26 The Productivity Commission's inquiry into National Disaster Funding also highlighted the importance of effective information disclosure for insurance, noting that 'consumers may not make efficient choices with respect to insurance in the absence of relevant and understandable information'.[21] The inquiry report also noted the implications that a lack of consumer understanding about their personal risk and insurance coverage can have with regard to underinsurance or non-insurance.[22]

1.27 In 2015, responding to concerns raised during the FSI that the existing product disclosure regime was not optimising consumer outcomes, the Insurance Council of Australia (ICA) established the Effective Disclosure Taskforce (the Taskforce). The purpose of the Taskforce was to investigate and develop initiatives for improvement with regard to product disclosure for general insurance.

1.28 The Taskforce concluded that 'a major shortcoming in the disclosure regime to date has been its sole focus on information provision without the necessary regard for the consumer's ability to make use of that information'.[23] Commenting on the regulatory trends in product disclosure in recent years, the Taskforce also acknowledged the shift towards an onus being placed on the industry for selling insurance products suitable to consumers' needs. Specifically, the Taskforce noted that 'product issuers should not only be obliged to make the prescribed disclosures, but should have greater responsibility for consumer understanding and decision making'.[24]

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19 Financial System Inquiry, *Final Report*, November 2014, p. 193.

20 Financial System Inquiry, *Final Report*, November 2014, p. 229.

21 Productivity Commission, *Natural Disaster Funding Arrangements*, Vol. 2, December 2014, p. 434.

22 Productivity Commission, *Natural Disaster Funding Arrangements*, Vol. 2, December 2014, p. 434.

23 Effective Disclosure Taskforce, *Too Long; Didn't Read: Enhancing General Insurance Disclosure*, October 2015, p. 3.

24 Effective Disclosure Taskforce, *Too Long; Didn't Read: Enhancing General Insurance Disclosure*, October 2015, pp. 14–15.

1.29 With the endorsement of the Insurance Council's Board, the ICA is currently undertaking a two-year work program in order to implement the 16 recommendations made by the Taskforce. The program is due to be completed by the end of 2017.[25]

Purpose of inquiry

1.30 The current inquiry is interested in reviewing competition and transparency in the home, strata and car insurance markets in Australia. In particular, the inquiry examines how these broader objectives are performing in relation to product disclosure and comparability, and how these aspects of insurance could be improved to maximise consumer outcomes and ensure that Australians are getting a fair go when it comes to insurance.

Structure of report

1.31 This report comprises five chapters, including this introductory chapter:

- Chapter 2 provides an overview of the general insurance industry in Australia, including its regulatory framework, premium trends, and views on competition in the market.
- Chapter 3 focuses on the transparency of the current product disclosure regime for general insurance and examines potential areas for regulatory reform.
- Chapter 4 looks at the costs and benefits associated with the establishment of an independent insurance comparison service in Australia.
- Chapter 5 discusses other matters raised during the course of the inquiry.

25 Insurance Council of Australia, *Submission 13*, p. 23.

Chapter 2

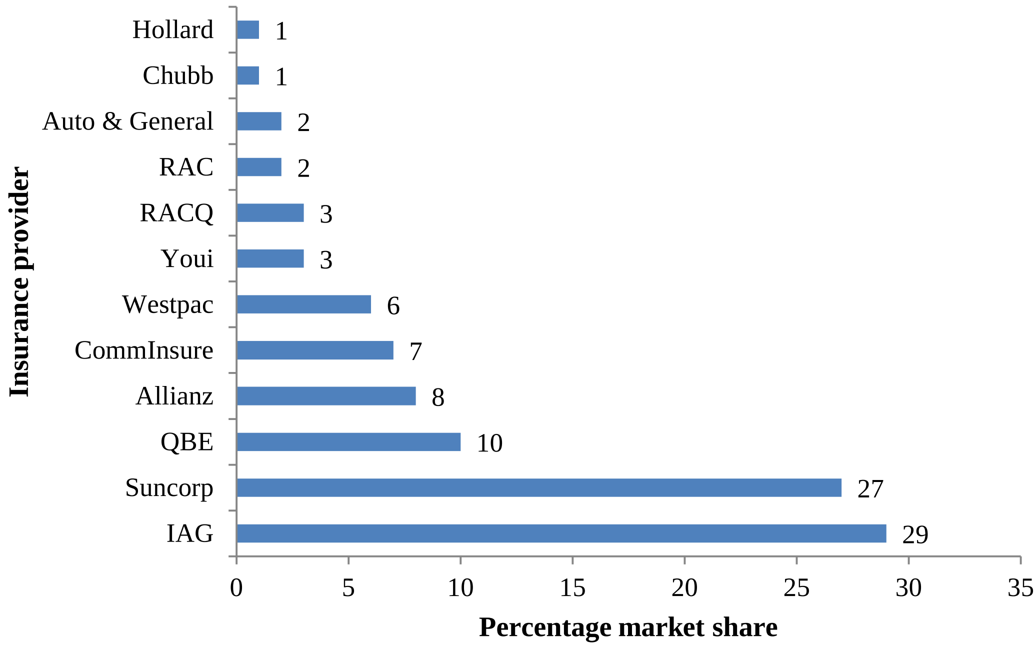
The general insurance industry in Australia

Overview

2.1 Australia has a large and long-established general insurance industry. As at 30 September 2016, there were 109 Australian Prudential Regulation Authority (APRA) registered general insurers licensed to conduct business in Australia. Of these, 99 were direct insurers and 10 were reinsurers.[1]

2.2 The home and motor insurance market in Australia is dominated by four main insurers—IAG, Suncorp, QBE and Allianz—issuing cover under multiple brands.[2] Collectively, these larger insurers make up approximately 74 per cent of the market.[3] Smaller and newer market entrants include Youi, Auto & General, and Hollard. Figure 2.1 details the market share of the top 12 general insurers for home insurance in Australia.

Figure 2.1—Market share of top 12 general insurers for home insurance[4]



1 Australian Prudential Regulation Authority, *Submission 7*, p. 1.

2 See IBISWorld, *IBISWorld Industry Report K6322: General Insurance in Australia*, November 2016, pp. 23–26.

3 Australian Prudential Regulation Authority, answers to questions on notice, 12 April 2017 (received 5 May 2017).

4 Australian Prudential Regulation Authority, answers to questions on notice, 12 April 2017 (received 5 May 2017).

2.3 The number of licenced insurers has fallen in recent years, with a net decline of 25 over the past decade.[5] This trend toward greater market concentration was noted by APRA, the prudential regulator of the financial services sector, in its latest annual report:

> The steady decline in recent years is largely the result of rationalisation within some insurance groups that had held multiple licences arising from past mergers and acquisitions. As a result, the industry has become more concentrated, with the five largest insurers accounting for 54 per cent of total gross written premium (GWP). A decade earlier, the five largest insurers wrote only 42 per cent of GWP.[6]

2.4 In the 12 months to 30 September 2016, GWP[7] for home insurance was $7882 million, with an average premium of $668, and GWP for motor insurance was $8625 million, with an average premium of $566.[8]

2.5 Over the same period, total industry net profit[9] after tax was $3.1 billion, up from $2.4 billion the previous year and representing a return of 11.2 per cent on net assets.[10] However, as noted by the Insurance Council of Australia (ICA), while net profit increased by $0.7 billion in the year to 30 September 2016, it is down around 25 per cent from the 13 year average (September 2003–September 2016) of $4.1 billion.[11]

Regulatory framework

2.6 Australian Government bodies are responsible for some aspects of regulation of the general insurance industry, such as consumer protection and licencing; however, the operation of the industry is self-regulated and operates under a voluntary code.

Government bodies

Australian Securities and Investments Commission

2.7 The Australian Securities and Investments Commission (ASIC) is the government body with primary responsibility for regulation of insurers. ASIC has oversight of consumer protection matters and licencing for the financial services sector, and by extension, internal and external dispute resolution. ASIC's regulatory

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5 Australian Prudential Regulation Authority, *Annual Report 2015–16*, p. 24.

6 Australian Prudential Regulation Authority, *Annual Report 2015–16*, p. 24.

7 Gross written premium (GWP) is the total premium on insurance underwritten by an insurer or reinsurer during a specified period, before deduction of reinsurance premium.

8 National Insurance Brokers Association, *Submission 2*, p. 6.

9 Net profit after tax refers to profit from ordinary activities after income tax, before extraordinary items are taken into account.

10 Australian Prudential Regulation Authority, *Quarterly General Insurance Performance Statistics*, September 2016, p. 5.

11 Insurance Council of Australia, *Submission 13*, p. 13.

powers pertaining to the general insurance industry are carried out in accordance with two laws, the *Corporations Act 2001* (Corporations Act), and the *Australian Securities and Investments Act 2001* (ASIC Act).

2.8 The Corporations Act[12] provides for a licencing system for financial services providers, including insurance companies. General insurance products are considered financial products under the Corporations Act; and therefore, insurers are required to be licensed by ASIC in order to provide financial services.

2.9 The Corporations Act and *Insurance Contracts Act 1984* (Insurance Contracts Act) set out the current product disclosure regime for general insurance products (discussed in detail in chapter 3), under which insurers must comply with a number of mandatory disclosure requirements.

2.10 The ASIC Act also contains ASIC's consumer protection powers in relation to financial products and services, including general insurance. Under the ASIC Act, general insurers are prohibited from partaking in misleading or deceptive conduct, unconscionable conduct, and from providing false or misleading representations.

2.11 Of considerable importance to this inquiry is the current exemption of insurance contracts from the unfair contract terms (UCT) provisions under the ASIC Act. The UCT provisions apply to all other standard form contracts[13] in the financial services sector. The exemption of insurance from the UCT regime is discussed further in chapter 5.

Australian Prudential Regulation Authority

2.12 Insurers must adhere to capital adequacy laws. Mr Geoff Summerhayes, Executive Board Member at APRA, told the committee that APRA is 'primarily concerned with the institutions' viability and ability to meet the promises they make to beneficiaries'.[14] APRA supervises general insurers under the *Insurance Act 1973* (Insurance Act).

2.13 APRA's responsibilities under the Insurance Act include:

- authorising companies to carry on a general insurance business; and
- monitoring authorised general insurers to ensure their continuing compliance with the Insurance Act, in particular, its minimum solvency requirements.[15]

12 Licencing and product disclosure requirements pertaining to general insurance providers and products are contained in Chapter 7 of the Corporations Act. These provisions were first introduced through the *Financial Services Reform Act 2001* with the broad objective of consolidating regulation of the financial services sector.

13 A standard form contract is one that has been prepared by one party to the contract and is not subject to negotiation between the parties.

14 *Proof Committee Hansard*, 12 April 2017, p. 62.

15 Australian Securities and Investments Commission, *Submission 22*, p. 8.

Australian Competition and Consumer Commission

2.14 In accordance with the *Competition and Consumer Act 2010*, the Australian Competition and Consumer Commission (ACCC) is responsible for the investigation and enforcement of prohibitions on certain anticompetitive conduct. However, the ACCC's role in relation to insurance is limited and, as noted above, ASIC has primary responsibility for regulation of insurers.

Insurance Contracts Act 1984

2.15 Insurers must comply with general contract law and the Insurance Contracts Act, which regulates the content and operation of insurance contracts.

2.16 Section 13 of the Insurance Contracts Act places a statutory obligation on both an insurer and the insured[16] to comply with a 'duty of upmost good faith'. Specifically:

> A contract of insurance is a contract based on the utmost good faith and there is implied in such a contract a provision requiring each party to it to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith.[17]

2.17 In other words, the duty requires both parties to act honestly with each other throughout the duration of the policy and voluntarily disclose any information which would be considered material to contract negotiations.

2.18 The purpose of the Insurance Contracts Act is to:

> …improve the flow of information from the insurer to the insured so that the insured can make an informed choice as to the contract of insurance he enters into and is fully aware of the terms and limitations of the policy; and to provide a uniform and fair set of rules to govern the relationship between the insurer and insured.[18]

2.19 Of particular relevance to the inquiry, Part 5 of the Insurance Contracts Act provides for a number of prescribed classes of insurance contracts. The operation of prescribed contracts is clarified in the Insurance Contracts Regulations 1985. These regulations set out the minimum requirements for a policy to provide 'standard cover'. However, under Section 35(2) of the Insurance Contracts Act, insurers can provide policies that deviate from standard cover if the insurer 'clearly informs' the insured of this fact.

2.20 In 2012, the Parliament passed legislation amending the Insurance Contracts Act to enable regulations to be made requiring insurers to provide a one-page Key Facts Sheet (KFS) for home building and contents insurance policies. The Insurance Contracts Regulation 2012 (No. 2) prescribes the content, format and information that

16 A person or entity who buys insurance is known as an insured or policyholder.

17 *Insurance Contracts Act 1984*, ss. 13(1).

18 Senator Gareth Evans, Attorney-General, *Senate Hansard*, 1 December 1983, p. 3136.

must be included in a KFS. The effectiveness of the KFS with regard to improving consumer outcomes is discussed in detail in chapter 3.

Insurance Council of Australia

2.21 Established in 1975, Insurance Council of Australia (ICA) represents the interests of the Australian general insurance industry and is the peak representative body for general insurance companies licenced under the Insurance Act.

General Insurance Code of Practice

2.22 The General Insurance Code of Practice (the Code) is a voluntary self-regulatory industry code developed by the ICA. First introduced in 1994, the Code covers most classes of general insurance, including home, strata and motor insurance. The current version of the Code came into effect on 1 July 2014 and has been adopted by 49 companies in the industry.

2.23 The Code sets out the standards that general insurers must meet when providing services to their customers. For example, the Code requires that:

> Our sales process and the services of our Employees and our Authorised Representatives will be conducted in an efficient, honest, fair and transparent manner.[19]

2.24 The Code is monitored and enforced by the Financial Ombudsman Service (FOS), an accredited dispute resolution provider under ASIC's requirements.[20]

2.25 On 17 February 2017, the ICA announced that it will be undertaking a limited industry review of the Code. The review has been prompted in response to recent developments in the general insurance industry, including this inquiry. The ICA will carry out the review in consultation with key stakeholders including ASIC and FOS.[21]

Insurance comparison services

2.26 Issues of clarity, transparency and ease of comparability among general insurance products have been a consistent focus of this inquiry. Consumers' ability, particularly in complex transactions like insurance, to understand and make appropriate choices is often hindered by the lack of sufficient understanding or information to compare different insurance products.

2.27 An insurance comparison service, often referred to as an aggregator or price comparison website (PCW), is generally an online platform that acts as an intermediary between insurers and consumers searching for a range of insurance products. Consumers are generally required to provide certain personal details online

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19 Insurance Council of Australia, *General Insurance Code of Practice*, http://codeofpractice.com.au/document (accessed 29 May 2017).

20 The Financial Ombudsman Service is approved to operate as an external dispute resolution scheme under ASIC's Regulatory Guide 139 (RG 139).

21 Insurance Council of Australia, Media Release, *Insurance Council kicks off fresh review of industry Code of Practice*, February 2017, p.1.

before being presented with information on a number of insurance products to compare.[22]

2.28 There are a number of private and independent (government-run) comparison services operating in Australia and overseas jurisdictions, including the United Kingdom, Norway, Ireland, and the United States. Australian examples include the North Queensland home insurance (NQHI) comparison website, administered by ASIC; privatehealth.gov.au, administered by the Private Health Insurance Ombudsman; and commercial comparison websites such as iSelect and Compare the Market. The merits and efficacy of these comparison services are discussed in greater detail in chapter 4.

Regulator guidance for comparison websites

ASIC Regulatory Guide 234

2.29 In 2012, ASIC issued its Regulatory Guide 234, *Advertising financial products and services (including credit): Good practice guidance* (RG 234). RG 234 'contains good practice guidance to help promoters of financial services comply with their legal obligations to ensure they do not make false or misleading statements or engage in misleading or deceptive conduct'.[23] It includes guidance relating to the promotion and provision of financial products through comparison websites, and specifies that promoters should disclose:

a) the basis of any ratings or awards attributed;

b) any links to providers of the products that are being compared, including commissions, referral fees, payments for inclusion in comparisons and/or payments for 'featured' products;

c) a warning if not all providers are included in the comparison;

d) that any advertisements included on the website are presented as advertisements, to prevent consumers being misled about the ranking of a product; and

e) a warning that products compared do not compare all features that may be relevant to the consumer.[24]

ACCC guide for comparison website operators and suppliers

2.30 Following a review of Australia's comparator website industry in 2014, the ACCC released a guide for comparison website operators and suppliers. As well as encouraging compliance with the *Competition and Consumer Act 2010*, the guidance is intended to assist operators and suppliers when making decisions about all aspects of comparator services, including in advertising and marketing. Moreover, in recognising the growing role of online markets to the Australian economy, the guide

22 Insurance Council of Australia, *Submission 13*, p. 25.

23 Australian Securities and Investments Commission, *Submission 22*, p. 9.

24 Australian Securities and Investments Commission, *Submission 22*, p. 9.

aims to promote positive consumer experiences and fair trading in the online sector.[25] But this guide is voluntary, and does not prescribe what information comparison websites must provide or the rules by which they must abide.

Increases in general insurance premiums

2.31 As part of its terms of reference, the committee was asked to examine the increase in the cost of home, strata and car insurance cover over the past decade in comparison to wage growth over the same period.

