Creating a more dynamic and resilient economy inquiry

Questionnaire response 63

Name: XBase Pty Ltd

Submission date: 5/06/2025

1. Support business investment through corporate tax reform

1. What features of the Australian business environment have encouraged or restrained investment over the past 10 years?

   The participant did not respond to this question.

2. What elements of the corporate tax system encourage and/or discourage investment and risk-taking?

   The participant did not respond to this question.

3. Which parts of the corporate tax system do you find the hardest, or most time or cost-intensive to comply with? How could the compliance burden of the business/company tax system be reduced?

   The participant did not respond to this question.

2. Reduce the impact of regulation on business dynamism

1. What areas of regulation do you see as enhancing business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

2. How has your regulatory burden changed over time?

   The participant did not respond to this question.

3. What regulations do you find time-consuming, overly complex or otherwise constraining business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

4. Can you share any specific examples of where you think a regulator has done a good or bad job of understanding and reducing regulatory burden on businesses and why?

   5/6/2025

   Submission to Productivity Commission: Building a Skilled and Adaptable Workplace, and/or Creating a more Dynamic and Resilient Economy
   ...

   Title: "Standardize Industry Governance of Professional Indemnity Insurance"

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Estimated Effort: VV Low
Estimated Value: V High
WSJF Prioritization: 2 - High

PROPOSAL -----------

All industry govenors and practitioners must be forced by law to supply PI certificates to customers, at any time, regardless of whether it is before or after the provision of service.

To ensure this occurs in all scenarios, all governance bodies must require professionals to supply a copy of the certificate of PI Currency on an annual basis, for govenors to supply to customers in the event the professionals do not do so themselves.

RATIONALE ----------------

Professional Indemnity Insurance (PI) is necessary to protect workers and consumers.

However, poor knowledge of PI insurance by industry and consumers, is allowing Insurers to take the p*ss. Insurers are being guaranteed enormous profits by industry regulations which require accredited professionals to have PI insurance in place, while simultaneously being protected from making payouts by those very industries.

In the case of the Health Services Industry, as practitioners also receive income from insurers, they have a clear conflict of interest. The more they prevent customer-patients from accessing payouts from insurers, the more funds insurers have to pay practitioners for their professional services. And, in all industries, there is an additional conflict of interest because an increase in claims will increase premiums, thus increasing operational costs for professionals.

Many industries require certified practitioners to have PI insurance, which is a valid approach, necessary to protect customers. This should be standardized by law across all industries.

However customers are frequently unable to make valid claims against those policies because professionals and industry governance bodies are refusing to supply certificates of insurance to customers.

The net impact is that insurers are raking in revenue from professionals whose industries mandate they have PI Insurance in place, rarely, if ever, making payouts because professionals are refusing to supply PI certificates to customers.

The Victorian Building Association (VBA) has implemented a best practice solution to this problem. All other governance bodies in Australia, for every industry, should be mandated by federal governors, to replicate the VBA model, to protect Australian citizens by forcing overly-profitable insurers to make payouts on fair claims.

This will end the current insufficient level of education many professionals, eg Medical Practices, have of PI insurance, by clarifying in law, who has the right to access a PI insurance certificate, and when.

The following use cases are all real world example scenarios:

Best Practice: VBA Model -----------------

The Victorian Building Society requires Builders and Plumbers to have PI insurance in place, and additionally they require a copy of the professiona's Certificate of Currency of Insurance Policy, be provided to the VBA on an annual basis.

In the event that the professional has a Quality Escape in their provision of service to a customer, and then fails to respond to customer requests to fix the problem themselves, the customer is forced to pay someone else to fix the problem. This cost is a valid claim against the PI Insurance policy of the practitioner. The custoner therefore requests a copy of the PI certificate of currency, from the professional, to make the insurance claim.

In the event the professional fails to supply the certificate, the customer can submit a complaint to the industry governancy body - in this instance the VBA, who supply their locally-stored copy of the PI certificate to the customer.

The policy certificate contains no Personally Identifying Information of the professional, thus their privacy has not been infringed.

