INSURANCE COUNCIL OF AUSTRALIA

# PRODUCTIVITY COMMISSION INQUIRY

# COMPETITION IN THE AUSTRALIAN FINANCIAL SYSTEM

Submission from the
Insurance Council of Australia

15 September 2017

Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

# Contents





Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

# 1. Introduction

A strong, stable and innovative general insurance industry is an essential component of a modern Australian economy. Australia's general insurance industry pays out on average about $135 million in claims each working day and employs about 60,000 people[1]. Over the past five years alone, the general insurance industry paid out around $150 billion in claims[2].

The central role of insurance in an economy is the mitigation of insurable risk. Through the acceptance and pooling of such risks, general insurance improves economic welfare in Australia by reducing the cost of self-insurance and freeing resources for more productive uses. Insurance helps ensure that risks are more efficiently allocated and, at a practical level, that individuals and businesses in Australia can pursue economic activities secure in the knowledge that risk has been transferred to their insurer.

The industry plays a critical role in protecting the financial well-being of individuals, households and communities by restoring their standard of living and helping communities recover following natural catastrophes. The contributions of the general insurance industry to the recovery of communities from natural catastrophes are significant not only in terms of the billions of dollars of claims paid, but also because of the evolving risk mitigation and emergency management initiatives that make for more resilient Australian communities.

Australia's general insurance market is highly competitive. It is imperative to recognise that pricing is only one aspect of competition; general insurers compete vigorously with diverse product offerings, coverage and claims servicing and performance. Premium increases have been driven by a diverse range of factors, such as the number of natural disasters, and must be seen against the volatile financial performance of the general insurance industry.

The Insurance Council of Australia (the Insurance Council) recognises the importance of a strong consumer protection regulatory framework to ensure that the consumer-business relationship is transparent and fair; this is particularly the case with Australia's highly competitive general insurance market.

The existing regulatory framework provides consumers with a strong level of protection in relation to the general insurance products they purchase. Notwithstanding this however, the Insurance Council is committed to continually enhancing outcomes for consumers buying general insurance. This is why the Insurance Council is reviewing the General Insurance Code of Practice and is leading an industry work program to empower consumers to make good decisions about their insurance needs.

The Insurance Council has consistently argued that the relative imbalance between funding for disaster response activities compared with disaster mitigation is a longstanding economic failure in Australia. Correction of this imbalance, in a manner that incentivises a systemic approach to reducing existing community exposures and preventing future planning mistakes, should be a national priority. The benefits of mitigation are manifold, including improved community safety and economic stability and lower insurance premiums.

---

[1] Based on data from the Australian Bureau of Statistics (ABS) and the Australian Prudential Regulation Authority (APRA).
[2] Based on data from APRA.


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
T +61 2 9253 5100 F +61 2 9253 5111
www.insurancecouncil.com.au

## 2. Overview of Competition in General Insurance Industry

The Insurance Council submits that the Australian general insurance industry is highly competitive and is characterised by relatively low barriers to entry, particularly in the retail short-tail classes such as home insurance.

Over recent years, these insurance classes have been subject to additional competition from Australian Prudential Regulation Authority (APRA)-authorised foreign insurers entering[3] the Australian market. New competitors are also emerging from other industry sectors (notably banks, large retail groups and motor vehicle retailers) that have engaged in aggressive advertising as well as offering lower premiums and alternative product features. Indeed, competition has also been enhanced through technology – particularly through the internet – and has provided an efficient and cost-effective way for new participants to compete.

The intensity of competition in Australia's general insurance industry is also evidenced by its highly cyclical nature (particularly in terms of financial performance) and its continued consolidation, a testament to heightened price competition. These competitive aspects of the industry are explored in detail in the following sections.

### Stakeholder Assessments of Competition

Industry participants are not the only stakeholders assessing the general insurance industry as being highly competitive. Indeed, similar assessments have also been made by APRA, the Australian Treasury and the Financial System Inquiry (FSI), and also by credible private market observers KPMG and PwC; provided below is a summary of their assessments.

In its recent submission to the Senate Inquiry into Australia's General Insurance Industry, APRA emphasised 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 they seek to gain market share, particularly in the domestic motor class of business*"[4].

APRA has also observed[5] that strong levels of competition are evident in most classes of general insurance. In the personal lines market, the presence of various foreign insurers as well as large retail groups is having an impact as they seek to build market share, particularly in the domestic motor class of business.

Additionally, APRA explained in its 2015 Annual Report[6] that a number of new entrants, particularly APRA-authorised subsidiaries and branches of foreign insurers, have entered the personal and commercial lines markets over the past decade, offsetting the general trend towards consolidation and adding to the level of competition present.

---

[3] APRA, Submission to the Financial System Inquiry, 31 March 2014. Page 99.
[4] APRA, Submission to the Senate Inquiry into Australia's General Insurance Industry, released March 2017. Page 2.
[5] APRA *Insight*, Issue 3 2013. Page 8.
[6] APRA 2015 Annual Report, released 7 October 2015. Page 20.