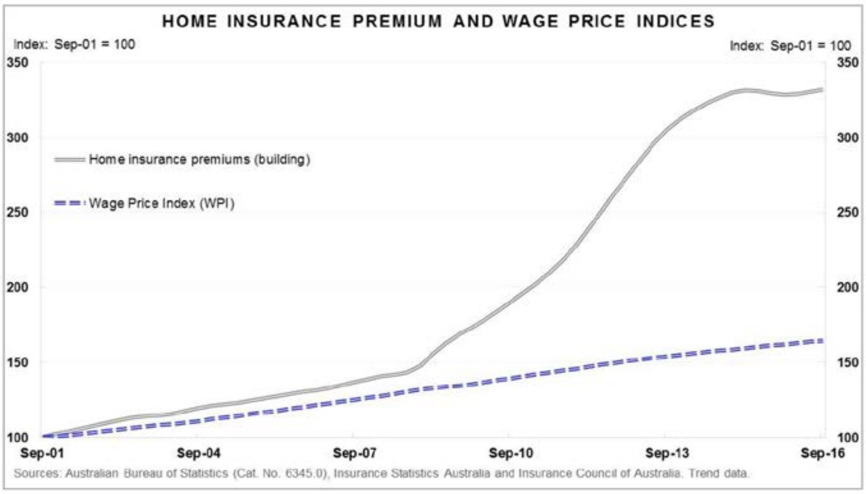
Home and motor insurance premium trends

2.32 In the 15 years to 2016, home insurance premiums in Australia have increased at an average annual rate of approximately 8.3 per cent. Over the same period, Australia's Wage Price Index (WPI) has increased at an average annual rate of approximately 3.4 per cent.[26] In contrast, growth in motor insurance premiums has been significantly slower, increasing at an average annual rate of approximately 1.7 per cent.[27]

2.33 Since the beginning of 2014, home insurance premiums have experienced notably subdued growth and motor insurance premiums have experienced no growth.[28]

2.34 Figures 2.2 and 2.3 illustrate these increases in home building and comprehensive motor insurance premiums relative to the WPI respectively.

Figure 2.2—Home insurance premiums and wage price indices[29]



25 Australian Competition and Consumer Commission, *Comparison websites: A guide for comparison website operators and suppliers*, August 2015, p. 2. Accessed at: https://www.accc.gov.au/publications/comparator-websites-a-guide-for-comparator-website-operators-and-suppliers

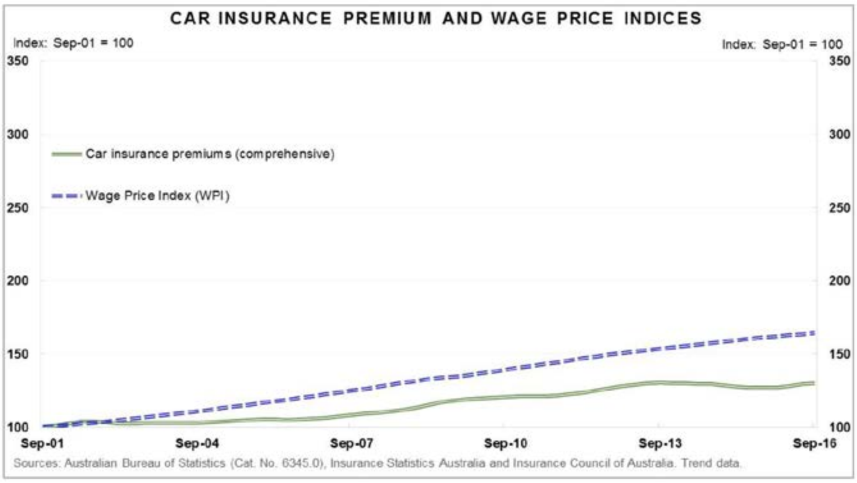
26 Insurance Council of Australia, *Submission 13*, p. 8.

27 Insurance Council of Australia, *Submission 13*, p. 10.

28 Insurance Council of Australia, *Submission 13*, pp. 8, 10.

29 Insurance Council of Australia, *Submission 13*, p. 8.

Figure 2.3—Car insurance premiums and wage price indices[30]



Strata insurance premium trends

2.35 In 2013, the government commissioned the Australian Government Actuary to conduct a study into strata insurance pricing in North Queensland. In undertaking this study, the Australian Government Actuary was asked to compare strata insurance pricing across Northern Australia and other east coast centres.[31]

2.36 The Australian Government Actuary's report showed that, between 2006 and 2013, strata premiums for Australia's east coast centres increased at a similar rate relative to Australia's WPI,[32] which grew by approximately 28 per cent.[33] In contrast, strata insurance premiums in North Queensland increased at a significantly faster rate, more than tripling the rate of increase in other centres over the same period (figure 2.4).[34]

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30 Insurance Council of Australia, *Submission 13*, p. 10.

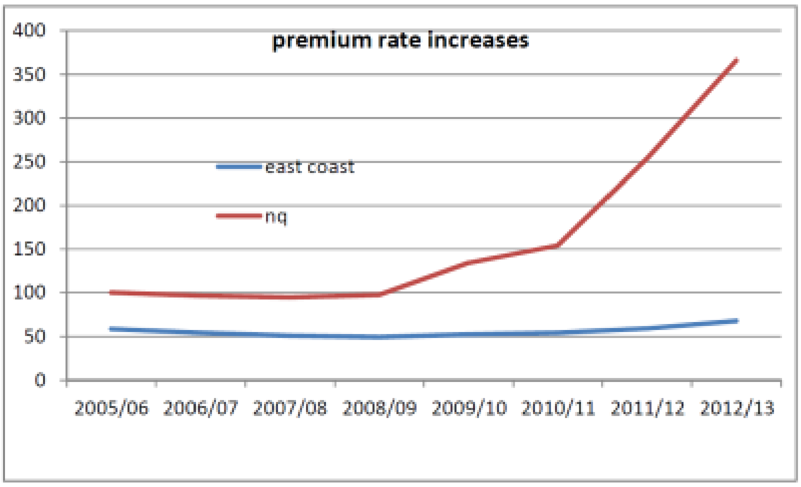
31 Australian Government Actuary, *Second Report on Strata Title Insurance Price Rises in North Queensland*, June 2014, p. 3.

32 Australian Government Actuary, *Second Report on Strata Title Insurance Price Rises in North Queensland*, June 2014, p. 19.

33 See Australian Bureau of Statistics, *Cat No. 6345.0–Wage Price Index, Australia*.

34 Australian Government Actuary, *Second Report on Strata Title Insurance Price Rises in North Queensland*, June 2014, p. 19.

Figure 2.4—Strata premiums in North Queensland and east coast centres[35]



Reasons for insurance premium increases

2.37 The main driver for increased premiums in home, strata and car insurance in recent years has been growth in claims costs.[36] However, there are a wide range of other complex and inter-related factors that have contributed to increases in these classes of insurance. Some of these factors have had a direct and significant impact on premium increases, while others have had smaller, more indirect impacts. Moreover, the risk-based nature of general insurance means that some factors have affected certain consumers more than others, such as those living in regions that face greater natural perils.[37]

2.38 Rising premiums in home insurance, particularly in regions such as North Queensland, have been driven by sharp increases in claims volumes, higher claim amounts, and substantial increases in the costs associated with meeting those claims (e.g. repairing and rebuilding costs). These factors have largely resulted from a high number of major weather and natural catastrophe events over the past decade, including cyclones, storms, floods and bushfires.[38] Insurers have revised their natural peril data following these events to more appropriately reflect the risk faced in regions where such events are more frequent, severe and costly.[39]

2.39 The growth in strata insurance premiums has been largely driven by the same factors affecting home insurance. However, rises in this class of insurance have also been affected by the location and concentration of strata properties, with extensive

35 Australian Government Actuary, *Second Report on Strata Title Insurance Price Rises in North Queensland*, June 2014, p. 19.

36 QBE, *Submission 16*, p. 5.

37 Financial Rights Legal Centre, *Submission 9*, p. 4.

38 Insurance Council of Australia, *Submission 13*, pp. 7–8. See also QBE, *Submission 16*, p. 5.

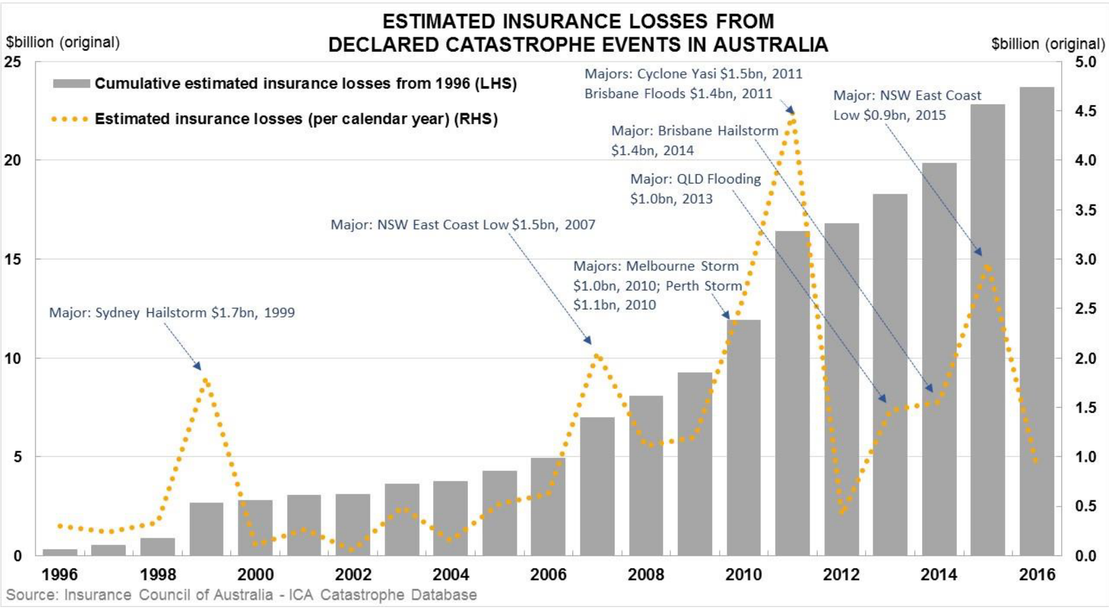
39 QBE, *Submission 16*, p. 5.

strata development along Australia's east coast, particularly in cyclone-prone regions, in recent years.[40]

2.40 With regard to strata insurance in North Queensland, the Australian Government Actuary found that premium increases in that region were a result of numerous factors, such as historical under-pricing, increases in the cost of reinsurance and losses caused by a number of natural disasters.[41]

2.41 According to the ICA, insurance losses resulting from declared catastrophe events over the past two decades total approximately $24 billion.[42] Moreover, QBE analysis estimates that between 2000 and 2012 alone, the losses borne by insurers from natural disasters totalled $16.1 billion, an average of over $1.2 billion per year.[43] Figure 2.5 illustrates the estimated insurance losses from declared catastrophe events in Australia over the past two decades.

Figure 2.5—Estimated insurance losses from declared catastrophe events in Australia (1996–2016)[44]



40 IAG, *Submission 15*, p. 18.

41 Australian Government Actuary, *Second Report on Strata Title Insurance Price Rises in North Queensland*, June 2014, p. 3.

42 Insurance Council of Australia, *Submission 13*, p. 4.

43 QBE, *Submission 16*, p. 5.

44 Insurance Council of Australia, *Submission 13*, p. 4.

2.42 Factors that should be considered when examining increasing general insurance premiums include:

- the increased cost of reinsurance;
- the introduction of automatic flood cover;
- improved flood information data;
- the increasing cost of construction, rebuilding and repairs;
- the use of some modern construction methods and materials;
- the tightening of building regulations, codes and standards;
- the growth of the housing market;
- a lack of competition in some areas (e.g. Northern Australia);
- the increase in motor vehicle technology and complexity;
- increased use of granular data profiles; and
- standard inflationary pressures and general economic conditions.[45]

Premiums and wage growth

2.43 A number of submitters questioned the validity of comparing increases in premiums for home, strata and car insurance with wage growth, emphasising that changes in these measures are driven by different and largely uncorrelated factors.[46]

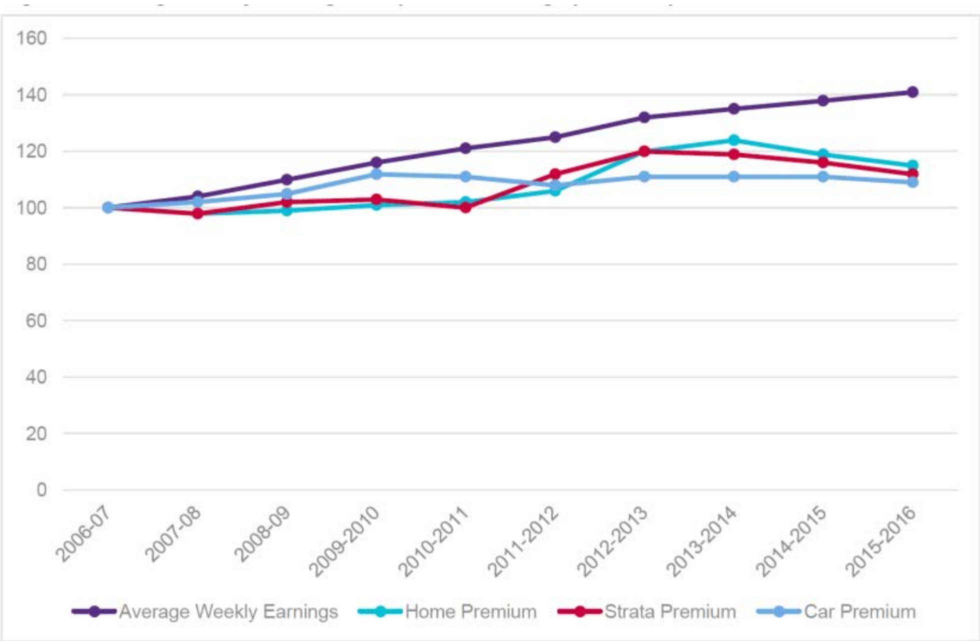
2.44 In its submission, IAG argued that 'the cost of a home insurance premium must be viewed in the economic context that the value of the asset has increased over the past decade'. IAG further argued that 'a more accurate indication of the movement of insurance premiums in comparison to earnings over time takes into account the sum insured of the asset being covered' (figure 2.6).[47]

45 See Financial Rights Legal Centre, *Submission 9*, pp. 3–4.

46 National Insurance Brokers Association, *Submission 2*, p. 2; Insurance Council of Australia, *Submission* 13, p. 7; QBE, *Submission 16*, p. 5.

47 IAG, *Submission 15*, p. 16.

Figure 2.6—Average weekly earnings compared to average premium per $1000 sum insured[48]



Committee view

2.45 The committee acknowledges that premium increases and wage growth are influenced by a variety of internal and external factors. However, the committee also considers the rate of premium increases relative to wage growth, particularly for home and strata insurance, has important implications with regard to the financial pressure placed on Australian consumers and the proportion of income being spent on insurance.

2.46 The committee recognises that rises in insurance premiums observed in regions such North Queensland have undoubtedly been influenced by the incidence of major weather and natural catastrophe events over the past decade. However, the committee is concerned that consumers are unable to determine if premium increases have been driven by this increased risk alone, or whether other factors, such as a lack of competition, have also contributed to the premium rises.

2.47 That said, the committee also notes that there have been several government and industry reviews relating to premium increases in home and strata insurance. These reviews have consistently found that, despite notable increases, premiums remain commensurate with the level of risk.[49] Given this, the committee does not propose to examine premium increases or their justification further in this report; however, it acknowledges the increased financial pressure that these increases can and

48 IAG, *Submission 15*, p. 16.

49 See, for example, Australian Government Actuary, *Second Report on Strata Title Insurance Price Rises in North Queensland*, June 2014; Australian Government Actuary, *Report on home and contents insurance prices in North Queensland*, December 2014; Northern Australia Insurance Premiums Taskforce, *Final Report*, November 2015.

has placed on many consumers. The role of disaster mitigation in reducing insurance premiums is discussed in chapter 5.

Competition in the general insurance industry

2.48 Competition is the cornerstone of well-functioning markets, driving efficiency with regard to price, innovation, service and product quality, and providing better information that allows for more informed consumer choices. To that end, competitive markets deliver positive consumer outcomes and, by extension, increase the welfare and prosperity of all Australians.

2.49 Healthy competition is integral to insurance affordability and accessibility. A lack of competition in insurance markets can result in negative consumer outcomes, such as premium increases, underinsurance, or coverage that is inappropriate to consumers' needs. These outcomes can have potentially devastating effects, not only on consumers' financial stability, but also on their mental and physical health. North Queensland provides some evidence of these negative effects. A lack of providers in this market, particularly for strata insurance, has resulted in barriers to many consumers acquiring cover.[50]

Stakeholder views on competition

2.50 Industry stakeholders were of the consistent view that Australia's general insurance industry is highly competitive, contending that the large number of participants in the market and recent entry of challenger brands are evidence of this fact. For example, Mr Anthony Justice from IAG argued:

> I think it is fair to say there is strong evidence that the market in Australia is highly competitive; there is a very large number of participants in the marketplace. We continue to see new entrants into the Australian market and we have seen several from overseas, particularly in recent years, who have built good market share positions. We feel the effect of that competition, we feel the effects of market share coming under pressure and we feel the effects of margins coming under pressure over time. So we would argue that there is very healthy competition in the Australian marketplace.[51]

2.51 The Australian Prudential Regulation Authority (APRA) shared this view, noting that:

> The personal lines market continues to display healthy competition. Incumbents have maintained a competitive position in all classes of business, while coming under increasing pressure from challenger brands such as Auto and General, Youi and Hollard, which continue to grow their market share. Large retail groups are also continuing to have an impact, as

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50 See Mrs Margaret Shaw, *Submission 21*, p. 16.

51 Mr Anthony Justice, Chief Executive, Australian Consumer Division, IAG, *Proof Committee Hansard*, 12 April 2017, p. 39.

> they seek to gain market share, particularly in the domestic motor class of business.[52]

2.52 The National Insurance Brokers Association (NIBA) acknowledged that IAG and Suncorp have dominant positions in the general insurance market. However, NIBA also asserted that consumers 'have easy access to a number of alternative suppliers', with a range of smaller, challenger brands infiltrating the Australian market.[53]

2.53 The ICA pointed out that the Financial System Inquiry (FSI) made a similar assessment of the level of competition in the general insurance industry.[54] Specifically, the FSI Interim Report observed that:

> Although the sector has generally become more concentrated, some trends are moving in the opposite direction. For example, a number of new insurers have entered the market, including Youi, Hollard and Progressive. Banks and retailers have also entered the insurance market, usually white labelling products provided by the main insurers, but with some underwriting themselves.[55]

Illusion of competition

2.54 Some inquiry participants queried the industry's assessment of the state of competition in the insurance market.

2.55 Mr John Rolfe argued that the general insurance market in Australia gives the 'illusion of competition, rather than genuine competition'. This is because, from a consumer perspective, there are a 'lots of different players to choose from. However, most of the major brands are ultimately controlled by just two companies: Suncorp and Insurance Australia Group'.[56]

2.56 iSelect echoed this opinion, remarking that 'there can be a misrepresentation to the man on the street about pure competition'.[57] iSelect explained this view in its submission to the inquiry:

> The significant concentration in the Australian market of the two major players—Suncorp and IAG—with around 70% market share [for motor insurance] between them, would appear to be substantially reducing competition in the general insurance market. This lack of true competition is masked from consumers as the major companies have maintained a plethora of brands retained after acquiring a number of smaller competitors.