The customer uses the insurance policy details to submit their insurance claim to the insurer. The insurer makes the payment to the customer.

The customer has been protected, and both the supplier and insurer held to account.

What happens with other models:

ESV -------------

Electrical Safety Victoria (ESV) mandate that electricians have PI insurance in place, however they do not currently keep a copy of the PI insurance certificates based on an incorrect interpretation of Privacy Laws.

In the scenario above: they are unable to supply a certificate to the customer. The customer cannot make a claim. The insurer is guaranteed income and protected by both the professional supplier and the industry governance body from making a payout. The Insurer's profits are guaranteed and protected, while the customer, who was supposed to be protected by the insurance policy, is left to wear the cost of the accredited professional failing to deliver the service at the level of quality their accreditation demands of them.

Even if the customer submits a complaint to ESV, there is no compensation to the customer and no penalty to either the professionsl or the insurer. The govenor us effectively useless, with no authority to hold professionals to account.

If the customer requests the contact details of the professional from ESV, this request is refused, rightly, based on the legal requirement to protect the customer. However there is no fallback protection for the customer.

Govenance if the industry is effectively rendered worthless.

As this issue has been occurring for years, implementing a change to legally mandate the closure of this gap, must be done so retrospectivly, do that customers sho are still wearing the cost of historic claims, can submit valid, open, historic claims. Any other solution will unfairly bias against customers, unfairly benefitting insurers.

Medical Practices AHPRA ---------

Scenario 1:

For example: A patient was misdiagnosed by multiple allied health practitioner, leading to long term disability. The patient wishes to make a claim on the Professional Indemnity insurance of the practitioner. The practitioner has since left the practice, and is no longer contactable. The practice advise they retain a copy of the practitioner's PI insurance certificate of currency covering the period in time the health service was supplied, however they refuse to supply it to the patient, incorrectly citing privacy reasons.

AHPRA mandate that all health practitioners have PI Insurance in place, however they do not store a copy of Practioner PI certificates.

The patient is unable to make a claim. The insurer is guaranteed revenue from mandated insurance policies, and protected from making a valid payout to an impacted customer of the professional in question, with both the professionals and the industry governance body, protecting the insurer over the patient.

Scenario 2:

A patient seeks a healthcare service, and requests a copy of the PI certificate of currency prior to commencement of the service. The healthcare professional refuses to pre-supply a copy of the PI certificate of currency, again falsely claiming privacy regulations protect them from doing so. This illustrates an industry-wide misconception about the nature and purpose of a Certificate of Insurance - by definition it being intended 'To Certify' and therefore specifically existing with the express purpose of being shared with all relevant parties. For this reason Insurance Certificates of currency do not include private information.

IT -------------

When Enterprises engage IT service suppliers, it is the industry standard that certificates of PI insurance be supplied before the delivery of service, and routinely at the point of annual insurance renewal.

This is also an ideal solution and needs to be mandated nation wide across all industries that all consumers have the 'Right to Request' PI certificates be supplied as evidence necessary protections are in place, prior to receiving service.

What is required to implement the change?

The changes must be applied retrospectively to allow historic claims to be made.

Who will benefit?

Consumers who have financial losses and haven't yet been able to make a claim because business practitioners are refusing to supply PI cert.

As insurers are a form of governance over an industry, effectively holding insurers to account will help uplift the quality of education and capability in an industry. For example: if an increase in the rate of claims for faulty gas installations caused by incorrect intake pipes has a pattern of occurring, then the insurers can work with the body responsible for defining national electrical training modules to uplift this component of training and re-deploy industry-wide as part of national electrical worker's Continuous Professional Development.

Increasing the accountability of insurers will therefore lead to overall improvements in efficiency in the associated industries, directly uplifting productivity.

All industry govenors and practitioners must be forced by law to supply PI certificates to customers, at any time, regardless of whether it is before or after the provision of service.

To ensure this occurs in all scenarios, all governance bodies must require professionals to supply a copy of the certificate of PI Currency on an annual basis, for govenors to supply to customers in the event the professionals do not do so themselves.

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