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
T +61 2 9253 5100 F +61 2 9253 5111
www.insurancecouncil.com.au

The FSI Interim Report[7] made a similar assessment on the level of competition in the general insurance industry, observing that although the insurance sector has generally become more concentrated, some trends are moving in the opposite direction. The FSI Interim Report remarked that a number of new insurers have entered the market, and added that banks and retailers have also entered the insurance market, usually by white labelling products provided by the main insurers, but with some underwriting themselves[8].

The Australian Treasury, in its submission[9] to the FSI, concluded that there has been an intensification of competition and contestability broadly across the general insurance sector in recent years. The Australian Treasury explained that there have been new entrants offering a range of general insurance products and capturing market share by advertising aggressively and offering cheaper premiums and/or enhanced product features. It added that a number of new entrants are offering online services only, and that incumbents are responding by establishing low-cost competitors that operate online.

KPMG's *General Insurance Industry Review 2016*[10] found that there were competitive market conditions in the Australian general insurance industry and predicted these to intensify and place pressure on premiums. The KPMG Review also found that while the growth rate of new insurers slowed in 2016, these new participants continued to provide significant competition within the personal lines of the general insurance market.

The *Insurance facts and figures* report[11] by PwC Australia similarly reported that the insurance industry is experiencing increased levels of competition from new insurers. The report stated that two new insurers' market shares consistently increased since their introduction into the general insurance market. The penetration and consistent growth of new industry participants are widely acknowledged indicators of healthy competition.

## Participation in the General Insurance Industry

Australia's general insurance industry is comprised of a large number of insurers providing a diverse range of insurance products for consumers. As at 30 June 2017, there were 104 APRA-authorised general insurance businesses operating in Australia, largely unchanged over the past year but representing a net decline of 27 insurers over the past decade.

As pointed out by APRA[12], the net decline largely reflects a number of mergers and acquisitions, and rationalisation within some insurance groups that held multiple licences arising from past acquisitions. APRA has also more recently explained that the continuation in the Australian general insurance industry's trend towards greater consolidation is "*largely driven by heightened price competition and low interest rates*"[13].

It is also important to view any consolidation in the financial services sector in the broader context of financial system stability in Australia. As recently emphasised by APRA, there

[7] The Financial System Inquiry *Interim Report*, released 15 July 2014. Page 2-39.
[8] The Financial System Inquiry *Interim Report*, released 15 July 2014. Page 2-39.
[9] The Australian Treasury's submission to the Financial System Inquiry, released 3 April 2014. Page 64.
[10] KPMG, *General Insurance Industry Review 2016*, September 2016. Pages 8-9.
[11] PwC Australia, *Insurance facts and figures* report, May 2016. Page 2.
[12] APRA, Submission to the Financial System Inquiry, 31 March 2014. Page 9.
[13] APRA, Submission to the Senate Inquiry into Australia's General Insurance Industry, 10 February 2017. Page 1.


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

should not be any trade-off between stability and competition in the financial system[14]. In this regard, the Insurance Council agrees that there should be support for competition that is sustainable in the long term and does not create risks for the stability of the Australian financial system. As also pointed out by APRA, the 2008 Global Financial Crisis continues to serve as an important lesson for financial stability, given that the crisis revealed that there were many industry business models around the world that "… *only worked in the good times, and ceased to provide services to consumers when adversity arose. The long-term outcome has unfortunately been a more concentrated system*[15]".

The Insurance Council notes that there have been some suggestions that the recent consolidation in the general insurance industry has resulted in concentration and a low level of competition in the industry. The Insurance Council strongly disagrees with this view. However, we recognise that industry concentration analysis is often used by regulators in Australia, and around the world, as an initial indicator of market competitiveness.

As the Productivity Commission would be aware, concentration analysis is one tool used by the Australian Competition and Consumer Commission (ACCC) to aid its assessment of the potential competitive impact of proposed horizontal mergers and, also more generally, the level of competitiveness of particular industries.

Notwithstanding its widespread use however, there is literature emphasising that there are significant limitations to relying solely on concentration analysis[16], and that other important factors must also be appropriately taken into account in order to develop an informed view on the level of competition within a market. In particular, important variables – such as the net turnover in the number of industry participants, barriers to entry and other unquantifiable factors – are unaccounted for by solely relying on concentration analysis that can have a material influence on the level of competitiveness in a market.

This important point was also recently made by the Reserve Bank of Australia, emphasising that concentration, itself, does not necessarily suggest a lack of competition, adding that market concentration analysis is not regarded as a very accurate measure of competition[17].

Furthermore, even when a level of concentration can be associated with a decrease in competition, the costs of this decrease may be offset by benefits to consumers in terms of reduced prices resulting from economies of scale due to market consolidation.

As an example, the ACCC applied the Herfindahl-Hirschman Index (HHI) – a widely used concentration analysis technique – to the grocery sector in Australia as part of its 2008 Grocery Inquiry[18]. The ACCC estimated the HHI for packaged groceries in Australia to be between 2,750 and 3,000[19]. While the ACCC interpreted this range as indicating a high level of industry concentration, it considered that other important factors such as barriers to entry and expansions also needed to be considered before an informed judgement on market competitiveness and the need for intervention could be made.