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52 Australian Prudential Regulation Authority, *Submission 7*, p. 2.

53 National Insurance Brokers Association, *Submission 2*, p. 7.

54 Insurance Council of Australia, *Submission 13*, pp. 16–17.

55 Financial System Inquiry, *Interim Report*, July 2014, p. (2)39.

56 Mr John Rolfe, *Submission 1*, [p. 3].

57 Mr David Christie, Chief Administrative Officer, iSelect, *Proof Committee Hansard*, 13 April 2017, p. 34.

> These multiple brands give consumers the false impression that the marketplace is highly competitive.[58]

North Queensland strata insurance

2.57 In her submission the inquiry, Mrs Margaret Shaw highlighted the apparent lack of competition in the strata insurance market in North Queensland and suggested that premiums have been affected as a result:

> In 2012 North Queensland had only one insurer offering insurance for strata properties valued a replacement cost of $5M and above—SUU—owned by CGU—owned by IAG. Premiums went haywire.[59]

2.58 Mrs Shaw elaborated on this issue at a public hearing:

> As to competition, in North Queensland, we are still experiencing difficulty in obtaining sensible quotes, especially for the strata properties of more than 10 units or those with a replacement value of greater than $5 million. We quite often get stupid quotes such as $20,000 for a house in Ingham. They do not earn $20,000 in Ingham. There is also a large difference between quotes. For the 25 apartments where I live, quotes ranged from $51,000 to over $80,000. Companies which are considered major players, such as CHU, have not returned to the market, and some such as Zurich and Amp GI have left the strata market for good.[60]

Industry profitability

2.59 During public hearings, the committee questioned stakeholders about the level of profitability in the industry and how this should be used to assess the state of competition in the general insurance market.

2.60 As noted earlier in this chapter, in the year to 30 September 2016, total industry net profit after tax was $3.1 billion, up from $2.4 billion the previous year and representing a return of 11.2 per cent on net assets.[61] However, while net profit increased over the 12 month period, APRA data indicates that there has been deterioration in the financial performance of the general insurance industry over recent years.[62]

2.61 Representatives from APRA noted that the agency is not observing 'excessive profits' in the industry at a portfolio level. Mr Geoff Summerhayes, Executive Board Member at APRA, further advised the committee:

> As you would appreciate, we are not the competition regulator, so our primary lens is the prudential soundness of the institutions. That said, our mandate does require us to balance competition, contestability and

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58 iSelect, *Submission 6*, p. 4.

59 Mrs Margaret Shaw, *Submission 21*, p. 16.

60 Mrs Margaret Shaw, *Proof Committee Hansard*, 13 April 2017, p. 12.

61 Australian Prudential Regulation Authority, *Quarterly General Insurance Performance Statistics*, September 2016, p. 5.

62 Insurance Council of Australia, *Submission 13*, pp. 13–14.

> competitive neutrality, so it is a factor in our decisions. But, as we see the market, it is a well-functioning, healthy market which does not appear to be making excessive returns and is subject to a whole range of external influences that make profitability from one year to another quite variable.[63]

2.62 Industry representatives emphasised the fact that profitability in the general insurance industry has experienced a downturn in recent years. For example, Mr Andrew Broughton from QBE commented:

> As I think was stated by both our competitors before, insurance returns have actually been falling in recent years. We have a number of independent reports suggesting that returns in this sector, particularly in Australia, are adequate—certainly no more than that. They have actually deteriorated over recent years…We operate in a very tough market with broad macro-economic factors, such as low investment returns impacting our ability to return higher than what we would consider are adequate returns.[64]

Competition in supply versus demand

2.63 In their submission, Professor Allan Fels and Professor David Cousins cautioned against making conclusions on the effectiveness of competition in the general insurance industry solely on the basis of supply factors, such as the number of providers or degree of market concentration. They reasoned that this kind of assessment 'fails to consider competition from the perspective of consumers'; that is, from a demand perspective.[65]

2.64 Further elaborating on this point, Professors Fels and Cousins noted that:

> From a consumer viewpoint, an important dimension of industry competition is the degree to which that competition is 'effective' in producing price and other outcomes (e.g. range of products and services, product innovation) that benefit consumers.[66]

2.65 In giving evidence at a public hearing, Professor Fels argued that competition in the general insurance market 'is not fully effective', and that there is a clear weakness on the demand side of competition in the industry. This weakness is manifested in the low rates of consumer switching between insurers (consumer inertia), and the wide disparity that may be found between insurers in their quotations for identical properties and risks.[67] Professor Fels highlighted information asymmetry

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63 *Proof Committee Hansard*, 12 April 2017, p. 64.

64 Mr Andrew Broughton, Executive General Manager, Corporate Partners and Direct, QBE Insurance Australia and New Zealand, *Proof Committee Hansard*, 12 April 2017, p. 52.

65 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, p. 7.

66 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, p. 7.

67 Professor Allan Fels AO, private capacity, *Proof Committee Hansard*, 13 April 2017, p. 1. See also, Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, pp. 4, 7.

between insurers and consumers, particularly with regard to how insurance is priced, as a primary barrier to effective competition from a demand perspective.[68]

2.66 The concept of information asymmetry as it relates to insurance is discussed further in chapter 3.

Committee view

2.67 The committee notes that the government is yet to release its response to the final report of the Northern Australia Insurance Premiums Taskforce. The report was provided to the government in November 2015.

Recommendation 1

2.68 The committee recommends that the government release its response to the final report of the Northern Australia Insurance Premiums Taskforce.

2.69 The committee notes APRA's comments that the 'personal lines market continues to display healthy competition'. However, the committee also acknowledges the importance of examining the effectiveness of competition in the industry from a demand perspective. In this regard, the committee tends to agree with the view of Professors Fels and Cousins that competition in the general insurance market is not fully effective, and considers that consumers would benefit from increased competition.

2.70 With regard to strata insurance in North Queensland, the committee is highly concerned by evidence pointing to the difficulties experienced by consumers in obtaining quotes in this region. In light of the evidence received, the committee considers that a focused review into competition in the strata insurance market in North Queensland is warranted.

Recommendation 2

2.71 The committee recommends that the government conduct a review into competition in the strata insurance market in North Queensland to establish a fact base and explore avenues to improve insurer participation in this region.

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68 Professor Allan Fels AO, private capacity, *Proof Committee Hansard*, 13 April 2017, p. 1.

Chapter 3

Transparency and the current product disclosure regime

Information asymmetry

3.1 Information asymmetry arises whenever one party to an economic transaction has more or better information than the other party. While information asymmetry can, in some instances, lead to undesirable outcomes, its effect is not always negative in a well-functioning market.

3.2 A competitive and efficient insurance market requires consumers to be well-informed. Information asymmetry that favours insurers can hinder consumer decision-making because of a lack of understanding about premium pricing, policy coverage and personal risk. This can, in turn, lead to poor consumer outcomes, such as inflated premiums, underinsurance, or coverage that is inappropriate to their needs.

3.3 Consumers' ability to make efficient and appropriate choices with respect to insurance can be impeded by the absence or inaccessibility of relevant information. In other words, information asymmetries can arise in circumstances where:

- consumers cannot access the information they need (e.g. insurers not providing information); or
- consumers have access to relevant information, but it is not in a usable format (e.g. it is too complex).[1]

3.4 The second of these circumstances is of particular relevance to general insurance. A lack of transparency in the general insurance industry with regard to disclosure has resulted in significant barriers to consumers' ability to make efficient use of product information. This issue is exacerbated by the inherent complexity of general insurance products.

3.5 The Consumer Action Law Centre (Consumer Action) succinctly captured this issue in its submission:

> The general insurance industry in Australia is characterised by a vast range of policies which include varied conditions, inclusions, exclusions and definitions. Policies are not consistent and do not conform to a minimum standard. Choosing a product can be a complicated attempt at guesswork. This is largely due to the lack of transparency in insurance products.[2]

3.6 Similarly, Professors Fels and Cousins submitted that:

> The complexity of home insurance as currently marketed by the insurers, and the lack of transparency in its pricing, makes it harder for consumers to be knowledgeable about the product relative to suppliers. In short,

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

2 Consumer Action Law Centre, *Submission 5*, p. 2.

information asymmetry exists because of the high costs of being informed. As a result of this, consumers exhibit inertia in shopping around.[3]

The current product disclosure regime

3.7 The principal means of disclosure for retail classes of general insurance, including home and motor policies, is the mandated provision of a Product Disclosure Statement (PDS) to a consumer at the point of sale.

3.8 The current product disclosure regime for general insurance was first introduced as part of the broader Financial Services Reforms (FSR) in 2001. The objective of these reforms was to consolidate regulation of the financial services sector and, by extension, give consumers a more consistent framework of consumer protection in which to make their financial decisions.[4] The new disclosure regime aimed to supplement, but not replace, the disclosure requirements already existing under the Insurance Contracts Act.

3.9 Under the current disclosure regime, insurers are obliged to comply with a number of mandatory requirements, as set out in Chapter 7 of the *Corporations Act 2001* (Corporations Act). For direct sales to a consumer, insurers must provide a PDS at the point of sale. The Corporations Act also prescribes the content that is required to be covered in a general insurance PDS. In broad terms, a PDS must provide information about the features and benefits of the policy being sold, including its terms, conditions, limits and exclusions.

3.10 When insurance is sold through an intermediary, such as an insurance broker, the intermediary must provide the consumer with a Financial Services Guide (FSG). An FSG must disclose information about the financial services offered, remuneration arrangements, and any potential conflicts of interest. For general insurance policies, the FSG can be combined with the PDS in a single document.[5]

3.11 As previously noted, for home building and contents policies, insurers must also provide consumers with a one-page Key Facts Sheet (KFS). In accordance with the Insurance Contracts Act, the KFS provides an overview of key policy features in a standard format. This additional disclosure requirement was introduced as part of a response to the Queensland flood events of 2011.

3.12 The objective of the current disclosure regime, as stated in the Corporations Act, is to provide information that 'a person would reasonably require for the purpose of making a decision, as a retail client, whether to acquire the financial product'.[6]

3.13 A number of stakeholders noted that, while the existing disclosure regime came from a place of good intent, its interpretation and application was shaped by the

3 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, p. 4.

4 See Financial Services Reform Bill 2001, *Explanatory Memorandum*, p. 1.

5 QBE, *Submission 16*, p. 10; Insurance Council of Australia, *Submission 13*, p. 21.

6 *Corporations Act 2001*, ss. 1013D(1).

prevailing view at the time that more information was better for consumers. As acknowledged by Mr Rob Whelan, Executive Director and Chief Executive Officer of the Insurance Council of Australia (ICA), this traditional view 'has led to a position in some cases where the PDSs are lengthy, onerous documents to be able to get through as a mechanism for imparting information'.[7]

Behavioural biases

3.14 CHOICE also noted the shortcomings of this outdated view on disclosure; in particular, the fact that it does not take into account the substantial role that behavioural biases play in shaping consumers ability to make efficient economic decisions:

> Traditionally the role of disclosure was based on a theory that consumers are rational agents who will make welfare maximising decisions if provided with full information. While this theory has long been questioned, policy and regulation has been slow to catch up. Traditional models assume economic agents, such as consumers, have an infinite capacity to take in and process information; are neutral to how it is presented; can anticipate and take the future into account; care only about self-maximising; and treat gains the same as losses. In contrast, behavioural economics recognises that consumers have limits on the amount of information they can take in; are affected by presentation; tend to be poor at anticipating the future; care about people and fairness; and are more concerned about losses than gains. These are known as 'behavioural biases'.[8]

3.15 ASIC also discussed this issue, observing that the perceptions underlying existing disclosure regulation are out of step with contemporary understanding of consumer behaviour:

> The rationale for relying on disclosure to protect and empower consumers assumes that consumers are rational decision makers who, when given information about a financial product, will be able to read it, and as a result of doing so, understand the product. However, consumer research, psychology and behavioural economics indicate that a consumer's decision making is affected by behavioural biases.[9]

Government and industry action to date

3.16 The efficacy of disclosure practices for general insurance has come under increasing criticism in recent years, largely driven by numerous natural catastrophe events and subsequent inquiries into the industry.

3.17 The Queensland flood events of 2011 resulted in a number of people being adversely affected due to inadequate general insurance cover. Government consultation on this issue highlighted a level of consumer confusion regarding what is

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7 *Proof Committee Hansard*, 12 April 2017, p. 30.

8 CHOICE, *Submission 17*, pp. 9–10.

9 Australian Securities and Investments Commission, *Submission 22*, p. 12.

and is not included in their insurance contracts; in particular, the extent to which contracts provide cover for flood and what flood cover means.[10]

3.18 In an effort to reduce this confusion and enable consumers to make better informed decisions about the purchase of insurance contracts, the Parliament passed legislation amending the Insurance Contracts Act in 2012. This legislation provided a legislative framework for a standard definition of flood and, as previously noted, to require insurers to provide a KFS for home building and contents policies.[11]

3.19 The general insurance industry has also responded to concerns raised with regard to the existing disclosure regime and its potentially detrimental effect on consumer outcomes. As discussed in chapter 1, in 2015, the ICA established the Effective Disclosure Taskforce (the Taskforce) to investigate and develop initiatives for improvement with regard to product disclosure for general insurance.

3.20 In its report to the Insurance Council Board, the Taskforce observed that:

> …a major shortcoming in the disclosure regime has been its sole focus on the provision of information, without the necessary regard for the consumer's ability to make use of that information.
>
> In this regard, a distinction should be drawn between mandated disclosure and effective disclosure. Mandated disclosure sets the minimum benchmark required by law. However, effective disclosure cannot be achieved simply by reference to the minimum legal requirements. Effective disclosure needs to be informed by the core concept of transparency; information that encourages effective decision-making and is of more relevance to the individual.[12]

Deficiencies in the current disclosure regime

3.21 The remainder of this chapter examines in detail the deficiencies of the current disclosure regime for general insurance as raised by participants in the inquiry. To this end, it also explores how the lack of transparency in the existing disclosure regime could be addressed to assist with consumer understanding and facilitate comparability between products.

Pricing transparency at the point of sale

3.22 The risk-based nature of general insurance makes it a relatively complex financial product, as premiums are bespoke to individual consumers. From a consumer perspective, this complexity is obfuscated by a lack of transparency with regard to how general insurance is priced.

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10 Insurance Contracts Amendment Bill 2012, *Explanatory Memorandum*, p. 7.

11 Insurance Contracts Amendment Bill 2012, *Explanatory Memorandum*, pp. 11, 19.

12 Effective Disclosure Taskforce, *Too Long; Didn't Read: Enhancing General Insurance Disclosure*, October 2015, p. 3.

3.23 Professors Fels and Cousins emphasised this point in their submission:

> Few consumers would disagree that insurance is a relatively complex product. The pricing of insurance also generally lacks transparency. The pricing of insurance is largely based on (amongst other things) technical risk factors, including the risk of a claim occurring due to various types of natural and non-natural peril events, however not many consumers—particularly purchasers of home insurance—would have a level of financial literacy that is sufficient to enable them to understand how this pricing works.[13]

3.24 During the course of the inquiry, the committee canvassed a number of options to improve the transparency of general insurance pricing. In particular, the committee considered the disclosure of the previous year's premium on insurance renewal notices and component pricing of insurance premiums.

Disclosure of the previous year's premium

3.25 Several submitters proposed that the disclosure of the previous year's premium on renewal notices for home, strata and car insurance would be a simple but effective way of increasing transparency around premium pricing. As well as encouraging product comparability, some reasoned that such an approach would also improve competitive tension in the general insurance market.[14]

3.26 CHOICE argued that the disclosure of the previous year's premium 'would allow a consumer to assess any increase and decide if they should seek alternative quotes'.[15] Similarly, ASIC contended that 'any unexplained significant price increase should prompt consumers to shop around for alternative policies that may better suit their needs'.[16]

3.27 Support for this strategy can be found in the United Kingdom. In 2014, the Financial Conduct Authority (FCA) trialled the provision of different types of information at renewal to test whether this prompted consumers to switch. The trial, which was conducted with over 300 000 consumers, found that:

> The inclusion of last year's premium on renewal notices had the greatest impact, prompting between 11% and 18% more people to either switch provider or negotiate a lower premium when prices sharply increase.[17]

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13 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, p. 9.

14 See, for example, Financial Rights Legal Centre, *Submission 9*, p. 18; CHOICE, *Submission 17*, p. 12; Australian Securities and Investments Commission, *Submission 22*, p. 27.

15 CHOICE, *Submission 17*, p. 12.

16 Australian Securities and Investments Commission, *Submission 22*, p. 27.

17 Financial Conduct Authority, *FCA to require insurance firms to publish details of last year's premium*, Press Release, 3 December 2015, https://www.fca.org.uk/news/press-releases/fca-require-insurance-firms-publish-details-last-year%E2%80%99s-premium (accessed 3 June 2017).

3.28 The ICA noted that, as part of its work on implementing the recommendations made by the Effective Disclosure Taskforce, it is also facilitating a trial of the disclosure of the previous year's premium at renewal. The ICA further advised that:

> The objective of this disclosure is to enhance transparency around any premium changes for renewing consumers. Two insurers have committed to trialling this disclosure, and the Insurance Council is facilitating information sharing across the industry around the impact of such disclosure on consumer behaviour. If the trials result in positive consumer outcomes, wider implementation of this disclosure can be encouraged.[18]

3.29 IAG is one of the insurers trialling this approach, implementing disclosure of year-on-year premium comparison on the Renewal Certificate for its NRMA Insurance Comprehensive Motor policy in 2016.[19]

3.30 In addition to disclosing the previous year's premium, the Financial Rights Legal Centre (Financial Rights) asserted that insurers 'should also explain why the price has increased'.[20] The ICA expressed a similar view, stating that:

> …adequate explanation of why there has been a movement in that premium also is required, because a simply bold-faced comparison of two numbers actually is misleading. That is because, for example, asset prices increase, therefore they have to have a different sum insured and that can change the premium rate. If you compare that to the previous year, it looks different and you have not explained why the difference is. You have to be able to explain these numbers and not just have a bold-faced number. That means that the insurers have to go to some lengths to be able to do that accurately.[21]

3.31 However, IAG raised concerns with regard to this proposal, commenting that there are practical difficulties in providing such information on every insurance renewal:

> We have not got to that yet on every individual insurance renewal, because for every renewal the price is made up of many, many different components and being able to explain that on every insurance renewal would be beyond the bounds of practicality. Clearly, when customers speak to us then we would try and explain to them. Often there is a bit of a constraint on our customer-facing people to be able to do that at an individual policy level, but they would certainly be able to talk generally around the reasons why there might be pressure on insurance premiums.[22]

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18 Insurance Council of Australia, *Submission 13*, p. 20.

19 IAG, *Submission 15*, p. 26.

20 Financial Rights Legal Centre, *Submission 9*, p. 18.

21 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 34.

22 Mr Anthony Justice, Chief Executive, Australian Consumer Division, IAG, *Proof Committee Hansard*, 12 April 2017, p. 45.

3.32 While there has been broad industry support for this particular change to disclosure around premium pricing, ASIC advised that 'legislative change would be required to compel all insurers to do this'.[23] Financial Rights echoed this view, submitting that disclosure of the previous year's premium on renewal notices:

> …would need to be mandatory for all insurers as encouraging a voluntary disclosure of this sort would encounter problems from those insurers (especially smaller insurers) wishing to avoid being the first to move.[24]

Disclosure of component pricing

3.33 The committee also examined the disclosure of component pricing as a possible means of increasing the transparency around premiums for home, strata and car insurance.

3.34 Financial Rights advocated strongly for this proposal, arguing that by requiring insurers to provide information as to the components in their premium pricing, consumers will be better informed about their personal risk. Moreover, Financial Rights emphasised that this approach would provide consumers with increased understanding about 'what effect mitigation strategies may have on reducing insurance premiums or what behaviours or conditions might increase premiums'.[25]

3.35 Financial Rights explained that component pricing would provide a 'signal to consumers of the risk factors taken into account when premiums are set', also making the point that this 'risk signal' would be particularly helpful in parts of Australia that face severe weather risks.

3.36 In support of this proposal, Mrs Margaret Shaw, herself a North Queensland resident, commented that:

> With regard to transparency, with any type of insurance there is no breakdown of how premiums have been calculated, and so people cannot work on improving certain areas. In most cases, there is no option to opt out of unwanted cover. We do not even know what the cyclone component is.[26]

3.37 When questioned by the committee about the potential for component pricing at an individual product level—that is, breaking a premium down into broad factors such as the base premium, taxes, cyclone and flood components—Mr Whelan from the ICA told the committee:

> Yes, I think that is possible. An interesting part of that is the amount that goes on top of the base premium, taxes, which we quite happily point out to consumers.[27]

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23 Australian Securities and Investments Commission, *Submission 22*, p. 27.

24 Financial Rights Legal Centre, *Submission 9*, p. 18.

25 Financial Rights Legal Centre, *Submission 9*, p. 17.

26 Mrs Margaret Shaw, private capacity, *Proof Committee Hansard*, 13 April 2017, p. 12.

27 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 32.

Product transparency at the point of sale

3.38 As previously noted, for retail classes of general insurance, the PDS is the principal means of disclosure to a consumer at the point of sale. A PDS must provide information about the features and benefits of the policy being sold, including its terms, conditions, limits and exclusions.

3.39 In the years since their introduction, PDS documents have come to be perceived by government, consumer groups and the insurance industry alike as overly complex, lengthy and not conducive to consumer comprehension. Research into consumers' buying behaviours has consistently found that few consumers read the PDS when buying general insurance products.[28]

3.40 For example, in 2013–14, ASIC commissioned research into consumer behaviours when purchasing home insurance.[29] The research found that:

> …two in every 10 consumers (20%) who took out new insurance or considered switching read the PDS. However the qualitative research undertaken as part of our review in REP 416 found that 'reading' the PDS generally meant reading selected pages, not all of it.[30]

3.41 As emphasised by several inquiry participants, the current form and content of PDSs can result in poor consumer understanding of what their general insurance policies actually cover. As a consequence, consumers may not learn what they are covered for, or in fact, not covered for, until an event occurs for which they need to make a claim. Moreover, the complexity of PDS documents, including their generally considerable length and use of complex and sometimes inconsistent terminology, impedes product comparability. This difficulty in making like-for-like comparisons between product offerings can result in consumers selecting a product on the basis of price alone, rather than considering a product's value or whether it provides a level of cover appropriate to their needs.[31]

3.42 Mr John Rolfe emphasised the difficulties that consumers face when trying to compare general insurance products using PDS documents:

> There are novels that are shorter than product disclosure statements. It is extraordinary. They run to 30,000 words. It would take hours to read just one of them. So let's say you were going to look at half a dozen of them before you picked an insurer. It is beyond belief that anyone would do that. So no-one is ever really going to know the detail of their insurance product.[32]

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28 See Effective Disclosure Taskforce, *Too Long; Didn’t Read: Enhancing General Insurance Disclosure*, October 2015, pp. 17–20.

29 See Susan Bell Research, *Insuring your home: Consumers' experiences buying home insurance*, ASIC Report 416, October 2014.

30 Australian Securities and Investments Commission, *Submission 22*, p. 11.

31 See, for example, iSelect, *Submission* 6, p. 5; CHOICE, *Submission 17*, p. 10; Victorian Council of Social Service, *Submission 18*, p. 12.

32 Mr John Rolfe, private capacity, *Proof Committee Hansard*, 12 April 2017, p. 4.

3.43 The inefficacy of existing PDS documents as a tool for enabling informed consumer choices is exacerbated for consumers prone to having low financial literacy, such as people for whom English is a second language or low-income earners. Good Shepherd Microfinance emphasised this point, submitting that PDSs 'are impenetrable to most of us, let alone those who have low levels of literacy and numeracy'.[33]

Industry perspective

3.44 Industry stakeholders that appeared before the committee were aware of the issues raised with regard to PDS documents, and noted that 'effective disclosure has been a priority project for the industry over the past two years'.[34] However, some industry stakeholders also made the point that much of the content of PDSs is mandated by legislation and, as such, is beyond industry control.

3.45 For example, Mr Nicholas Scofield, General Manager of Corporate Affairs at Allianz, informed the committee:

> I know our home PDS has about 17,000 words; five thousand of those are regulated by the government. We have to put them in, whether they are about privacy, the duty of disclosure, the financial ombudsman service, the HIH Claims Support Scheme—there is a whole lot of regulated content.[35]

3.46 Some industry representatives also noted that there are certain restrictions imposed by the current regulatory framework that prevent insurers 'from doing some of the things we would like to do' with regard to product disclosure.[36] For example, QBE submitted that, 'under the current regulatory regime, an insurer's ability to communicate electronically with its customers has been constrained and is still restricted'.[37]

3.47 ASIC also commented on the current restrictions to electronic disclosure in its submission to the inquiry, explaining that:

> In July 2015, ASIC made two new legislative instruments to remove barriers to electronic disclosure in the Corporations Act.
>
> …
>
> Provisions in the Insurance Contracts Act and *Electronic Transactions Act 1999* may prevent some insurers from relying on aspects of the relief we provided for electronic disclosure in 2015 under these instruments. ASIC

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33 Good Shepherd Microfinance, *Submission 8*, [p. 4]. See also Victorian Council of Social Service, *Submission 18*, p. 12.

34 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 26.

35 *Proof Committee Hansard*, 12 April 2017, p. 59.

36 Ms Kate O'Loughlin, Head of Government Relations and Industry Affairs, QBE Insurance Australia and New Zealand, *Proof Committee Hansard*, 12 April 2017, p. 61.

37 QBE, *Submission 16*, p. 10. See also Insurance Council of Australia, *Submission 13*, p. 24.

does not have powers to address these issues; legislative change would be required.[38]

3.48 The committee understands that ASIC is currently working in consultation with the industry and Treasury on this issue and encourages the continuation of this work.

A case for standard insurance

3.49 As previously discussed, a well-recognised shortcoming of the current disclosure regime for general insurance is the difficulty that consumers face in comparing products on a like-for-like basis, and the implications that this can have regarding consumers' ability to make informed decisions when buying insurance.

3.50 Submitters to the inquiry raised a number of regulatory and industry barriers to product comparability that, if addressed, could increase the efficacy of product disclosure for the benefit of consumers. These include the operation of the standard cover regime under the Insurance Contracts Act and inconsistent use of policy terms across the industry.

Standard cover regime

3.51 As noted in the previous chapter, Part 5 of the Insurance Contracts Act and related regulations set out the standard cover requirements for a number of prescribed classes of general insurance contracts, including home and motor insurance. Under the current standard cover regime, an insurance contract can provide less than standard cover if:

- the insurer 'clearly informed the insured in writing (whether by providing the insured with a document containing the provisions, or the relevant provisions, or the proposed contract or otherwise)'; or
- 'the insured knew, or a reasonable person in the circumstances could be expected to have known' that the insurance contract provided less than the standard cover, or no cover.[39]

3.52 As explained by Mr Gerard Brody, Chief Executive Officer of the Consumer Action Law Centre, 'the idea of standard cover was that people could expect a basic level of cover and could compare a particular policy to the standard'.[40]

3.53 However, some submitters argued that the standard cover regime is no longer fulfilling its intended purpose, and that the way the regime has been framed in legislation makes comparison between general insurance products 'nigh on impossible'.[41] This is because, under the current product disclosure regime, an insurer

38 Australian Securities and Investments Commission, *Submission 22*, p. 29.

39 *Insurance Contracts Act 1984*, ss. 35(2), as cited in Consumer Action Law Centre, *Submission 5*, p. 7.

40 *Proof Committee Hansard*, 13 April 2017, p. 7.

41 See, for example, Consumer Action Law Centre, *Submission 5*, p. 8; Financial Rights Legal Centre, *Submission 9*, p. 30.

can comply with the requirement to 'clearly inform' a consumer when a contract provides less than standard cover simply by providing them with a PDS.

3.54 Mr Brody elaborated on this deficiency of the standard cover regime:

> The problem is that all an insurer has to do to comply with the standard cover regime is give the consumer a product disclosure statement. This is a ridiculously low bar. Case in point: the recently published industry commissioned research shows that 80 per cent of people do not read their PDS when they buy insurance. It is fair to say that standard cover is not a reality. We have no minimum standard for insurance and no benchmarks for comparison.[42]

3.55 Mr Brody went on to propose that 'standard cover could be revived to provide some kind of default cover or safety net, but it would require much more from the industry than a PDS'.[43]

3.56 Similarly, Mr Dallas Booth, Chief Executive Officer of the National Insurance Brokers Association of Australia (NIBA), suggested that it is timely for a review of the standard cover provisions with input from the insurance industry, government and consumer groups.[44] Mr Booth also contended that:

> I believe that if we can have a comprehensive review of those standard form covers, people would not have to receive, would not have to read a PDS statement because they would get the cover that they are expecting to receive. We have certainly suggested to government very recently that it is time for those form provisions in the contracts act and regulations to be reopened and to be thoroughly reviewed.[45]

Standard definitions

3.57 Several submitters raised the inconsistent use of definitions across insurance policies as a barrier to product comparability, and proposed standardisation of key policy terms as a way of helping to address this issue.[46]

3.58 Given the complexity of general insurance products and associated disclosure documents, inconsistent definitions risk misleading consumers into thinking they have cover for certain events when in fact they do not.[47]

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42 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 13 April 2017, p. 7.

43 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 13 April 2017, p. 7.

44 Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association, *Proof Committee Hansard*, pp. 13–14.

45 *Proof Committee Hansard*, p. 14.

46 CHOICE, *Submission 17*, p. 13; Financial Rights Legal Centre, *Submission 9*, p. 30; iSelect, *Submission 6*, p. 5; Consumer Action Law Centre, *Submission 5*, p. 10.

47 CHOICE, *Submission 17*, p. 12.

3.59 CHOICE elaborated on this point, submitting that:

> A good disclosure process can be defeated if key definitions are not standardised. This is particularly the case in insurance where a definition, potentially hidden 100 pages deep in a PDS, can radically alter the value of a policy.[48]

3.60 Mr Michael Saadat from ASIC echoed this view, commenting that:

> …where there are differences in definitions, it is not always possible for consumers to appreciate the nuances that those differences can create and, if you do have a different definition, what the implications of that are from a coverage perspective.[49]

3.61 Regulatory action has been taken in the past to address the inconsistent use of definitions in insurance, with a standard definition of 'flood' introduced for home and contents policies in 2012. This move to standardise the definition of flood was considered by the general insurance industry and consumer groups as a positive step to improving consumer outcomes.[50] However, as noted by CHOICE, 'it did not deal with the broader systemic problem in insurance sales' and 'there remain a slew of terms which appear to have different definitions depending on the policy'.[51]

3.62 CHOICE emphasised this point by providing the example of the term 'actions by the sea':

> For example, home insurers use different definitions for 'actions of the sea'. ANZ excludes loss or damage caused by 'actions by the sea' however it does not define a tsunami as an action by the sea and will in fact cover loss or damage caused by a tsunami. By contrast Coles considers a tsunami to be an act of the sea and excludes damage or loss 'caused by high tide, tidal wave, tsunami or other actions of the sea'.[52]

3.63 Industry representatives expressed some reservations regarding proposals to standardise policy terms. For example, in giving evidence to the committee, Mr Whelan from the ICA remarked that standard definitions could 'commonise the market'.[53]

3.64 However, in responding to questions on notice, the ICA noted that its Effective Disclosure Taskforce had 'identified possible benefits from proposals such

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48 CHOICE, *Submission 17*, p. 12.

49 Mr Michael Saadat, Senior Executive Leader—Deposit Takers, Credit and Insurers; Regional Commissioner—New South Wales, Australian Securities and Investments Commission, *Proof Committee Hansard*, 12 April 2017, p. 69.

50 See Insurance Council of Australia, *Insurance Council welcomes Standard Definition of Flood*, Media Release, 18 June 2012.

51 CHOICE, *Submission 17*, pp. 12, 17.

52 CHOICE, *Submission 17*, p. 12.

53 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 34.

as the use of standard definitions' and that the ICA will be undertaking work to improve product comparability in consultation with regulators and consumer groups.[54]

3.65 Mr Scofield from Allianz also expressed a general willingness of the industry to consider standardising definitions, remarking that:

> I think we would all agree that having a standard definition of flood has been of great advantage to the industry and to consumers. I do not think we would be averse to standardising some other definitions like actions of the sea in a similar way.[55]

Efficacy of Key Facts Sheets

3.66 As previously discussed, legislative changes requiring insurers to provide consumers with a Key Facts Sheet (KFS) for home building and contents policies were introduced in 2012. This was done in an effort to reduce confusion and enable consumers to make better informed decisions about the purchase of insurance contracts.[56]

3.67 The contents, format and provision requirements for the KFS is prescribed by regulation.[57] In broad terms, the KFS provides information on whether a policy provides cover for each of a number of listed events, as well as any specific conditions, exclusions or limits that apply to each event. Ms Alexandra Kelly, Principal Solicitor at the Financial Rights Legal Centre, summarised the intent behind the KFS as an effort to 'try and inform the consumer, in a clear snapshot, of the key facts about the product'.[58]

3.68 During the course of the inquiry, the committee examined the effectiveness of the KFS as a means of improving consumer outcomes when buying insurance. Some inquiry participants expressed concerns regarding how the KFS is being implemented and proposed that there is scope for improvement in how it is used.

3.69 For example, Ms Kelly contended that the KFS is not meeting its intended purpose, commenting that:

> It had a good intention, but it was not consumer tested. What we have seen, and we have reviewed hundreds of key fact sheets over the years of various products, is that some of them are so poor they just say, 'Refer to your product disclosure statement'; others are almost misleading with oversimplification of what is in them. In my experience of answering the hotline, and I have answered thousands of calls, only one consumer has ever raised it with me as being something that has actually informed them

54 Insurance Council of Australia, answers to questions on notice, 12 April 2017 (received 5 May 2017).

55 Mr Nicholas Scofield, General Manager, Corporate Affairs, Allianz Australia Insurance Limited, *Proof Committee Hansard*, 12 April 2017, p. 57.

56 Insurance Contracts Amendment Bill 2012, *Explanatory Memorandum*, p. 7.

57 Insurance Contracts Amendment Regulation 2012 (No. 2).

58 *Proof Committee Hansard*, 12 April 2017, p. 17.

> about their cover. In my view, it does not meet the intention it was designed or suggested to try and meet.[59]

3.70 Mr Booth from NIBA expressed a similar view, arguing that the KFS has resulted in an oversimplification of what is covered by relevant policies and is therefore potentially misleading to consumers:

> The key facts sheet was introduced approximately two years ago. I think it was a federal government initiative. At the time, we expressed concerns that a key facts sheet would result in oversimplification of the terms of the policy. We believe that that has happened and we believe that there are examples particularly in relation to home buildings and home contents policies, where the key facts sheet could actually be quite misleading to the relatively uninformed consumer. We have expressed concerns to government and to relevant authorities that the key facts sheet in its current form is an oversimplification of policy terms and conditions and can be not only unhelpful but in fact in some circumstances misleading.[60]

3.71 Industry representatives also commented on the tendency of the KFS to oversimplify insurance policies. For example, Mr Scofield from Allianz noted that two distinct policies can appear to offer the same insurance cover from the information provided on their respective KFS:

> I can tell you that we have a key fact sheet for our defined events policy, where you are covered for listed events like earthquake, fire et cetera, and we have a key fact sheet for our accidental damage policy, which provides a broader coverage, because it will cover things that get damaged, in a sense, through just about any cause. The only difference between our two key fact sheets for those two policies are the two words at the top that say defined events or accidental damage. They are very different policies. One has a much broader level of coverage and will as result have a higher premium.[61]

3.72 Ms Kelly suggested that the KFS could be redesigned, but stressed that consumer testing would be required if this was to occur.[62] Similarly, Mr Brody from Consumer Action articulated that 'what we have not seen is a detailed evaluative study of those key facts sheets' and that this 'would be a useful step in determining what sort of disclosure actually works'.[63]

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59 Ms Alexandra Kelly, Principal Solicitor, Financial Rights Legal Centre, *Proof Committee Hansard*, 12 April 2017, p. 17.