---

[14] APRA, Opening Statement, Productivity Commission Inquiry into Competition in the Australian Financial System, June 2017.

[15] Ibid.

[16] For example, refer to: Roberts, T 2014, '*When Bigger Is Better: A Critique of the Herfindahl-Hirschman Index's Use to Evaluate Mergers in Network Industries*': Pace Law Review, vol. 34, issue. 2.

[17] Reserve Bank of Australia, July 2017, '*Big Banks and Financial Stability*', Speech - Economic and Social Outlook Conference.

[18] ACCC price inquiry into the price of groceries ('Grocery Inquiry') 2008.

[19] ACCC, '*Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries*'. July 2008. Page 51.



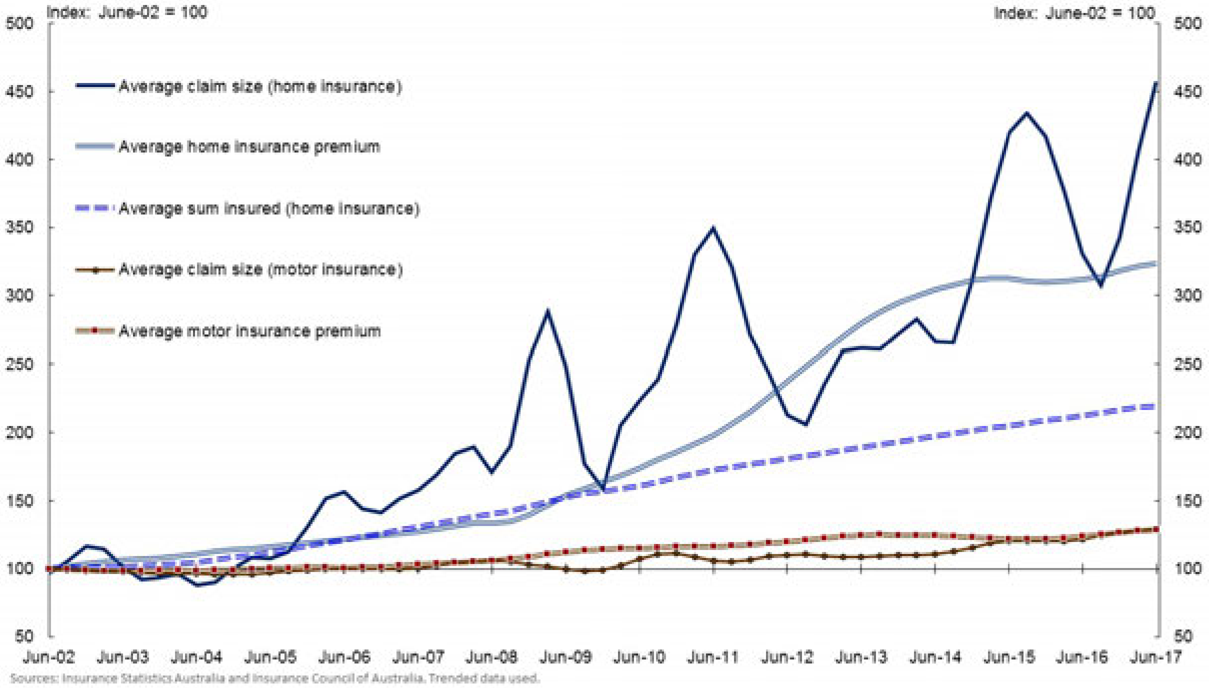
Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
T +61 2 9253 5100 F +61 2 9253 5111
www.insurancecouncil.com.au

INSURANCE COUNCIL OF AUSTRALIA

## 3. General Insurance Premium Trends

The Insurance Council acknowledges that there has recently been a significant level of public interest in general insurance premium trends – particularly in the domestic home building and comprehensive motor insurance classes – and whether the observed trends can be associated with the level of competition within the general insurance industry.

**Chart A: Home and Motor Insurance Premium Trends**[20]




Given the level of public interest, the Insurance Council would like to provide the Productivity Commission some observations on the recent trends in home building and comprehensive motor insurance classes. Chart A, above, includes data spanning over 15 years to help facilitate a longer term view of premium trends in those classes. As the Productivity Commission would appreciate, in looking at premium trends, it is important to understand the key drivers that can impact general insurance premiums (explored in the following section).

Referring to Chart A, average home insurance premiums in Australia increased at an average annual rate[21] of around 8 per cent over the past 15 years to June 2017. However, home insurance premiums experienced more subdued growth over the past 3 years, rising at an average annual rate of around 2 per cent.

Chart A also helps illustrate how changes in the average sum insured and average claim size for home insurance have impacted premium levels. The average claim size for home insurance in Australia increased at an average annual rate of around 11 per cent over the past 15 years, noting, in particular, the extreme volatility in the series largely from the impact

---

[20] Based on June quarter 2017 data from Insurance Statistics Australia. Data has been trended to remove short-term volatility.

[21] Refers to compound annual growth rate (CAGR), typically expressed as *"(end value/beginning value)$^{(1/\#years)}$ – 1"*.