60 Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, *Proof Committee Hansard*, 12 April 2017, p. 10.

61 Mr Nicholas Scofield, General Manager, Corporate Affairs, Allianz Australia Insurance Limited, *Proof Committee Hansard*, 12 April 2017, pp. 56–57.

62 Ms Alexandra Kelly, Principal Solicitor, Financial Rights Legal Centre, *Proof Committee Hansard*, 12 April 2017, p. 17.

63 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 13 April 2017, p. 11.

Committee view

3.73 Transparent disclosure that encourages understanding and promotes informed decision-making lies at the heart of robust consumer protection. To that end, the committee is deeply concerned by the apparent lack of transparency in the general insurance industry with regard to product disclosure, and the detrimental effect this has on consumers' ability to effectively compare similar insurance policies.

3.74 The committee recognises the efforts being made by the general insurance industry, led by the Insurance Council of Australia, to improve product disclosure practices and encourages the continuation of this work. However, the committee is of the view that more needs to be done to support and protect consumers in purchasing general insurance products appropriate to their needs.

3.75 The committee shares stakeholder concerns that some aspects of the current product disclosure regime for general insurance are ineffective in enabling consumers to make informed decisions. Evidence received during the inquiry highlighted several areas of the existing disclosure regime and regulatory framework for general insurance that are not operating to support consumer outcomes, and would benefit from considered review and possible legislative reform. The committee broadly agrees with the opportunities highlighted and, as such, makes the following recommendations.

Recommendation 3

3.76 The committee recommends that the government strengthen the transparency of general insurance pricing by amending the product disclosure regime in the *Corporations 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.**

Recommendation 4

3.77 The committee recommends that the government initiate a review of component pricing to establish a framework for amending the *Corporations Act 2001* to provide component pricing of premiums to policyholders upon them taking out or renewing an insurance policy, as well as an assessment of the benefits and risks to making such a change.

Recommendation 5

3.78 The committee recommends that the government initiate an independent review of the current standard cover regime with particular regard to the efficacy of current disclosure requirements.

Recommendation 6

3.79 The committee recommends that the government work closely with industry and consumer groups to develop and implement standardised definitions of key terms for general insurance.

Recommendation 7

3.80 The committee recommends that the government undertake a review of the utility of Key Facts Sheets as a means of product disclosure, with particular regard to the:

- **effectiveness of Key Facts Sheets in improving consumer understanding of home building and contents policies; and**
- **merit of extending the use of Key Facts Sheets to other forms of general insurance.**

Chapter 4

Insurance comparison services: costs and benefits

4.1 In addition to the barriers imposed on consumers by flaws in the current product disclosure regime, consumers' ability to effectively compare insurance products is also impeded by the considerable time and effort required to obtain quotes and compare product offerings across the general insurance market.

4.2 Compare the Market aptly summarised this problem, submitting that:

> It is difficult for Australian consumers to easily compare insurers or products of general insurance through their own independent research direct with the insurers…the process of obtaining even a single quote requires the consumer to spend a significant amount of time answering a number of personal and risk-based questions. Repeating the process for numerous products or insurers is tedious.[1]

4.3 In examining ways to increase transparency and address the information gap that exists between insurers and consumers, the committee looked at the utility of comparison services as a tool for enhancing the comparability of home, strata and motor insurance products. In particular, the committee inquired into the costs and benefits associated with the establishment of an independent home, strata and car insurance comparison service in Australia.

4.4 As noted in chapter 2, an insurance comparison service, often referred to as aggregator or price comparison website (PCW), is generally an online platform that acts as an intermediary between insurers and consumers searching for a range of insurance products. Consumers are usually required to provide certain personal details online before being presented with information on a number of insurance products to compare.[2]

4.5 In 2014, the Australian Competition and Consumer Commission (ACCC) released a report on the comparison website industry in Australia. The report observed that comparison services can facilitate consumer choice by assisting consumers to quickly and easily filter information to a level that allows them to make a decision. Additionally, the ACCC report noted that comparison services can benefit competition by acting to remove some of the barriers to entry for new market entrants.[3]

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1 Compare the Market, *Submission 3*, [p. 2].

2 Insurance Council of Australia, *Submission 13*, p. 25.

3 Australian Competition and Consumer Commission, *The comparator website industry in Australia*, November 2014, pp. 2, 14–16. See also, Australian Securities and Investments Commission, *Submission 22*, p. 20.

4.6 A 2013 report by the World Bank on public-sector operated comparison websites also discussed the merits of comparison services, observing that they allow consumers:

> …to easily search for and compare product offerings in the market, helping to broaden disclosure and transparency during the shopping phase. These websites can increase market competition by creating competitive pressure among providers to lower prices and improve product offerings.[4]

4.7 The report also commented on the relative advantages of public-sector operated comparison sites. These advantages included:

> …the objectivity and transparency of the public sector site operator, the greater number of products and providers that may be compared in one website, and the combination of comparative pricing data with complementary financial guidance and educational tools.[5]

4.8 However, the World Bank report also noted that 'there are inherent limitations to price-comparison websites' and 'price comparisons are most useful for comparing standardized, commoditised products and are less appropriate for sophisticated products'.[6]

4.9 ASIC echoed this view in its submission to the inquiry, advising that:

> In reviewing the role of comparison services in assisting with comparability and competition on price and features, it is important to recognise and consider the challenges of establishing such a service and the potential unintended consequences.[7]

4.10 It is important to note that the inquiry's terms of reference did not designate whether participation in any proposed independent comparison service would be mandatory or voluntary. However, much of the evidence received during the course of the inquiry was given under the assumption that participation in such a service would be mandatory.

4.11 ASIC, as the regulator with primary responsibility for the general insurance industry, advised that:

> Without broad industry agreement, legislative change would be necessary to allow the independent operator of the service to compel all insurers to provide information about their product offerings and to agree to comparisons of their products being publicly displayed to consumers.[8]

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4 World Bank, *Public Sector-operated Price-comparison Websites: Case Studies and Good Practices*, 2013, pp. 4–5.

5 World Bank, *Public Sector-operated Price-comparison Websites: Case Studies and Good Practices*, 2013, p. 5.

6 World Bank, *Public Sector-operated Price-comparison Websites: Case Studies and Good Practices*, 2013, p. 5.

7 Australian Securities and Investments Commission, *Submission 22*, p. 3.

8 Australian Securities and Investments Commission, *Submission 22*, p. 25.

Stakeholder views

4.12 Some inquiry participants were encouraging of the proposal to establish an independent comparison service in Australia.

4.13 Compare the Market noted its support for such an initiative, asserting that:

> …we are strong believers in the consumer and industry benefits that flow from consumers being able to easily compare the merits of competing products side by side. A government-run general insurance comparison service would:
>
> a) make it easier for consumers to compare the relative merits of competing insurers and insurance policies; and
>
> b) intensify competition—both on features and price—between insurers, which ultimately benefits consumers.[9]

4.14 Professor Allan Fels and Professor David Cousins suggested that an independent comparison service would help address information asymmetry and empower consumers by enhancing competitive price pressure in the property insurance market.[10]

4.15 Mr John Rolfe argued that 'there is an urgent need to assist consumers in their efforts to find good-value insurance cover for their homes and motor vehicles' and described an independent comparator as a 'cost-effective solution'.[11] Mr Rolfe further emphasised this point, submitting that:

> 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.[12]

4.16 However, the majority of inquiry participants were not supportive of the proposal for an independent comparison service, with many arguing that such a service could have detrimental impacts on consumers and on the operation of the general insurance industry as a whole.

Harm to consumers

4.17 Submitters' main concern with regard to an independent comparison service for general insurance is the propensity for such services to focus consumer attention on price, rather than the value or suitability of a product. Specifically, submitters argued that comparison services present and compare insurance products as undifferentiated commodities, thus reducing consumers' purchasing decisions to one based on price alone. This overly simplistic comparison can result in consumers

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9 Compare the Market, *Submission 3*, [p. 1].

10 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, p. 11.

11 Mr John Rolfe, *Submission 1*, [p. 1].

12 Mr John Rolfe, *Submission 1*, [p. 7].

disregarding important differences in policy cover, terms and conditions, and risks them purchasing cover unsuitable to their needs.[13]

4.18 This view was shared across a range of stakeholders, including regulators, industry and consumer groups. For example, the Financial Rights Legal Centre (Financial Rights) submitted that:

> In general, comparison websites provide only a very simplistic and often inaccurate overview of different insurance policies and tend to reduce the complex insurance purchasing decision to one based on price alone—disregarding differences in policy cover, product options and claims service capabilities. The scope of cover, product options and claims service capability vary greatly across the industry and using a comparison website can fail to take these factors into account and carry some hidden catches.[14]

4.19 Similarly, the ICA argued that:

> The design and natural price focus of PCWs, regardless of whether they are commercially run or independently operated can create an environment which leads a consumer to purchase an insurance product that is not right for their needs. A 'one stop shop' PCW may cause consumers not to detect differences between policies and choose a policy based on price or convenience. This creates a risk of under insurance or at least less than ideal coverage.[15]

4.20 NIBA echoed this view, making the point that comparison services risk misleading consumers with regard to their policy coverage:

> NIBA strongly challenges the potential benefit of so called insurance comparison services. In our experience, comparison services focus on price and price only, and do not take account the risk needs of the consumer, or the variations in terms and conditions in the policies being offered via the service. They therefore have the capacity to offer false security and misleading information to uninformed consumers.[16]

4.21 ASIC noted how comparison services can lead to a 'hollowing out' of insurance products, whereby insurers reduce policy coverage in order to remain price competitive:

> Such websites can create an incentive for insurers to reduce policy coverage to ensure that they are price competitive and appear more prominently on results pages that rank insurers according to price. Consumers can therefore

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13 See, for example, Financial Rights Legal Centre, *Submission 9*, p. 21; Insurance Council of Australia; *Submission 13*, p. 30; Australian Prudential Regulation Authority, *Submission 7*, p. 3; Suncorp, *Submission 14*, p. 12.

14 Financial Rights Legal Centre, *Submission 9*, p. 21.

15 Insurance Council of Australia, *Submission 13*, p. 30.

16 National Insurance Brokers Association, *Submission 2*, p. 2.

> end up purchasing cheaper policies that may not provide adequate coverage.[17]

Harm to competition

4.22 In addition to potential harm to consumers, several submitters argued that the focus of comparison services on price over qualitative product features can also be harmful to competition in insurance markets.

4.23 APRA advised that, from a prudential perspective, comparison services 'can pose a risk of mispricing by uncovering and potentially exploiting deficiencies in insurers' pricing models'. APRA further elaborated on this point:

> Companies attempt to price risk to the best of their abilities, based on various metrics and internal models. These are rarely perfect and companies will tend to offer different prices for the same risks. This means that at any one time, an insurer will likely be under-pricing some risks and over-pricing others. Aggregators may exploit this weakness by having insurers attain a disproportionate share of business for which they have unintentionally mispriced. This can result in negative implications for insurer's profitability, putting potential strain on capital and adversely effecting policyholder interests.[18]

4.24 Allianz also commented on this risk, explaining that the inherent price focus of comparison services can result in insurers being 'selected against' due to an accumulation of consumers with a particular risk profile.[19] Allianz described this process of anti-selection in its submission:

> Experience with insurance comparison sites shows that it biases consumer purchasing behaviour towards an unhealthy focus on price over the qualitative features of insurance products. Customers faced with a range of prices for insurance cover offered by a number of well known, established and trusted brands, tend to gravitate to the lowest price. Even if the lowest priced insurer has best practice pricing capability and does not believe it has mis-priced the risk, it then suffers a different type of insurance risk. That is, accumulation risk, or the risk of accumulating an excessive share of customers with a particular risk profile, which may exceed the insurer's risk appetite for customers with that risk profile.[20]

4.25 Newer market entrants are more vulnerable to anti-selection, as their risk pricing capabilities tend to be less sophisticated than long-standing insurers. To that end, comparison services increase the likelihood of such insurers exiting the market to seek better returns on their capital and investment.[21] As noted by Allianz, over time,

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17 Australian Securities and Investments Commission, *Submission 22*, p. 5.

18 Australian Prudential Regulation Authority, *Submission 7*, p. 2.

19 Allianz, *Submission 4*, p. 18.

20 Allianz, *Submission 4*, p. 18.

21 QBE, *Submission 16*, p. 16; Allianz, *Submission 4*, p. 19.

'such an outcome is likely to lead to industry consolidation and, consequently, less competition in the market for that particular class of insurance'.[22]

Counter to disclosure objectives

4.26 Some stakeholders expressed concern that, for the reasons outlined above, a comparison service for home, strata and car insurance would be counter to current industry initiatives to enhance the transparency of general insurance, such as that underway with regard to product disclosure practices.[23]

4.27 For example, IAG submitted that it:

> …remains concerned that an independent comparison service for home, strata and car insurance would misdirect focus and resources from the drivers of premiums and further emphasise price, working against the objectives of transparency and disclosure.[24]

4.28 Along the same lines, Financial Rights suggested that an independent comparison service would not be of value if established under the current disclosure and regulatory frameworks, stating that:

> …the way general insurance exists now has too many inherent problems that a comparison website could not tackle—things like unfair terms exemptions and the fact there is no standard cover and there are no standard terms…Until we have more standard terms, standard cover and unfair terms protections, I think any comparison website that you create would put consumers in a risky position where they think, 'All these products are the same because they've been lined up right next to each other,' when in fact they are not the same at all.[25]

Non-standardised financial products

4.29 Several submitters argued an independent comparison service would be neither appropriate nor effective as a tool for comparing home, strata and car insurance because these are non-standardised financial products.

4.30 The risk-based nature of general insurance makes it a complex financial product, with policies varying widely depending on consumers' specific needs as well as insurers' underwriting models. Additionally, as considered in the previous chapter, the definitions for insurance terms differ across the industry. This means that a comparison service would not be comparing general insurance products on a like-for-like basis, therefore limiting consumers' ability to make informed purchase decisions.[26]

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22 Allianz, *Submission 4*, p. 21.

23 Insurance Council of Australia, *Submission 13*, p. 30.

24 IAG, *Submission 15*, p. 4.

25 Ms Alexandra Kelly, Principal Solicitor, Financial Rights Legal Centre, *Proof Committee Hansard*, 12 April 2017, p. 18.

26 See, for example, Australian Securities and Investments Commission, *Submission 22*, p. 20; QBE, *Submission 16*, p. 16; IAG, *Submission 15*, p. 31; iSelect, *Submission 6*, p. 2.

4.31 ASIC discussed this point in its submission:

> Some financial products are inherently more suited than others to effective comparison through a comparison service. The utility and consumer benefit of the comparison will depend among other things on the complexity of the features of the particular product.
>
> It is easier to ensure that comparison services are effective for products that have fewer key variables or where price is in fact the best determinant of choice—for example, credit cards or compulsory third party (CTP) green slip insurance, where the terms are largely standardised—and that allow information about price to be easily weighed against other features that consumers may value.
>
> Conversely, where products are more complex with a wide range of interconnected features, such as with home, car and strata insurance, care needs to be taken that comparison sites do not over-simplify the decision making process due to inadequate information.[27]

4.32 QBE concurred with this assessment, contending that 'for a comparison service to be both workable and effective, it needs to be comparing the same things'. QBE further submitted that 'where independent comparison services do exist, they tend to do so in an environment involving standardised products with regulatory oversight of pricing'.[28]

4.33 When questioned by the committee about whether there is room in the general insurance market for an independent comparison service, Mr Michael Saadat from ASIC remarked that 'yes, I guess there is room in the market for that'. However, Mr Saadat also cautioned the committee that it is not as straightforward to establish a comparison service for home and car insurance as it is for financial products where pricing itself is regulated, such as private health or CTP insurance, because:

> …private health insurance and CTP insurance are regulated in a much more prescriptive way than car and home insurance. The products are standardised and the pricing itself is regulated, which is not a feature of home and car insurance. For private health insurance, the prices are set annually. It is much easier to compare private health insurance than it is to compare home and car insurance, which is a product where the price is set in a completely different way. To the extent that a website could be set up, as we point to in our submission, there is a number of things that would need to be considered and addressed before that happened.[29]

4.34 Ms Emma King, Chief Executive Officer of the Victorian Council of Social Service (VCOSS), also expressed reservations about the suitability of an independent comparison service for general insurance, commenting that:

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27 Australian Securities and Investments Commission, *Submission 22*, p. 20.

28 QBE, *Submission 16*, p. 16.

29 Mr Michael Saadat, Senior Executive Leader—Deposit Takers, Credit and Insurers; Regional Commissioner—New South Wales, Australian Securities and Investments Commission, *Proof Committee Hansard*, 12 April 2017, p. 71.

> One of the issues that we have at the moment when looking at comparator websites and looking at insurance and the complexity of different insurance policies is that we do not believe a comparator website would be comparing apples with apples. The products and offerings that are present would be very difficult to navigate through on a comparator website.[30]

Rating system

4.35 Mr Gerard Brody from the Consumer Action Law Centre (Consumer Action) suggested that a comparison service model that focused on the quality of product features, rather than just price, could go some way to addressing the challenges posed by the non-standardised nature of general insurance. For example, Mr Brody suggested that:

> …a comparator site could assess product features based on a star rating system. That way people could know that there were comparing a $2,000 apple with a $2,000 apple, not a $2,000 apple with a $3,000 radish.[31]

4.36 Mr Rolfe also expressed support for a comparison service for home and car insurance that compared products based on a rating system, contending that 'a rating system goes closer to finding value'.[32]

4.37 However, Ms Alexandra Kelly from Financial Rights made the point that a rating system would not address the issue of consumers purchasing insurance that may not be suitable to their needs:

> A rating system assumes that we all want five-star cover. It does not address the suitability issue, which is that I might lead a one-star life. I do not need top cover to cover me, because I want something that is cheap, quick and gets me through some basic things. I do not need top cover. That is my concern about a rating system. The rating system does not address the suitability issue. What is suitable for my individual circumstances? Is this going to be rated as five-star for me, or is it just five-star generally and I need to identify if I lead a one-star life or a five-star life?[33]

Implementation challenges

4.38 In addition to the challenges posed by the non-standardised nature of general insurance products, some submitters argued that there would be substantial implementation challenges to establishing an independent comparison service for home, strata and car insurance.

4.39 QBE made the point that the set-up and ongoing compliance costs of a mandatory, independent comparison service would be considerable, with consequent

30 *Proof Committee Hansard*, 13 April 2017, p. 20.

31 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 13 April 2017, p. 7.

32 Mr John Rolfe, private capacity, *Proof Committee Hansard*, 12 April 2017, p. 4.

33 Ms Alexandra Kelly, Principal Solicitor, Financial Rights Legal Centre, *Proof Committee Hansard*, 12 April 2017, p. 19.

longer term impacts on consumers and the economy. Elaborating on this point, QBE submitted that:

> A mandatory comparison service would place further pressure on insurer profitability and ultimately may see capital currently invested in the sector seek more stable and less volatile returns, with consequent longer term impacts for consumers and for the economy.[34]

4.40 IAG urged the committee to consider the technological investment that would be required if a mandated comparison service were introduced, explaining that:

> In order to be transparent and accurate, a comparative service would require not only the capability to receive specified data from every home, strata and car insurer in Australia, but for that information to be updated on a regular basis so as not to mislead consumers. It is not known the extent that each general insurer offering the insurance subject to this Inquiry would have to upgrade or change their IT systems to have this level of functionality. IAG would speculate that it would be of significant cost to all insurers to build functionality and maintain the data provision required.[35]

4.41 Similarly, Mr Michael Keyte from iSelect noted the ongoing investment that would be required by government to ensure that product information was up to date:

> …there is an ongoing investment required as the insurers release new products or change their PDSs or look at the underwriting differently. The types of information that would need to get presented evolves consistently. So, whilst there is a one-off investment cost, it is actually an ongoing commitment. Once you get into it, you cannot stop. I think that would need to be considered.[36]

4.42 Some submitters also questioned whether it would be possible to establish a comparison service for strata insurance products. For example, Mrs Margaret Shaw reasoned that strata properties are too diverse for a comparison service to be feasible for strata insurance.[37] Allianz concurred with this view, submitting that:

> Allianz does not believe it is technically or practically possible to establish a comparison site for residential strata insurance…With limited exceptions, strata insurance is a commercial insurance product that is manually underwritten with the premium and cover tailored to the needs of each specific strata property. It is not possible to automatically generate a premium for the purposes of comparison by a strata manager/owner answering a limited number of questions on a price comparison site.[38]

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34 QBE, *Submission 16*, p. 14.

35 IAG, *Submission 15*, p. 31.

36 Mr Michael Keyte, Group Executive, Life and General Insurance, iSelect, *Proof Committee Hansard*, 13 April 2017, p. 35.

37 Mrs Margaret Shaw, private capacity, *Proof Committee Hansard*, 13 April 2017, p. 12.

38 Allianz, *Submission 4*, p. 1.

The UK experience

4.43 Many of the concerns raised by submitters regarding the potentially harmful effects of an independent comparison service on consumer and industry outcomes stemmed from the experience of commercial comparison websites in the United Kingdom.

4.44 The use of commercial comparison websites in the UK has grown steadily over the past 10 to 15 years, becoming a key distribution channel for retail classes of general insurance. A large number of general insurance products, particularly car insurance, are purchased through the online platforms. Consumer research carried out in 2014 suggested that up to 68 per cent of UK consumers purchasing car insurance used comparison websites.[39]

4.45 There are four key comparison website operators in the UK insurance market as well as a number of smaller operators. Some of these comparison websites are owned by insurance companies and most are paid via commissions on a 'pay per click' business model.[40]

4.46 There are no independent, government-run comparison services for general insurance products operating in the UK.

4.47 The ICA contended that the introduction of commercial comparison services in the UK has led to the market becoming increasingly commoditised:

> Following the introduction of PCWs in the UK car and home insurance markets, insurance product offerings have become more and more commoditised, focusing on price over policy features. This is particularly the case in the UK car insurance market. The introduction of PCWs significantly changed the distribution of car insurance, contributing to what is now a low value commodity market, with insurers responding to consumer demand through PCWs to compete mainly on price.[41]

4.48 Allianz expressed a similar view, noting its own negative experience participating in comparison websites in the UK car insurance market:

> Allianz has had the experience of participating in commercial comparison sites for motor insurance in other countries, such as the UK. The UK experience was wholly unsatisfactory. The inevitable focus by consumers on price over the suitability of insurance cover saw the quality of insurance products and customer service levels fall as insurers sought to cut costs. Even despite this, participation became unprofitable and, as a result, Allianz withdrew from retail comparison sites in the UK.[42]

4.49 Consumer research has generally agreed with industry concerns regarding the effect of comparison services on consumer outcomes. For example, in July 2014, the

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39 Australian Securities and Investments Commission, *Submission 22*, p. 16.

40 Australian Securities and Investments Commission, *Submission 22*, p. 17.

41 Insurance Council of Australia, *Submission 13*, p. 27.

42 Allianz, *Submission 4*, p. 22.

Financial Conduct Authority (FCA) conducted a thematic review of PWCs in the UK's general insurance sector. The review found that while consumers generally value comparison websites as a tool 'to compare products in a simple and accessible way', there are risks that comparison websites 'may not provide appropriate information to allow consumers to make informed decisions'. The review also noted concerns 'that consumers' focus on headline price and brand when using PCWs could distract from crucial product features such as policy coverage and terms'.[43]

4.50 A purported benefit of comparison services is a lowering of premiums by encouraging increased price competition between insurers. ASIC noted that while there is no public data on the effect of comparison websites on insurance premiums in the UK, they 'are generally regarded as having significantly increased consumer price sensitivity, and as such contributed to greater price competition'.[44]

4.51 Conversely, the ICA submitted that increased price competition 'has not been the case in the UK'. The ICA contended that, according to the longest running UK motor premium index, 'during the period that PCWs were introduced (from 2000 to 2006), car insurance premiums remained relatively flat'.[45]

Existing independent comparison services

4.52 There are a number of independent comparison services operating in Australia and in international jurisdictions. The scope, sophistication and extent of insurer participation in these comparison services is highly varied.

Finansportalen—Norway

4.53 Established in 2008, Finansportalen is a comparison website that aims to encourage consumer awareness of the different financial services products available, including insurance, and make it easier to compare and switch between providers. The website is administered by the Consumer Council of Norway, a Norwegian government agency and consumer protection organisation. Since January 2013, all insurers have been required under legislation to disclose information, including pricing information, to Finansportalen.[46]

4.54 Unlike other insurance comparison services operating in the private and public sectors, Finansportalen provides consumers with accurate quotes direct from insurers, and the consumer is able to purchase insurance products via the website.[47] The World Bank's 2013 report on public-sector operated comparison websites

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43 Financial Conduct Authority, *Price comparison websites in the general insurance sector*, July 2014, p. 3, as cited in Australian Securities and Investments Commission, *Submission 22*, p. 17.

44 Australian Securities and Investments Commission, *Submission 22*, p. 18.

45 Insurance Council of Australia, *Submission 13*, p. 26.

46 Insurance Council of Australia, *Submission 13*, p. 25; QBE, *Submission 16*, p. 12.

47 Insurance Council of Australia, *Submission 13*, p. 25; QBE, *Submission 16*, p. 12.

assessed Finansportalen as being highly sophisticated with 'advanced product-selection tools with a high degree of interactivity and user guidance'.[48]

4.55 ASIC summarised how Finansportalen operates in practice:

> On the website, users enter data by responding to prompts. The information is then sent to all companies offering the service in question. Those companies respond to the specific request with a price. Finansportalen collects all of the responses and then presents them to the user.[49]

4.56 QBE observed that 'the consumer response to Finansportalen appears to have been muted', citing a 2016 survey into 'changing frequencies and the use of public digital comparison services'.[50] As stated by QBE:

> …a 2016 survey of 2,031 consumers shows limited use of Finansportalen for insurance comparison or switching purposes, with consumers continuing to rely predominantly on insurance companies for insurance pricing and switching services. Specifically, while 25 percent of respondents moved or renegotiated their car insurance and 21 percent changed their house insurance in 2015, only 11 percent used price calculators or price lists in the process (including five percent who used Finansportalen) and 73 percent either contacted the insurance company, visited the website of the insurer, or were contacted by the seller or the insurance company.[51]

California Department of Insurance—California, United States

4.57 The California Department of Insurance (CDI) operates an online comparison tool where consumers can compare estimated annual premiums for various types of insurance, including home and car insurance. The comparison tool prompts consumers to select from a limited number of predefined options. The tool then displays estimated annual premiums from multiple insurance providers. Consumers are not able to purchase insurance through the website. However, the website lists contact details for insurers so that consumers can contact providers directly to obtain an accurate quote.[52]

4.58 Licenced insurers in California are mandated by law to provide their annual premiums and the CDI is required to publish the information online. However, the use

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48 World Bank, *Public Sector-operated Price-comparison Websites: Case Studies and Good Practices*, 2013, p. 28.

49 Australian Securities and Investments Commission, *Submission 22*, p. 19.

50 QBE, *Submission 16*, p. 12.

51 TNS Gallup for Consumer Council of Norway, *Change habits of Norwegians– financial services: Changing frequencies and the use of public digital comparison services,* January 2016, p. 6, as cited in QBE, *Submission 16*, p. 12. See also, Insurance Council of Australia, *Submission 13*, p. 25.

52 Australian Securities and Investments Commission, *Submission 22*, p. 19; Insurance Council of Australia, *Submission 13*, p. 26.

of an online comparison tool to present premium information is relatively recent, with the service only being established in May 2015.[53]

4.59 As noted by ASIC, due to the recent introduction of the CDI comparison tool, data is not available to compare premiums from before and after the introduction of the website.[54] However, the ICA did note the findings of a 2016 study into car insurance rates which found that California had the seventh highest average car insurance premium in 2016' and that 'this was 32.2 per cent higher than the national average'.[55]

Competition and Consumer Protection Commission—Ireland

4.60 The Competition and Consumer Protection Commission (CCPC) in Ireland is an independent statutory body with responsibility for enforcing competition and consumer protection laws. In their submission to the inquiry, Professors Fels and Cousins described a price comparison tool operated by the CCPC for home and motor insurance.

4.61 With regard to the CCPC's home insurance comparison tool, Professors Fels and Cousins explained that:

> The CCPC's website contains reference to a home insurance survey. The survey is based on various profiles developed by the CCPC which differ in terms of the location, sum insured, excess and so forth.[56]

4.62 Consumers are able to select the profile (see table 4.1) that is most similar to their own circumstances in order to view and compare quotes offered by various insurers for that profile.

Table 4.1—Examples of CCPC home profiles[57]

Profile 1	My home is a 3-bedroomed bungalow in Midleton, Co. Cork. The rebuilding cost is €200 000 and the contents are worth €50 000.
Profile 3	My home is a rented 1-bedroomed apartment in Balbriggan, Co. Dublin. I require contents insurance of €8000.
Profile 5	My home is a 2-bedroomed house in Limerick City. The rebuilding cost is €110 000 and the contents are worth €20 000.
Profile 7	My home is a 4-bedroomed semi-detached house in Cabinteely, Dublin 18. The rebuilding cost is €230 000 and the contents are worth €70 000.

53 Australian Securities and Investments Commission, *Submission 22*, p. 19.

54 Australian Securities and Investments Commission, *Submission 22*, p. 19.

55 Insure.com, *Car insurance rates by state, 2016 edition*, http://www.insure.com/car-insurance/car-insurance-rates.html, as cited in Insurance Council of Australia, *Submission 13*, p. 26.

56 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, p. 13.

57 Professor Allan Fels AO and Professor David Cousins AM, *Submission 23*, pp. 13–14.

4.63 Professor Cousins characterised the CCPC comparison model as a 'much more simplified approach', further suggesting that 'it is an approach you might adopt first and then might move over time to something like the Norwegian model'.[58]

4.64 The committee notes that this model is similar to a proposal made in the FSI Interim Report as a policy option regarding aggregator access to information:

> Another option could be to develop representative consumer categories based on key consumer characteristics. Insurers could disclose their policy premia for each category and consumers could then, potentially with the assistance of aggregator services, compare premiums from different insurers for the category that best represents their characteristics.[59]

4.65 The FSI Interim Report also commented on the challenges of such a model:

> The difficulty with this option would be developing enough categories so the majority of consumers fall within a category, while not creating too many categories, which could create complexity for consumers and compliance costs for insurers.[60]

Private Health Insurance Ombudsman comparison tool

4.66 While health insurance is not a form of general insurance, a number of submitters commented on the Private Health Insurance Ombudsman comparison tool as one example of an independent comparison service operating in Australia.

4.67 Introduced in 2007 and administered by the Private Health Insurance Ombudsman (PHIO), privatehealth.gov.au allows consumers to enter some basic details online and obtain a list of health insurance policies which may match their needs. The website 'aims to foster competition in the industry by helping consumers compare and choose health insurance policies'.[61]

4.68 Data for the PHIO comparison tool is derived from Standard Information Statements, a summary of key product features as required under the *Private Health Insurance Act 2007*. Standard Information Statements for all private health insurance policies available in Australia are published on the website. The website also provides information on the performance of each insurer, including coverage relative to industry results and the share of PHIO complaints compared to the fund's market share.

4.69 Usage of privatehealth.gov.au has increased annually since it was established, with almost 1.2 million unique visitors in 2015–16.[62]

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58 Professor David Cousins AM, private capacity, *Proof Committee Hansard*, 13 April 2017, p. 5.

59 Financial System Inquiry, *Interim Report*, July 2014, p. 2-40.

60 Financial System Inquiry, *Interim Report*, July 2014, p. 2-40.

61 Commonwealth Ombudsman, *Private Health Insurance Ombudsman: State of the Health Funds Report 2016*, p. 8.

62 Commonwealth Ombudsman, *Private Health Insurance Ombudsman: State of the Health Funds Report 2016*, p. 8.

4.70 Submitters expressed mixed opinions regarding the PHIO comparison tool. Mr Rolfe proposed that the PHIO comparison tool 'is an excellent template for a government-run general insurance comparison service' as it 'encourages users to compare value, not just price'.[63]

4.71 However, Suncorp made the point that while the PHIO comparison tool 'does attempt to compare a mix of features, regulated health insurance premiums mean price-based shopping is less of a concern'.[64]

4.72 Consumer Action queried the effectiveness of the PHIO comparison tool, submitting that:

> …despite the government's health insurance comparator site being well-established, the underlying complexity and inconsistency in policies means that the site does not enable people to easily and accurately choose the right policies for their needs.[65]

North Queensland home insurance website

4.73 The North Queensland home insurance (NQHI) comparison website was launched in March 2015 following a considered government consultation process. The website, which is administered by ASIC, was established in response to the high cost of home insurance in North Queensland. Many insurers restrict or do not provide insurance in certain locations in North Queensland due to the high risk of natural catastrophe.[66]

4.74 The NQHI website operates to provide consumers with:

- indicative price range estimates based on assumed risk profiles (rather than live quotes based on a consumer's individual circumstances and linked to insurers' databases); and
- a summary of policy features, rather than a full description of product features, conditions, exclusions benefits, caps, and limits.[67]

4.75 The website emphasises that consumers should consider a policy's features and not just focus on price alone, and encourages consumers to contact insurers directly for actual quotes specific to their circumstances.[68]

4.76 With regard to the NQHI website's usage, ASIC noted that 'for the period of 31 March 2015 to 31 December 2016, the website had 13 356 sessions'.[69]

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63 Mr John Rolfe, *Submission 1*, [p. 7].

64 Suncorp, *Submission 14*, p. 13.

65 Consumer Action Law Centre, *Submission 5*, p. 4.

66 Australian Securities and Investments Commission, *Submission 22*, pp. 22–23.

67 Australian Securities and Investments Commission, *Submission 22*, p. 23.

68 Australian Securities and Investments Commission, *Submission 22*, p. 23.

69 Australian Securities and Investments Commission, *Submission 22*, p. 23.

4.77 Some inquiry participants were critical of the NQHI website, suggesting that it is of limited usefulness to consumers and has had little to no effect with regard to competition or premium pricing in the North Queensland market. For example, Mr Dallas Booth from NIBA commented that 'the information coming to me from our members in North Queensland is that the ASIC site has made no difference at all'.[70]

4.78 Financial Rights supported this view, also noting that there has been no review of the effectiveness of the website since its introduction:

> The NQHI website has not been met with much enthusiasm from insurers or consumers, nor has it seemingly created more competition in the market for home insurance in Northern Queensland. The website has been running for almost two years but there is no public data on whether it has had any effect on the cost of home insurance in North Queensland, whether levels of un-insurance and underinsurance have dropped, or whether consumers in that area find the comparison website useful.[71]

4.79 Mrs Shaw proposed that a review of the NQHI website should be undertaken before consideration is given to the establishment of an independent comparison service for home, strata and car insurance, submitting that:

> I suggest a proper assessment of the website implemented by Warren Entsch MP for North Queensland be done, identify why it isn't working, how to make it work, and establish if such a website will ever work, prior to spending money on another one.[72]

4.80 Professor David Cousins suggested that the objectives behind the NQHI website may have been misdirected in the sense that it does not address the underlying issue of the risk posed by natural catastrophe events in North Queensland:

> It is really important to be clear on what the objectives of these things are. A comparator has been set up, for example, covering North Queensland, where there is concern about cyclones and high premiums. I do not personally think that a comparator is much use in that situation. It is not dealing with the major problem, which is mitigating the effect of cyclones.[73]

4.81 The role of disaster mitigation with regard to general insurance is discussed in chapter 5.

Concerns regarding commercial comparators

4.82 In examining the role that comparison services play with regard to general insurance, the committee heard concerns about commercial comparison websites currently operating in Australia. Several inquiry participants were critical of the

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70 Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, *Proof Committee Hansard*, 12 April 2017, p. 15.

71 Financial Rights Legal Centre, *Submission 9*, p. 22.

72 Mrs Margaret Shaw, *Submission 21*, p. 30.

73 Professor David Cousins AM, private capacity, *Proof Committee Hansard*, 13 April 2017, p. 2.

transparency of information presented to consumers on commercial comparison websites.

Disclosure of commercial relationships

4.83 One issue raised with regard to the operation of commercial comparison websites was the level of disclosure of commercial factors, such as ownership structures and commissions received, that could be viewed by consumers as having the potential to bias the comparisons provided.