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

of severe natural catastrophe events. The average sum insured for home insurance increased at an average annual rate of around 5 per cent over the same period.

Chart A also shows that average motor insurance premiums have risen at a slower rate, relative to home insurance over the past 15 years (average annual growth of around 2 per cent), and have remained broadly unchanged over the past 3 years, experiencing an average annual growth rate of around 1 per cent.

One factor that can help explain the trend in motor insurance premiums is the change in the average claim size for this insurance class, increasing at an average annual rate of around 2 per cent over the past 15 years. This is not notwithstanding, however, a more rapid average annual growth of around 5 per cent over the past 3 years (Chart A also refers).

### Factors Driving Insurance Premiums Trends

As the Productivity Commission would be aware, this matter has been a subject of a number of public inquiries this year. In particular, this matter was comprehensively explored in the Senate Inquiry into Australia's general insurance industry (Senate Inquiry), to which the Insurance Council made a formal submission[22] and also appeared as a witness.

The Report of the Senate Inquiry was released on 10 August 2017 and included a detailed section canvassing its assessment of general insurance premiums. The Senate Committee concluded that "… *premiums remain commensurate with the level of risk*", and that it "… *does not propose to examine premium increases or their justification further…*"[23]

The Insurance Council also notes that there have been suggestions[24] that differences in observed premiums in certain localised geographical areas may indicate a low level of competition. However, this is a misperception. Specifically, it does not take into account the different underwriting criteria and risk appetites of different insurers competing in a market. For example, different insurers may not offer identical policies with identical levels of coverage for each and every insured risk. In some circumstances, an insurer may not provide cover in a policy for certain risks, if it believes the risk exposure would be too high.

It is essential in drawing any conclusions about general insurance premium trends, to understand the key drivers impacting any observed trends. Variations in general insurance premiums are driven by a multitude of factors, such as the number of natural disasters, higher claim volumes and amounts and costs associated with meeting those claims, higher global reinsurance costs, higher asset values and sum insured amounts, higher rebuilding costs and changes to regulatory[25] requirements.

The diverse range of government charges in Australia have also contributed to the increases. As recently pointed out by the NSW Emergency Services Levy (ESL) Insurance Monitor, in NSW, the ESL, Goods and Services Tax (GST) and Stamp Duty on insurance can collectively increase *any given rise* on a NSW home and contents insurance policy base premium by a further 44 per cent.

---

[22] Insurance Council of Australia submission to the Senate Inquiry into Australia's general insurance industry, 17 February 2017.

[23] Final Report of the Senate Inquiry into Australia's general insurance industry. 10 August 2017. Pages 20-21.

[24] Professor Allan Fels AO and Professor David Cousins AM, submission to the Senate Inquiry into Australia's general insurance industry. May 2017. Pages 6-8.

[25] Such as, the full implementation of APRA's *Life and General Insurance Capital Standards* (LAGIC) in January 2014.



Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
T +61 2 9253 5100 F +61 2 9253 5111
www.insurancecouncil.com.au

As the Productivity Commission would appreciate, if insurance is to be economically efficient and commercially viable, rigorous risk assessment should determine the underwriting criteria and pricing. This allows insurers to offer insurance at a price appropriate to insureds and enables insurers to put aside reserve funding for future liabilities and, importantly, also enables insurers to target important risks and provide a diverse range of insurance products.

The Insurance Council recognises that having an appropriate level of insurance cover is becoming an increasingly important part of everyday life in Australia, particularly in light of the many unforeseen natural disasters over recent years and their devastating impact on Australian communities.

While we acknowledge the concerns of some stakeholders regarding recent premium trends in some general insurances, we maintain that mitigation is the only way to reduce premiums on a sustainable basis. We recognise that the Productivity Commission and Northern Australia Insurance Premiums Taskforce[26] have also made similar conclusions. Indeed, most recently, a similar conclusion was also made by the Senate Inquiry:

> "*… 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.*"[27]

Critically, the Senate Inquiry recommended[28]:

> "… *the Australian Government **reconsider** its response to the Productivity Commission's inquiry on National Disaster Funding Arrangements.*"; and

> "… *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.*"

## Industry Financial Performance

The Insurance Council would like to emphasise that observed trends in general insurance premiums must also be considered against the background of the financial performance of the industry. General insurers in Australia, and indeed around the globe, continue to face a significant number of challenges to manage volatility in financial performance. It is critical that insurers successfully manage this volatility and that the industry remains financially strong and stable, so that it can continue to meet its claims liabilities to policy holders.

To help provide context to this matter for the Productivity Commission's consideration, we have provided analysis below on the financial performance of the general insurance industry spanning over 10 years to help facilitate a long term view of financial performance trends.

---

[26] Productivity Commission, *Natural Disaster Funding Arrangements* – Inquiry Report, December 2014. Northern Australia Insurance Premiums Taskforce Final Report, March 2016.

[27] Final Report of the Senate Inquiry into Australia's general insurance industry. 10 August 2017. Page 73.

[28] Final Report of the Senate Inquiry into Australia's general insurance industry. 10 August 2017. Page xi.



Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
T +61 2 9253 5100 F +61 2 9253 5111
www.insurancecouncil.com.au

Our analysis, using financial data publicly released by APRA[29], shows there is significant volatility in the financial performance of Australia's general insurance industry and that there has been a marked deterioration in performance over recent years, relative to 10 year[30] historic averages (Chart B refers).

**Chart B: Volatility of Financial Performance in General Insurance**[31]

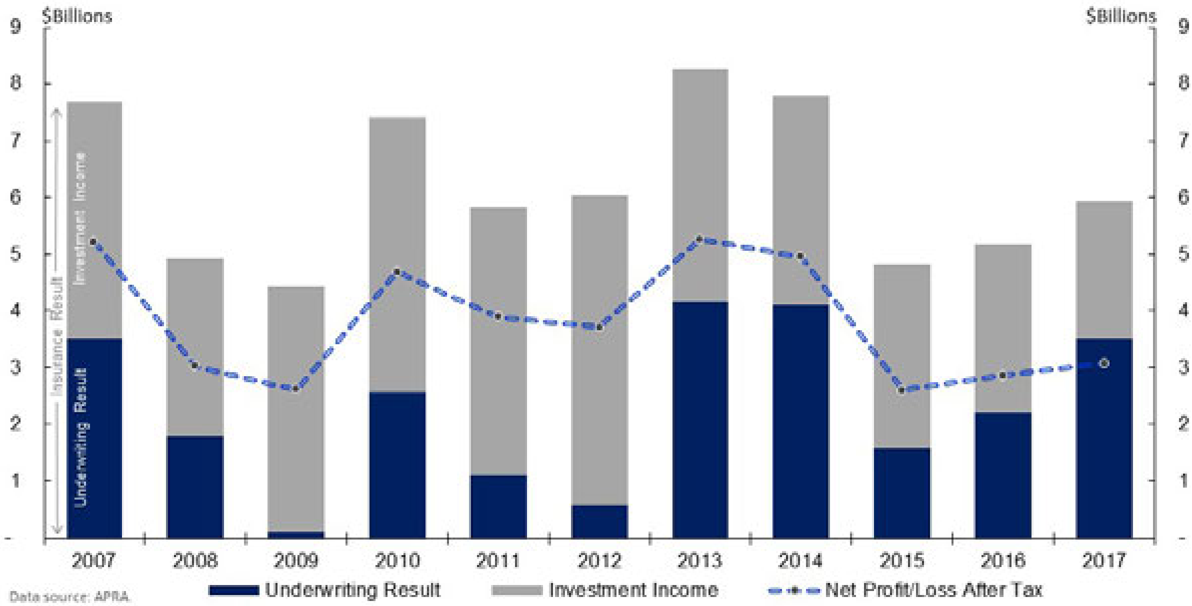



Chart B illustrates the significant volatility in the financial performance of Australia's general insurance industry, in terms of volatility in the underwriting result (the core business function of insurance) and investment income and, consequently, net profit/loss after tax.

The data underpinning Chart B demonstrates that the underwriting result for the general insurance industry fluctuates[32] up to 61 per cent above or below its 10 year average, while investment income fluctuates up to 23 per cent above or below its 10 year average.

Consequently, the volatility in the underwriting result and investment income flows through to industry net profit/loss after tax, which fluctuates up to 28 per cent above or below its 10 year average. It is important to note though, that the volatility in the industry's net profit/loss after tax is chiefly driven by significant shifts in the general insurance underwriting result, mainly from the number of natural catastrophe events in Australia and the effect on claims.

Indeed, the impact of storm and hail events across Australia and their consequential impact on claims growth in Australia's residential and commercial property insurance sectors was recently highlighted in the OECD's *Global Insurance Market Trends 2016*[33].

[29] APRA June 2017 *Quarterly General Insurance Performance Statistics*.

[30] APRA data, 10 year performance in this section of the submission refers to 4 quarters ending June-07 to June-17.

[31] Based on APRA June 2017 *Quarterly General Insurance Performance Statistics* data.

[32] Based on standard deviations around 10 year averages for total general insurance industry, underwriting result, investment income and net profit/loss after tax. Data from APRA June 2017 *Quarterly General Insurance Performance Statistics*.

[33] OECD, February 2017, *Global Insurance Market Trends 2016*. Pages 13-14 refer.



Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

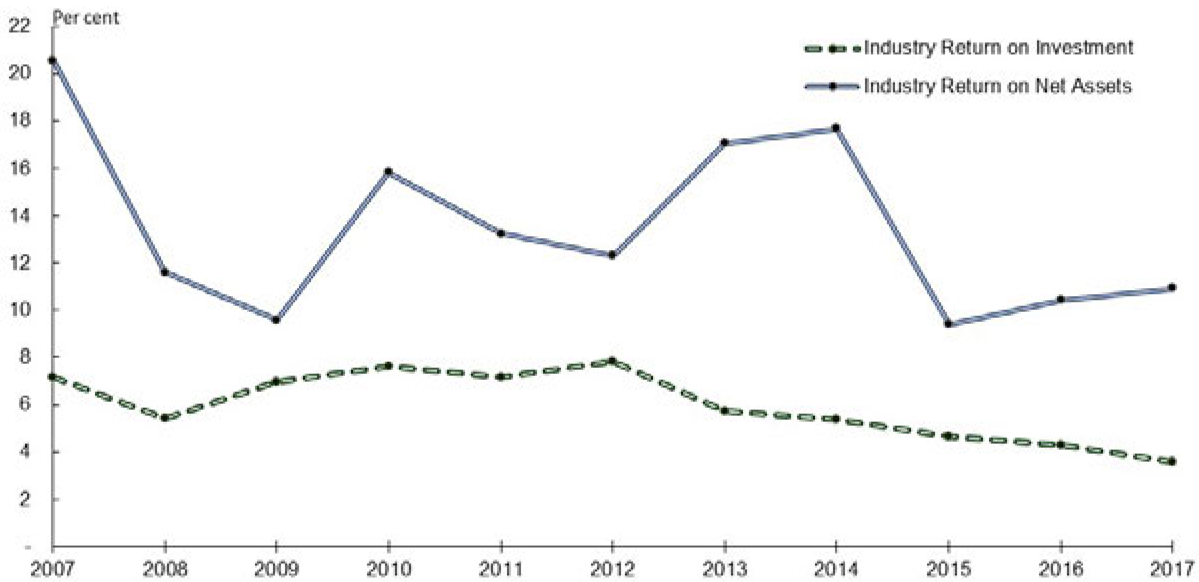
Chart B shows that the Australian general insurance industry's total net profit after tax in the year ending 30 June 2017 was $3.1 billion. While this was up from $2.9 billion in the previous year, it is down around 19 per cent from the 10-year average of $3.8 billion.

With respect to investment performance more specifically, Chart C shows that returns have been markedly lower over recent periods relative to historic longer term performance. The general insurance industry's return on investment (ROI) in the year ended 30 June 2017 was 3.5 per cent. This is down from 4.3 per cent in the previous year, and remains lower than the 10 year average of 6.0 per cent – ROI is a widely used financial performance measure for evaluating the efficiency of investments.

Indeed, lower industry net profits have had a noticeable impact on the industry's return on net assets, which measures how effectively and efficiently the industry has been able to use its assets to generate earnings. For instance, the general insurance industry's return on net assets in the year ended 30 June 2017 was 10.8 per cent; while largely unchanged from the previous year, it remains lower than the 10 year average of 13.5 per cent (Chart C refers).

The Insurance Council's analysis is consistent with recent analysis by Finity Consulting (and Deutsche Bank), which found that lower investment returns accompanied by continuing low premium growth, mean the financial outlook for the general insurance industry will be satisfactory but not strong. Finity Consulting's view is that "*investment returns are at record lows, which means profitability from underwriting operations is more important than ever – yet it is getting harder to achieve*"[34].

**Chart C: Return on Investment & Return on Net Assets[35]**




Data source: APRA. Four-quarters ending 30 June.

[34] 2016 *Pendulum report*, co-authored by Finity Consulting and Deutsche Bank. Released 27 July 2016.
[35] Based on APRA June 2017 *Quarterly General Insurance Performance Statistics* data.


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

# 4. General Insurance Consumer Protection Framework

The strong level of competition driving efficiencies in Australia's general insurance industry is complemented by a robust consumer protection framework for consumers buying general insurance. This protection is provided in particular through the *Insurance Contracts Act 1984* (Insurance Contracts Act), *Corporations Act 2001* (Corporations Act), the external dispute resolution mechanism provided by the Financial Ombudsman Service (FOS), the General Insurance Code of Practice (Code of Practice) and the Insurance Brokers Code of Practice.

It is also important to recognise the critical role of the prudential regulation framework in providing general insurance policyholders confidence that the promises made to them will be kept. Consistent with the open nature of Australia's general insurance industry and the complexity and diversity of industry participants, APRA's prudential standards set out minimum capital and risk management requirements to protect policy holder interests and there are no other requirements for new entrants.

## Overview of the Regulatory Framework

Australian consumers when purchasing general insurance benefit from robust protection provided by the detailed provisions of the Insurance Contracts Act. When it was introduced into Parliament in December 1983, the Insurance Contracts Act's purpose was stated as to:

- improve the flow of information between the insurer and 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
- provide a uniform and fair set of rules to govern the relationship between the insurer and insured[36].

As well as the obligations under the Insurance Contracts Act, general insurance products are also subject to the comprehensive financial services regulatory regime under chapter 7 of the Corporations Act, administered by the Australian Securities and Investments Commission.

A significant part of the conduct regulation framework aims to ensure transparency in the sale of financial products through a comprehensive disclosure regime. General insurers are required to provide consumers with a Product Disclosure Statement (PDS) outlining information about any significant benefits, costs, terms and conditions of the policy.

This obligation is in addition to the Insurance Contracts Act, which requires the disclosure of any non-standard term as well as any unusual term in policies. For home building and home contents insurance products, insurers are also required to provide a Key Facts Sheet providing a summary of a policy's coverage in respect of key prescribed events, such as for example, flood, storm, or actions of the sea).