4.84 Mr Rolfe made the point that some commercial comparison websites are ultimately owned by the same parent company as insurers, with a large proportion of their own brands offered on the sites. For example, as observed by Mr Rolfe:

> …seven of the 10 car insurance brands on comparethemarket.com.au come from Auto & General Services Pty Ltd. Both Compare the Market and Auto & General are ultimately owned by Budget Holdings Limited. Three of the five home insurance brands on Compare the Market are also arranged by Auto & General.
>
> At rival comparison site Choosi, only two home insurance brands are compared. One of them, Real, is owned by Choosi's parent, Greenstone Limited. Real is one of the five car insurance brands compared by Choosi.[74]

4.85 Several inquiry participants agreed that commercial relationships should be clearly disclosed to consumers upfront when purchasing insurance through a commercial comparison website.[75] The ACCC also shared this view, commenting that 'we think it is quite important that there be appropriate disclosure of any commercial ownership or commercial factors that an ordinary consumer would expect to be made aware of'.[76]

4.86 The committee questioned representatives from iSelect, the operator of an independent commercial comparison service, about whether commission arrangements with its partners have the potential to bias sales processes or consumer purchasing decisions. iSelect emphasised that products offered to a consumer through its website are based on a needs analysis and are not influenced by the level of commission associated with particular products.[77] iSelect further commented that:

> We have a very transparent approach with the expert sales staff. They do not know the commissions that we make with our partners because we want to ensure there is zero bias in their discussions.[78]

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74 Mr John Rolfe, *Submission 1*, [p. 4].

75 See *Proof Committee Hansard*, 12 April 2017, pp. 6, 48, 58.

76 Mr Nicholas Heys, Deputy General Manager, Enforcement Coordination, Australian Competition and Consumer Commission, *Proof Committee Hansard*, 13 April 2017, p. 45.

77 Mr Michael Keyte, Group Executive, Life and General Insurance, iSelect, *Proof Committee Hansard*, 13 April 2017, p. 40.

78 Mr David Christie, Chief Administrative Officer, iSelect, *Proof Committee Hansard*, 13 April 2017, p. 34.

4.87 Similarly, Compare the Market made the following claim in its supplementary submission to the inquiry:

> At Compare the Market, the amount of commission that we receive has no bearing on the impartiality of our service or the way that we present products to our customers. Nevertheless, we are conscious of the risk of perceived bias and for that reason on 1 March 2016 we announced an industry-first standard pricing model for our health insurance comparison service under which all our partner funds pay the same fee (which is disclosed to our customers) for the service we provide. We hope to be able to offer the same transparency in other product lines in time.[79]

Market coverage

4.88 The breadth of the general insurance market covered by commercial comparison services was also raised as an issue of concern. For example, Ms Erin Turner from CHOICE observed that some commercial comparison websites 'certainly imply that they compare the whole market, and they clearly do not'.[80]

4.89 Mr Rolfe supported this view, noting that Australia's four largest insurers—IAG, Suncorp, QBE and Allianz—do not offer their general insurance products on any commercial comparison site.[81]

4.90 Suncorp outlined the reasoning behind its choice not to participate in commercial comparison services operating in Australia, explaining that 'Suncorp has fundamental concerns about the operation of the sites and the accuracy of the information being presented to consumers'.[82] Similarly, Allianz commented that:

> Allianz chooses not to participate in commercial comparison sites in Australia. They charge a fee for their service and therefore impose an unnecessary additional distribution cost that would need to be passed on to our customers in the form of higher premiums. Comparison sites also dilute the brand and business relationship Allianz seeks to build with its policyholders.[83]

4.91 Compare the Market acknowledged that it does not compare product offerings from all insurers, commenting that 'given the non-participation of the largest general insurers, our car and home insurance supplier panels are narrower than for other products we offer'. However, Compare the Market also stressed that:

> …this is not due to a lack of willingness or initiative on our part: once every year we send all underwriters not on our panel a formal letter, and

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79 Compare the Market, *Supplementary Submission 3.1*, [p. 3].

80 Ms Erin Turner, Head of Campaigns and Policy, CHOICE, *Proof Committee Hansard*, 12 April 2017, p. 22.

81 Mr John Rolfe, *Submission 1*, [p. 4].

82 Suncorp, *Submission 14*, p. 16.

83 Allianz, *Submission 4*, p. 2.

more regularly than that we touch base with them informally, extending them an invitation to participate on our website.[84]

Adherence to ACCC guidelines

4.92 Consumer Action shared the above concerns regarding existing commercial comparison services, submitting that 'at worst, commercial comparison sites are simply sales channels which mislead people and generate high commissions'. However, Consumer Action also submitted that in complex markets, such as insurance, effective comparison services 'can help guide consumers through product comparison, highlight key product features and pitfalls and explain the range of options available'.[85]

4.93 In relation to this, Consumer Action noted its support for the ACCC's 'guide for comparator website operators and suppliers' (see paragraph 2.30), but expressed concern that these guidelines are not currently complied with by commercial comparison providers. Consumer Action contended that 'if there are to be commercial comparison services in the marketplace then they should be required to comply with the standards laid out in that guidance'.[86]

Committee view

4.94 The committee notes the divergent views expressed by stakeholders on the costs and benefits of insurance comparison services on consumer outcomes and on the operation of the insurance industry as a whole. The committee also acknowledges the strong concerns raised regarding any proposal to establish an independent comparison service for home, strata and car insurance in Australia; in particular, the risk that such a service could lead to consumers focusing on product price rather than value.

4.95 The committee is inclined to agree with the view that the utility of an independent insurance comparison service could be hindered by deficiencies in the current product disclosure regime and associated regulatory frameworks. However, the committee does see benefit in considering a more simplified insurance comparison tool, such as that operated by the CCPC in Ireland.

Recommendation 8

4.96 The committee recommends that the government complete a detailed proposal for a comparison tool for home and car insurance, consistent with the proposal made in the FSI Interim Report and similar to the structure of the Irish model. The proposal should include a detailed evaluation of the international evidence base of the costs and benefits of comparison services on consumer outcomes, as well as the likely benefits in the Australian context.

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84 Compare the Market, *Supplementary Submission 3.1*, [p. 6].

85 Consumer Action Law Centre, *Submission 5*, pp. 5–6.

86 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 13 April 2017, p. 8.

4.97 The committee is concerned that the North Queensland home insurance website may not be achieving its intended objectives. Given the significant establishment and running costs, the committee believes that it is timely a thorough review of the website's effectiveness be undertaken.

Recommendation 9

4.98 The committee recommends that the Australian Securities and Investments Commission undertake a comprehensive review of the efficacy of the North Queensland home insurance website.

4.99 With regard to commercial comparison websites, the committee is concerned that a lack of transparency about commercial relationships and market coverage could be potentially misleading and to the detriment of consumers. In light of this, the committee sees benefit in mandating the ACCC's good practice guidelines for comparison websites.

Recommendation 10

4.100 The committee recommends that the government consider introducing legislation to mandate compliance with the ACCC's good practice guidance for comparison website operators and suppliers.

Chapter 5

Other matters raised

5.1 During the inquiry, participants raised a number of other matters of concern; including, the exemption of insurance from the unfair contract terms regime, the payment of insurance commissions to strata managers, and the role of disaster mitigation in lowering insurance premiums. This final chapter provides an overview of these matters.

Unfair contract terms

5.2 As noted in chapter 2, insurance contracts, including those for general insurance products such as home and motor insurance, are currently exempt from the unfair contract terms (UCT) provisions under the *Australian Securities and Investments Act 2001* (ASIC Act).[1] The UCT provisions apply to all other standard form contracts of the financial services sector.

5.3 The UCT provisions were introduced as part of the broader national Australian Consumer Law.[2] They provide consumer protections from terms in standard form contracts which unfairly advantage a trader over a consumer, and which cause the consumer detriment.

5.4 Several inquiry participants raised strong concerns regarding the exemption of insurance contracts from the UCT regime, arguing that this exemption creates a significant gap in consumer protections.[3] For example, Ms Emma King from VCOSS commented that:

> It is astonishing that insurance contracts are currently the only type of consumer contract that are excluded from the protections of consumer law. This means fundamentally, many insurance contracts sold are simply not worth the paper they are written on.[4]

5.5 The Financial Rights Legal Centre (Financial Rights) contended that 'arguably insurance is the area where consumers most need protection from unfair terms because consumers insure their main assets'.[5] CHOICE echoed this view in its submission, asserting that the complexity of general insurance contracts requires 'an additional layer of protection against harmful terms':

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1 UCT provisions do not apply to terms regulated by the *Insurance Contracts Act 1984*.

2 The UCT provisions in the ASIC Act mirror the Australian Consumer Law, Chapter 2 Part 2–3. ASIC has responsibility for enforcing the consumer protection provisions, including the UCT laws, in the ASIC Act in relation to financial products and services.

3 See, for example, Financial Rights Legal Centre, *Submission 9*, p. 29; Consumer Action Law Centre, *Submission 5*, pp. 2, 12; CHOICE, *Submission 17*, p. 13.

4 Ms Emma King, Chief Executive Officer, Victorian Council of Social Service, *Proof Committee Hansard*, 13 April 2017, p. 19.

5 Financial Rights Legal Centre, *Submission 9*, p. 29.

> Contracts extend over pages of information, few people read or understand them, and they contain complex terms which most consumers are unlikely to understand. As a consequence, consumers suffer detriment by having claims denied due to the mismatch between what they thought the policy covered and what was actually covered.[6]

5.6 Mr Gerard Brody from the Consumer Action Law Centre (Consumer Action) contended that 'insurance policies are riddled with terms which on their face could be unlawful if unfair contract term laws applied to insurers'. Mr Brody provided the example of cash settlement clauses in home insurance policies:

> [Cash settlement clauses] allow many insurers to settle a home building claim with a one-off cash payment. This means that if someone loses their home or a flood of fire, an insurer can get a quote on the rebuild with all their bulk trade discounts and just pay that amount. It can bear little resemblance the real costs for someone rebuilding their home. The unfair contract regime has resulted in fairer contracts and industry practices across the board in other consumer markets. To us it is a no-brainer that it has to be extended to insurance.[7]

5.7 ASIC also expressed its support for the extension of the UCT provisions to insurance contracts, telling the committee that 'we think it would add to the regulatory regime in a beneficial way for consumers'.[8]

5.8 Insurance contracts are currently excluded from the UCT regime on the grounds that consumer protections are adequately met by the 'duty of upmost good faith' obligations under the Insurance Contracts Act (see paragraph 2.16).

5.9 When questioned by the committee about whether insurance contracts should be included under the UCT regime, Mr Rob Whelan from the Insurance Council of Australia (ICA) advised that 'we have long held that there are very ample protections for consumers under the existing legislation. The Insurance Contracts Act offers many remedies for consumers and protections already'.[9] Representatives from IAG concurred with this view, commenting that 'we believe there is sufficient regulation and contractual protection in the existing regime'.[10]

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6 CHOICE, *Submission 17*, p. 13.

7 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 13 April 2017, p. 7.

8 Mr Michael Saadat, Senior Executive Leader—Deposit Takers, Credit and Insurers; Regional Commissioner—New South Wales, Australian Securities and Investments Commission, *Proof Committee Hansard*, 12 April 2017, p. 69.

9 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 33.

10 Mr Anthony Justice, Chief Executive, Australian Consumer Division, IAG, *Proof Committee Hansard*, 12 April 2017, p. 47.

5.10 However, some submitters argued that the duty of upmost good faith obligation does not provide sufficient protection for consumers and that application of the law has proved to be ineffective.[11]

5.11 CHOICE contended that, compared to the UCT provisions, the duty of upmost good faith 'is unclear and jurisprudence is imprecise'. Similarly, Consumer Action submitted that the mechanism of upmost good faith 'has proved inaccessible, ineffective, or both', and that 'it does not protect consumers from broad exclusions or other clauses in insurance contracts that would likely be "unfair"'.[12]

5.12 Moreover, Consumer Action indicated that not only does the duty of upmost good faith provide little protection for consumers, it can bias judicial proceedings in favour of insurers:

> The duty of utmost good faith provides very little to customers, as far as we can tell. We have looked at court decisions and ombudsman decisions, and very rarely has that helped a consumer in a dispute with an insurer. What the duty does do is help insurers deny claims on the basis of alleged fraud or where someone is not cooperating with a claims process or not providing information. There is no evidence that the duty of utmost good faith is working as a consumer protection, as far as we can tell.[13]

Committee view

5.13 General insurance plays an important role in maintaining the financial stability of consumers, and indeed, of the Australian economy. Given this, effective protections are essential during all stages of a consumer's relationship with an insurer. The committee is of the view that the exemption of general insurers from the unfair contract terms provisions contained in the ASIC Act is unwarranted and creates a significant gap in consumer protections.

Recommendation 11

5.14 The committee recommends that the government introduce the legislative changes required to remove the exemption for general insurers to unfair contract terms laws.

Commission payments to strata managers

5.15 Some inquiry participants raised the matter of commission payments made to strata managers—also known as body corporate managers depending on the relevant state or territory legislation—in return for purchasing insurance on behalf of the members of a strata title scheme. In particular, some inquiry participants raised concerns about the transparency of disclosure of commissions to strata scheme members, and whether such arrangements represent a conflict of interest.

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11 Consumer Action Law Centre, *Submission 5*, p. 12; CHOICE, *Submission 17*, p. 14.

12 Consumer Action Law Centre, *Submission 5*, p. 12.

13 Ms Susan Quinn, Senior Policy Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 13 April 2017, p. 11.

5.16 The following section briefly describes the regulatory framework that applies to strata managers with regard to purchasing insurance and the disclosure of commissions received for performing such functions. An overview of concerns raised and comments made during the inquiry in relation to insurance commission payments is then provided.

Regulatory framework

5.17 By purchasing into a strata title scheme, the owners of strata title properties become members of a legal entity commonly referred to as a body corporate.[14] Normally, the functions, duties and powers of a body corporate, including the purchase, renewal and management of statutory insurances, are delegated to a strata managing agent. This delegation is provided for in the relevant state or territory strata legislation. A strata manager is appointed by a body corporate by entering into a strata management agreement.

5.18 With regard to the purchase of insurance, market practice is that a strata manager will negotiate cover through an insurance broker or specialist underwriting agency. Under a strata management agreement, strata managers can be paid a commission as remuneration for arranging and managing insurance on behalf of a body corporate. Such commissions are legally paid to strata managers in their capacity as either an authorised or distributor representative of an Australian Financial Services (AFS) Licensee;[15] in this case, an insurance broker or underwriting agency. As explained by Allianz:

> In terms of insurance commission payments, generally speaking, insurance brokers and underwriting agencies are paid a commission by the relevant insurer for placement of insurance business, and the insurance broker or underwriting agent may then pay on part of that commission to the strata manager who assisted in placing that insurance business in the capacity as their representative – in accordance with the terms of the agency agreement between them.[16]

5.19 With regard to the disclosure of remuneration arrangements, including insurance commissions, strata managers are bound by federal financial services legislation. Under the Corporations Act, strata managers appointed as representatives of an AFS Licensee are required to provide a body corporate with a Financial Services Guide (FSG). In accordance with the Act, an FSG must include:

> (f) information about the remuneration (including commission) or other benefits that any of the following is to receive in respect of, or that is attributable to, the provision of any of the authorised services:

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14 Depending on the relevant state or territory legislation, a body corporate can also be known as an owners corporation, strata company, or community association.

15 In performing the function of arranging strata insurance on behalf of a body corporate, strata managers are considered under the *Corporations Act 2001* as providing a 'financial service'. In order to provide a financial service, a company or person must either hold an Australian Financial Services (AFS) Licence or be appointed as a representative by a Licensee.

16 Allianz, answers to questions on notice, 12 April 2017 (received 4 May 2017).

(i) the providing entity;

(ii) an employer of the providing entity;

(iii) the authorising licensee, or any of the authorising licensees;

(iv) an employee or director of the authorising licensee, or of any of the authorising licensees;

(v) an associate of any of the above;

(vi) any other person in relation to whom the regulations require the information to be provided…[17]

5.20 Information about product pricing must also be disclosed to the body corporate in a Product Disclosure Statement (PDS) for the relevant strata insurance product. Moreover, as representatives of an AFS Licensee, strata managers are obligated under the Corporations Act to 'have in place adequate arrangements for the management of conflicts of interest that may arise' in the provision of financial services.[18]

5.21 In addition to federal legislation, strata managers are also bound by the disclosure requirements set out in the relevant state or territory legislation. For example, in New South Wales, the *Strata Schemes Management Act 2015* (NSW) requires commission arrangements to be disclosed at the annual general meeting of a body corporate.

5.22 In some jurisdictions, strata managers are also subject to codes of conduct enshrined in the applicable strata legislation. For example, in Queensland, strata managers are bound by the 'Code of conduct for body corporate managers and caretaking service contractors' contained in the *Body Corporate and Community Management Act 1997* (Qld). This code requires that in performing their functions, strata managers 'act honestly, fairly and professionally' and 'in the best interests of the body corporate unless it is unlawful to do so'.[19]

Stakeholder views

5.23 In its submission to the inquiry, the Owners Corporation Network (OCN) expressed concern that body corporates tend to rely on strata managers for financial advice regarding strata insurance. This is despite strata managers not generally being legally licenced to provide such advice:

> Ideally, insurance brokers would be recognised as the independent experts who can properly identify the building's specific needs and answer detailed questions about the alternative product offerings. Unfortunately, committees view SM's as the experts in the management of strata plans so many look to them to assist in selecting their insurance cover. Few

17 *Corporations Act 2001*, para. 942C(2)(f).

18 See *Corporations Act 2001*, para. 912A(1)(aa).

19 See Schedule 2, *Body Corporate and Community Management Act 1997* (Qld).

> committees know the questions to ask, and few SM's are qualified legally to give Personal Advice.[20]

5.24 The OCN also suggested that insurance commissions are a disincentive for strata managers to act in the best interests of body corporates when arranging insurance, and that this represents a 'clear conflict of interest':

> And those [strata managers]—the vast majority—who receive a commission for dealing and arranging insurances have a clear conflict of interest, and a disincentive to increase the excess to reduce the premium.[21]

5.25 Moreover, the OCN submitted that 'disclosure, as required by law, is not common', and that limited experience and expertise among body corporates can result in a lack of awareness regarding commissions:

> In reality, many committees, comprised of unskilled volunteers from all walks of life, simply do not have the interest, time, expertise or experience to master the strata insurance product offerings. Committees therefore tend to rely on their SM's for advice without realising that the SM may receive commissions and therefore may not be truly independent.[22]

5.26 Mrs Margaret Shaw echoed these concerns, also noting that body corporate members are not informed of the extent of insurance commissions paid to strata managers:

> In your management agreement with your body corporate manager, you quite often get a section that says if they arrange insurance with you via certain insurance companies or certain brokers they will get five to 20 per cent commission. When it is actually arranged, you do not know if you have paid five or 20 per cent…They are not brokers. They do not have a licence from ASIC, but, because they are getting a commission from the insurance company, I feel that they are acting as an agent on behalf of that insurance company and not necessarily in the best interests of their clients. It is a conflict of interest. Are they going to get quotes from insurance companies that do not pay them a commission? No, they are not.[23]

5.27 When questioned by the committee about evidence suggesting the existence of commission payments directly from insurance companies to strata managers, representatives from IAG advised that:

> That would only occur as a commission payment as part of a distribution agreement, which would be covered by the Financial Services Guide and an expectation, as part of that agreement, that that needs to be disclosed to the

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20 Owners Corporation Network, *Submission 12*, p. 2.

21 Owners Corporation Network, *Submission 12*, p. 2.

22 Owners Corporation Network, *Submission 12*, pp. 2-3.

23 Mrs Margaret Shaw, private capacity, *Proof Committee Hansard*, 13 April 2017, p. 14.

> body corporate. So that is in not in any way hidden; it is quite upfront and overt to the body corporate.[24]

5.28 In its response to questions taken on notice, the ICA emphasised that 'commissions are legitimately and legally paid to distribute product offerings, a service which needs to be paid for whether by the insurer or otherwise'.[25]

5.29 The ICA also made the point that insurance commissions compensate strata managers for functions performed on behalf of a body corporate, further contending that:

> In the absence of such commission payments, these functions would (contractually) still need to be performed by the strata manager and remunerated, for example if not commissions, possibly by strata fee increases.[26]

5.30 With regard to disclosure practices around commission payments, Allianz informed the committee that:

> It is also standard practice—in the case of underwriting agencies—to include details of commission amounts payable to strata managers on insurance quotations and other insurance schedule documentation, which is addressed to the body corporate.[27]

5.31 However, Allianz also acknowledged that 'there is still room for improvement in the industry in terms of disclosure' and that this 'may also account for some of the ongoing perceptions about lack of transparency on insurance commissions'. Allianz suggested that:

> A simple solution to this perception would be to enforce a requirement for all insurance intermediaries to provide 'dollar-value' information on insurance quotations—that is, at or before the time the decision is made by the body corporate to select a particular insurer—not only after the decision has already been made. Ideally this information would display each component of the total price payable by the body corporate as a separate line item—including amounts attributable to base premium, taxes and levies, commissions payable to strata managers and/or insurance brokers, and broker fees. Such a sensible, common-sense and targeted reform initiative should be easy for insurance intermediaries to implement, and would immediately improve consumer outcomes in terms of disclosure and transparency around product pricing.[28]

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24 Mr Andrew Ziolkowski, Executive General Manager, Underwriting, Australian Business Division, IAG, *Proof Committee Hansard*, 12 April 2017, p. 40.

25 Insurance Council of Australia, answers to questions on notice, 12 April 2017 (received 5 May 2017).

26 Insurance Council of Australia, answers to questions on notice, 12 April 2017 (received 5 May 2017). See also Allianz, answers to questions on notice, 12 April 2017 (received 4 May 2017).

27 Allianz, answers to questions on notice, 12 April 2017 (received 4 May 2017).

28 Allianz, answers to questions on notice, 12 April 2017 (received 4 May 2017).

5.32 Noting that strata insurance is a state mandated product, some inquiry participants suggested that state and territory governments are best placed to force better disclosure around the financial incentives strata managers receive. QBE noted that New South Wales has recently implemented legislation in this regard,[29] indicating that this could provide a possible template for reform in other state and territory jurisdictions.[30]

Committee view

5.33 The committee is concerned that the current disclosure requirements relating to the payment of insurance commissions to strata managers are insufficient and do not provide adequate transparency to body corporate members. The committee notes that it did not receive any specific evidence to suggest that strata managers are not complying with disclosure legislation. However, given the significant growth of strata as a form of property ownership in Australia, the committee believes that regulatory change to improve transparency on insurance commissions is justified.

Recommendation 12

5.34 The committee recommends that the government strongly consider introducing legislation to require all insurance intermediaries disclose component pricing, including commissions payable to strata managers, on strata insurance quotations.

Recommendation 13

5.35 The committee recommends that state and territory governments strengthen disclosure requirements in relation to the payment of commissions to strata managers.

The role of mitigation

5.36 As discussed in chapter 2, recent increases in premiums for home and strata insurance have largely been driven by the rising claims costs associated with increased incidence of natural catastrophes. In relation to this, some industry stakeholders argued that investment in disaster mitigation is the only way to sustainably reduce insurance premiums over the long term.[31]

5.37 Mr Whelan from the ICA noted the recent destruction caused by Cyclone Debbie and contended that it is catastrophe events such as these that highlight 'the case for urgent investment in permanent, well-designed mitigation for disaster-prone communities'. Mr Whelan further commented that:

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29 See *Strata Schemes Management Act 2015* (NSW), s. 60.

30 Mr Andrew Broughton, Executive General Manager, Corporate Partners and Direct, QBE Insurance Australia and New Zealand, *Proof Committee Hansard*, 12 April 2017, pp. 53-54.

31 See, for example, Suncorp, *Submission 14*, p. 21; Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 27.

> When mitigation does not exist or poor decisions remain about the design, floods have proved devastating. Insurers have to price to risk where these events occur and, where the risk is high, so too are the premiums. In some respects, insurance is the canary in the coalmine. Premiums alert individuals and governments about high risk and low risk of living in certain areas. These signals should spur action in the form of mitigation and resilience measures and better town planning to prevent inappropriate development and improvements to building codes.[32]

5.38 Representatives from IAG expressed a similar view:

> Every time there is a natural disaster it highlights the need for mitigation funding to protect life, property and the Australian economy, and we have been advocating for some time that there needs to be a different approach to natural disaster funding, with more focus on upfront mitigation to avoid some of the impacts we are seeing, including from the most recent devastation caused by Cyclone Debbie.[33]

5.39 Following a significant number of natural disasters between 2009 and 2014, the government requested that the Productivity Commission (PC) undertake an inquiry into National Disaster Funding Arrangements. One of the central terms of reference for the PC's inquiry was to identify:

> Options to achieve an effective and sustainable balance of natural disaster recovery and mitigation expenditure to build the resilience of communities, including through improved risk assessments. The options should assess the relationship between improved mitigation and the cost of general insurance.[34]

5.40 In its final report to government, released in May 2015, the PC noted that insurance is an important risk management option in regards to natural disasters, specifically stating that:

> Insurance markets in Australia for natural disaster risk are generally working well, and pricing is increasingly risk reflective. Insurers can and should do more to inform households on their insurance policies, the natural hazards they face and the indicative costs of rebuilding after a natural disaster.[35]

5.41 However, the PC also found that:

> Governments overinvest in post disaster reconstruction and underinvest in mitigation that would limit the impact of natural disasters in the first place.

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32 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 27.

33 Mr Anthony Justice, Chief Executive, Australian Consumer Division, IAG, *Proof Committee Hansard*, 12 April 2017, p. 37.

34 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. v.

35 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 2.

> As such, natural disaster costs have become a growing, unfunded liability for governments.[36]

5.42 While responsibility for managing the risks associated with natural disasters lies with state and local governments, the bulk of funding for disaster relief invariably comes back to the Australian Government. The PC found that the cost-sharing funding arrangements (federal to state) 'matter because they impact the incentives to manage risks' appropriately,[37] also noting that 'some natural disasters are unforeseen and their impacts are unavoidable, but in many cases the consequences of natural disasters can be mitigated'.[38]

5.43 The PC recommended, among other things, that:

> Australian Government post disaster support to state and territory governments (states) should be reduced, and support for mitigation increased. Greater budget transparency and some provisioning is also needed.
>
> - States need to shoulder a greater share of natural disaster recovery costs to sharpen incentives to manage, mitigate and insure against these risks. The Australian Government should provide a base level of support to states commensurate with relative fiscal capacity and the original 'safety net' objective of disaster recovery funding, with the option for states to purchase 'top up' fiscal support.
> - Australian Government mitigation funding to states should increase to $200 million a year and be matched by the states.
> - These reforms would give state and local governments autonomy in how they pursue disaster recovery and mitigation. The reforms should be supported by performance and process based accountability mechanisms that embed good risk management.[39]

5.44 The ICA expressed its disappointment in the Australian Government's response to the PC's inquiry, noting that the government did not take up the recommendation to increase mitigation funding to $200 million per year, matched by the states and territories.[40]

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36 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 2.

37 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 2.

38 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 3.

39 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 2.

40 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 27.

5.45 When questioned by the committee about the correlation between disaster mitigation and reductions in insurance premiums, Mr Whelan provided the following example:

> The best guarantee I can give you is an actual case study of where that has occurred. Roma in Queensland is highly subject to floods. It flooded I think five times in the last six or seven years, devastatingly so—for community and growth as well—and it was subject to very high premiums to the point where a number of insurers were thinking very hard about whether they could maintain a product there. The council in their wisdom decided to act on it, and with some assistance in funding they were able to build a levee. After the completion of that levee and some review of the statistics on the flood risk, which we were then able to calculate into underwriting risk, the premiums in some parts of that area decreased by over 90 per cent. So the facts are that where you reduce the risk the premiums will follow, because it is that equation. The premiums must reflect the risk. If you are able to reduce the risk, we are able to reduce the premiums.[41]

5.46 However, the disproportionate spending between mitigation and post-disaster expenditure remains unchanged since the PC's final report. Federal mitigation spending was approximately three per cent of post-disaster expenditure in recent years.[42] The PC noted that 'the reform imperative is greatest for states most exposed to natural disaster risk, like Queensland'.[43]

Committee view

5.47 In the aftermath of the recent devastation caused by Cyclone Debbie, the committee acknowledges that some disasters are unforeseen and their impacts unavoidable. However, in many cases the consequences of natural disasters can be mitigated. Accordingly, the committee believes that there is an urgent need for governments at the Council of Australian Governments to address investment in targeted disaster mitigation. As well as the obvious benefits mitigation provides with regard to protecting life and property, the committee agrees with industry stakeholders that increased investment in well-designed mitigation by all governments should help reduce home and strata insurance premiums over the long term.

Recommendation 14

5.48 The committee recommends that the Australian Government reconsider its response to the Productivity Commission's inquiry on National Disaster Funding Arrangements.

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41 Mr Rob Whelan, Executive Director and Chief Executive Officer, Insurance Council of Australia, *Proof Committee Hansard*, 12 April 2017, p. 30.

42 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 9.

43 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 127.

Recommendation 15

5.49 The committee recommends that, as a matter of urgency, the Australian Government work with states and territories through the Council of Australian Governments to reform national disaster funding arrangements.

Senator Chris Ketter
Chair

Appendix 1

Submissions, additional information, answers to questions on notice and tabled documents

Submissions

1 Mr John Rolfe

2 National Insurance Brokers Association of Australia

3 Compare the Market Pty Ltd
 a) Supplementary submission

4 Allianz Australia Insurance

5 Consumer Action Law Centre

6 iSelect Limited

7 Australian Prudential Regulation Authority (APRA)

8 Good Shepherd Microfinance

9 Financial Rights Legal Centre

10 Name Withheld

11 Mr Robert Koomans

12 Owners Corporation Network of Australia Limited

13 Insurance Council of Australia

14 Suncorp
 a) Attachment 1
 b) Attachment 2
 c) Attachment 3

15 IAG

16 QBE Australia & New Zealand

17 CHOICE

18 Victorian Council of Social Service (VCOSS)

19 Australian Capital Territory Government

20 Tasmanian Government

21 Mrs Margaret Shaw

22 Australian Securities and Investments Commission (ASIC)

23 Professor Allan Fels AO & Professor David Cousins AM

Additional information

1 Document provided by Dr. David Cousins AM following the public hearing held in Melbourne on 13 April 2017

2 Document provided by Dr. David Cousins AM following the public hearing held in Melbourne on 13 April 2017

3 Document provided by QBE Australia & New Zealand following the public hearing held in Sydney on 12 April 2017

4 Document provided by Good Shepherd Microfinance following the public hearing held in Melbourne on 13 April 2017

Answers to questions on notice

1 Answers to questions on notice from a public hearing held in Sydney on 12 April 2017, received from Mr John Rolfe on 1 May 2017

2 Answers to questions on notice from a public hearing held in Melbourne on 13 April 2017, received from Consumer Action Law Centre on 4 May 2017

3 Answers to questions on notice from a public hearing held in Sydney on 12 April 2017, received from Suncorp on 5 May 2017

4 Answers to questions on notice from a public hearing held in Melbourne on 13 April 2017, received from Victorian Council of Social Service (VCOSS) on 5 May 2017

5 Answers to questions on notice from a public hearing held in Sydney on 12 April 2017, received from Allianz on 4 May 2017

6 Answers to questions on notice from a public hearing held in Sydney on 12 April 2017, received from APRA on 5 May 2017

7 Answers to questions on notice from a public hearing held in Sydney on 12 April 2017, received from IAG on 5 May 2017

8 Answers to questions on notice from a public hearing held in Sydney on 12 April 2017, received from Insurance Council of Australia on 5 May 2017

9 Answers to questions on notice from a public hearing held in Sydney on 12 April 2017, received from QBE Australia & New Zealand on 5 May 2017

10 Answers to questions on notice from a public hearing held in Melbourne on 13 April 2017, received from ACCC on 8 May 2017

Tabled Documents

1. Document tabled by Insurance Council of Australia at a public hearing held in Sydney on 12 April 2017
2. Document tabled by Mr John Rolfe at a public hearing held in Sydney on 12 April 2017
3. Document tabled by Good Shepherd Microfinance at a public hearing held in Melbourne on 13 April 2017
4. Document tabled by iSelect at a public hearing held in Melbourne on 13 April 2017
5. Document tabled by Professor Allan Fels at a public hearing held in Melbourne on 13 April 2017

Appendix 2

Public hearings

Sydney NSW, 12 April 2017

Committee Members in attendance: Senators Hume, Ketter, Smith, Xenophon.

ANNING, Mr John, General Manager, Policy Regulation, Insurance Council of Australia

BINGHAM, Mr Stuart, General Manager, Branch 1, Diversified Institutions Division, Australian Prudential Regulation Authority

BOOTH, Mr Dallas, Chief Executive Officer, National Insurance Brokers Association of Australia

BROUGHTON, Mr Andrew, Executive General Manager, Corporate Partners and Direct, QBE Insurance, Australia and New Zealand

CURTIS, Ms Emma, Group Senior Manager – Deposit Takers, Credit and Insurers, Australian Securities and Investments Commission

DAVIS, Mrs Julia, Policy and Communications Officer, Financial Rights Legal Centre

DRANSFIELD, Mr Gary, Chief Executive officer, Customer Platforms, Suncorp

FELEDY, Mr Richard, Chief Technical Officer, Allianz Australia Insurance Limited

FOX, Mr Jonathon, Executive General Manager, Claims, QBE Insurance, Australia and New Zealand

GREEN, Ms Tracy, Executive General Manager, Customer & Underwriting, Australian Consumer Division, IAG

HARRISON, Ms Lisa, Executive General Manager, Insurance Operations, Suncorp

JUSTICE, Mr Anthony, Chief Executive, Australian Consumer Division, IAG

KELLY, Ms Alexandra, Principal Solicitor, Financial Rights Legal Centre

KOHLHAGEN, Mr Peter, Senior Manager, Policy Development, Policy and Advice Division, Australian Prudential Regulation Authority

O'HALLORAN, Mr Xavier, Policy and Campaigns Adviser, Choice

O'LOUGHLIN, Ms Kate, Head of Government Relations and Industry Affairs, QBE Insurance, Australia and New Zealand

ROLFE, Mr John, Private capacity

SAADAT, Mr Michael, Senior Executive Leader – Deposit Takers, Credit and Insurers; Regional Commissioner – New South Wales, Australian Securities and Investments Commission

SCOFIELD, Mr Nicholas, General Manager, Corporate Affairs, Allianz Australia Insurance Limited

SULLIVAN, Mr Karl, General Manager, Policy, Risk & Disaster Planning, Insurance Council of Australia

SUMMERHAYES, Mr Geoff, APRA Member, Australian Prudential Regulation Authority

TURNER, Ms Erin, Head of Campaigns and Policy, Choice

WEDLOCK, Mr Timothy, President, National Insurance Brokers Association of Australia

WHELAN, Mr Rob, Executive Director and Chief Executive Officer, Insurance Council of Australia

ZIOLKOWSKI, Mr Andrew, Executive General Manager, Underwriting, Australian Business Division, IAG

Melbourne VIC, 13 April 2017

Committee Members in attendance: Senators Hume, Ketter, Xenophon.

BRODY, Mr Gerard, Chief Executive Officer, Consumer Action Law Centre

CHRISTIE, Mr David, Chief Administrative Officer, iSelect

COUSINS, Professor David, AM, Private capacity

FELS, Professor Allan, AO, Private capacity

HEYS, Mr Nicholas, Deputy General Manager, Enforcement Coordination, Australian Competition and Consumer Commission

JONES, Mr David, General Manager, Adjudication, Australian Competition and Consumer Commission

KEYTE, Mr Michael, Group Executive, Life and General Insurance, iSelect

KING, Ms Emma, Chief Executive Officer, Victorian Council of Social Service

MOONEY, Mr Adam, Chief Executive Officer, Good Shepherd Microfinance

MORAND, Mr Mark, Innovation Lead, Good Shepherd Microfinance

QUINN, Ms Susan, Senior Policy Officer, Consumer Action Law Centre

REYNDERS, Mr Llewellyn Robert, Policy Manager, Victorian Council of Social Service

SHAW, Mrs Margaret, Private capacity

TEHAN, Ms Bridget, Policy Adviser, Victorian Council of Social Service