Additionally, APRA's prudential regulation framework provides an important mechanism for protecting insurance policyholders. The FSI Interim Report emphasised that prudential regulation is a fundamental consumer protection mechanism, which operates as a

[36] See Senate Hansard, 1 December 1983. Pages 3134-3138, refer.


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

preventative measure to promote sustainable financial institutions that can deliver on their financial promises[37].

APRA promotes safety and soundness in business behaviour and risk management on the part of the institutions it supervises. It establishes and enforces prudential standards and practices designed to ensure that, under all reasonable circumstances, financial promises made by the institutions it supervises are met within a stable, efficient and competitive financial system[38]. If an APRA-regulated institution becomes financially distressed, APRA has the primary responsibility for ensuring its return to health or managing its orderly failure.

## Industry Initiatives Designed to Enhance Consumer Outcomes

In addition to the strong consumer protection regulatory framework, there is a range of general insurance industry-led initiatives being progressed that are designed to achieve higher standards and better outcomes for consumers buying general insurance.

### *Enhancing consumer engagement*

While the comprehensive product disclosure regime provides the foundation for transparency, the industry has recognised that the provision of mandated disclosure documents, without a clear objective to aid decision-making, has not always effectively engaged consumers. This appears to be a challenge for consumer contracts of all kinds around the world. While the regulatory consumer protections are essential, the industry has recognised the importance of empowering consumer decision-making to help prevent poor consumer outcomes from occurring in the first instance.

Taking on this challenge, the Insurance Council Board established an independent Effective Disclosure Taskforce (the Taskforce) in 2015 to assess the effectiveness of, and recommend initiatives to enhance, disclosure. The Taskforce consisted of experts from the industry, consumer movement, academia and the field of behavioural sciences. The report[39] handed down by the Taskforce made 16 recommendations, which were endorsed in full by the Insurance Council Board. Key recommendations include:

- the industry should shift from a minimum mandated disclosure approach to best practice transparency to better assist consumers to choose a product that meets their needs;
- insurers should explore and adopt new forms of electronic disclosure that enable information to be delivered in more relevant and personalised ways;
- the Insurance Council and industry should work with ASIC and the Government to improve the advice regime in order to enable the disclosure of more targeted information to consumers; and
- the Insurance Council and the industry should conduct a review of product comparability options to identify methods of improving consumer understanding of coverage differences between products.

---

[37] Financial System Inquiry Interim Report. Page 3-50, refers. Released July 2014.

[38] APRA website, '*APRA Vision, Mission and Values*'.

[39] Insurance Council of Australia, Effective Disclosure Taskforce (2015), '*Too Long; Didn't Read. Enhancing General Insurance Disclosure*', report to the Board of the Insurance Council of Australia.



Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
T +61 2 9253 5100 F +61 2 9253 5111
www.insurancecouncil.com.au

All of these initiatives are aimed at better equipping consumers to consider their insurance needs, and to make it simpler for consumers to choose an appropriate policy. Research conducted by the Insurance Council confirmed that consumers are much more focused on price than in matching their specific needs with the right type and level of cover[40]

Better assisting consumers to assess and compare policies on their coverage will stimulate deeper competition based on product features and not just price.

The Insurance Council is currently midway through a two-year work program to implement all 16 of the Taskforce's recommendations.

### *Review of the General Insurance Code of Practice*

The Code of Practice was first introduced in 1994, and has undergone multiple enhancements to ensure that it remains relevant and continues to meet its objectives.

The Code of Practice was last reviewed in 2012-13, when the Insurance Council commissioned an independent review[41] by Mr Ian Enright. The 2012-13 review resulted in a thorough rewrite of the Code of Practice, with the current revised Code of Practice commencing on 1 July 2014.

The enhancements made in 2014 included a broadening of rights for consumers, and the introduction of a more independent and transparent governance framework, with the Code Governance Committee being set up to monitor and enforce compliance with the Code of Practice. The 2014 Code of Practice was also written in plain English, and contained clearer processes for making claims and complaints.

As explained earlier, the Code of Practice is a living document, and the Insurance Council will continue to make improvements as and when required. In addition to formal independent reviews of the Code of Practice, the Insurance Council can review the Code of Practice on an ad-hoc basis in consultation with stakeholders.

While the 2014 Code of Practice remains the benchmark for financial services self-regulation in Australia, recent external developments impacting the general insurance industry have led the Insurance Council to carry out a targeted review of the Code of Practice. The Terms of Reference for the 2017 Review are provided at the Appendix of this submission.

External developments to be taken into account during the Review include the Federal Government's response to recommendations of the FSI, recent Senate inquiries, changes to the financial system external dispute resolution framework, relevant ASIC reports and reviews, the work of the Code Governance Committee, and the findings of the Insurance Council's Effective Disclosure Taskforce research.

The Insurance Council's review of the Code of Practice is being conducted in close consultation with consumer advocate groups, ASIC, the FOS and other key stakeholders to ensure that full consideration is given to consumer expectations and needs.

---

[40] Insurance Council of Australia (2017), *'Consumer research on general insurance disclosures'*, research report.

[41] Insurance Council of Australia, '*General Insurance Code of Practice Independent Review 2012-2013'* Final Report May 2013.



Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

*General insurance industry Consumer Liaison Forum*

The Insurance Council and its members are committed to maintaining constructive and open dialogue with consumer advocates on a range of matters arising for consumers of general insurance products in Australia. This is an important objective of the Insurance Council.

The free exchange of information and views is vital to the ongoing work of the Insurance Council in supporting the everyday activities of individual Australians and their communities, and the broader operation of the Australian economy.

This is why the Insurance Council and consumer representatives have formed the Consumer Liaison Forum. The key objectives of this forum is to facilitate open discussions between the general insurance industry and consumer representatives and, importantly, encourage the appropriate development of insurer and industry practices that are supportive of higher standards and better outcomes for consumers buying general insurance.

This is another key example of how the general insurance industry is proactively engaging with consumer advocates and is willing to adapt to further enhance consumer outcomes.

The Insurance Council would be pleased to provide the Productivity Commission with further details of this important initiative.


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au

Appendix

# Terms of Reference

## Background

The General Insurance Code of Practice (Code) requires the ICA to commission formal independent reviews of the Code from time to time. A thorough independent review of the Code was undertaken in 2012-13 by Mr Ian Enright, with significant stakeholder consultation.

The Code was subsequently significantly amended to incorporate recommendations made by Mr Enright, and the current revised Code commenced on July 1, 2014, with a 12-month transition period.

In addition to formal independent reviews of the Code, the ICA can review the Code on an ad hoc basis in consultation with stakeholders. In light of recent external developments impacting the general insurance industry since the commencement of the 2014 Code, the ICA Board has instructed the ICA to carry out a further, more targeted review of the Code.

## Recent developments

Relevant recent and ongoing reviews, reports and developments include:

- The Federal Government's December 2016 Proposals Paper on product design and distribution obligations and ASIC's product intervention power, in response to recommendations of the Financial System Inquiry
- The Senate inquiry into the general insurance industry, due to report on 22 June 2017
- The Senate inquiry into consumer protection in the banking, insurance and financial sector, due to report on March 30 2018
- The independent review of the financial system external dispute resolution framework, due to report by March 31 2017
- ASIC's 2016 reports on the sale of add-on insurance through motor vehicle dealers
- ASIC's 2016 report on its industry-wide review of life insurance claims
- ASIC's Enforcement Review Taskforce's pending consideration of the adequacy of ASIC's enforcement regime in relation to industry codes of conduct to deter misconduct and foster consumer confidence
- The findings of the ICA's consumer research into effective disclosure of product information
- The commencement of the FSC's Life Insurance Code of Practice in October 2016, which includes provisions concerning product design and disclosure, vulnerable consumers, sales practices and advertising, CCI-specific sales and disclosure requirements, and restrictions on claimant interviews and surveillance
- The Australian Bankers' Association's independent review of the Code of Banking Practice
- The ICA's Effective Disclosure Taskforce's recommendation to develop guidance on the principles of transparency in fulfilling the Code's objectives of more informed


Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
T +61 2 9253 5100 F +61 2 9253 5111
www.insurancecouncil.com.au

relations between insurers and their customers, and the promotion of trust and confidence in the industry

- The General Insurance Code Governance Committee's ongoing own-motion inquiry into claims investigations and outsourced services
- Mental Health First Aid Australia's recently released principles for working with people with mental health problems and financial difficulties

## Scope of review

Taking into account the Code objectives, and the above recent developments, the review of the Code will consider the operation and effectiveness of:

- Section 4: Buying insurance
- Section 5: Standards for employees, authorised representatives and authorised financial services licensees acting on behalf of a Code subscriber
- Section 6: Standards for service suppliers
- Section 7: Claims
- Section 8: Financial hardship
- Section 10: Complaints and disputes
- Section 13: Monitoring, enforcement and sanctions

The review should also consider expansion of the scope of the Code in response to any of the above listed reports, reviews and other industry codes.

In addition, the review should consider the extent to which the Code complies with the requirements of ASIC's *Regulatory Guide 183: Approval of financial sector codes of conduct* (RG 183) and the implications of seeking approval of the Code from ASIC.

The review may consider any other matter relevant to the Code, and it must take into account changes in law and practice since the 2012-13 independent review.

The review must specifically take into account any relevant recommendations or findings concerning the conduct of insurers from ASIC, the Financial Ombudsman Service (FOS) and the Code Governance Committee (CGC).

## Process

The ICA is responsible for carrying out the review.

The ICA must consult during the course of the review and in relation to any proposed findings or recommendations with:

- The ICA's National Code Committee
- The ICA's Consumer Liaison Forum
- The CGC
- ASIC

- FOS

The ICA may consult with any other organisation or individual as it sees fit, and may seek expert advice on specific matters as it sees fit.

The ICA must provide a quarterly report to the ICA Board on the progress of the review until its conclusion.

The review may be conducted in stages as appropriate in order to take account of forthcoming external reports or reviews.



Insurance Council of Australia Limited ABN 50 005 617 318
PO Box R1832 Royal Exchange NSW Australia 1225
t +61 2 9253 5100 f +61 2 9253 5111
www.insurancecouncil.com.au