

A commentary in regards to the CCIR call for commentary on:

Managing Conflicts of Interest: A consultation Paper on Enhancing and Harmonizing Best Practices.

Alex de Tocqueville, the 19th century political scientist/ architect wrote the following wise words:

"The supreme power covers the surface of society with a network of small complicated rules, minute and uniform....men are seldom forced by it to act, but they are constantly restrained from acting. Such power...compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is shepherd"

My comments in regard to this new consultation report remain in general identical to those I produced in regards to the last CCIR call for information and commentary, there isn't an issue that needs to be dealt with so why the fuss?

I will offer some commentary under the headings produced in the report, but for the most part I have seen no indication in the marketplace that it is not being properly served by the network of individuals given the nameless and faceless description of "financial intermediaries" and I remain distressed by the insinuation that the people conducting their custom in this honourable business need additional interference in the manner in which they do it. There has been no evidence given to support the notion that additional regulations are needed. The premise that the market place is being inadequately served and that the buying public is being taken advantage of on account of these factors has not been supported by anything other than a biased perception of need by a group of people charged with developing and enforcing regulations.

One would expect that the call for market interference would begin with a statement clearly setting out the reasons that it is needed to ensure a fair market and that those reasons would be supported by a statistical analysis demonstrating the need. If in fact there is evidence that a fair market for insurance products doesn't exist in Canada then please produce the numbers for all to see. If there is evidence that the factors under consideration herein are working to the detriment of the Canadian public then please put it forward for intelligent discussion and debate. The matter before us is the subject of supposition and hearsay.

Much is made about the need to protect the public but very little is given to demonstrate that need.

1. Priority of the clients interests; an intermediary must place the interests of policyholders and prospective purchasers of insurance ahead of his or her own interests.

The sales process requires the presentation of options to the prospective purchaser. It doesn't make any difference what the product is. The "intermediary" in order to win the customers confidence in the transaction is bound by the competitive market place to give the best possible price and coverage to the purchaser. The rules of market conduct are already defined in the codes of conduct enshrined by regulators and associations covering the individuals engaged in the sale of insurance products and anyone found not conducting business to that standard is already subject to censure and discipline. Do we really need additional legislation in this regard?

2. Disclosure of conflict or potential conflict of interest: Consumers must receive disclosure of any actual conflict or potential conflict of interest that is associated with a transaction or recommendation.

Is there anyone naïve enough in our capitalist society to believe that anyone they ask to perform a service or provide advice to them doesn't have a personal interest in the outcome of the transaction? Are all the people seeking advice on the matters of insurance simply morons in need of a tight wrap of government assistance to ensure that they are not taken advantage of? Does the ancient principle of "Caveat Emptor" only apply to the many cans of soup available in the grocery store or with respect to the choice of an automobile but not to the reception and analysis of advice given to you in regards to your insurance needs?

Is it necessary to disclose how we are remunerated on the services we provide?

Is it necessary to disclose how much we are remunerated on the service?

Is it necessary to disclose additional incentives provided by some companies?

Is it necessary to disclose those companies that don't provide incentives?

Is it necessary to disclose that your business is owned by private individuals?

Is it necessary to disclose that an insurance company has an interest in your company?

Is it necessary to disclose that the company you are recommending pays less or more commission than another?

Is it necessary to disclose that contingencies based upon volume or experience may be paid by one company or another that you are recommending?

Is it necessary to disclose a prize or award received for supporting one company or another?

Is it necessary to disclose that you are not recommending one company or another because the class of business isn't acceptable to them.

Is there any other business where the need to disclose any of these issues is even up for debate?

Still I remain unconvinced that any interference in this area will provide any additional security to the buying public. Those in the business that put their customer's interests ahead of their own will be found through the fair practice of the market place, not by the interference of regulations. It is part and parcel of the competitive process, which always will produce the best result for the consumer. The legal obligations of the agent will collect and protect those situations where the process fails a customer, as the historical evidence currently shows.

3. Product suitability: The recommended product must be suitable to the needs of the consumer.

It is beyond comprehension why the regulators of the conduct of the participants of this industry would want to take a position in this regard. We test the individuals who want to be licensed to take part in the business, we demand their continued education in the development and changes of the products they sell and we demand that they obtain an Errors and Omission insurance cover and meet a fiduciary standard to protect their customers and now we want to regulate the suitability of the products they recommend? Will you warranty their suitability too?

It would seem to me that if an insurance intermediary recommends a product that doesn't provide the protection needed by the customer that he/she would be in violation of many regulations already requiring competency and further that their legal obligations for this oversight would be of concern to their Errors and Omission insurers.

May I suggest that the interests of the regulators ought to be to put intelligent people aware of the rules of conduct and the needs of the market place, in front of the buying public. Should they fail at their assignment; the market will of course take care of them as will the existing regulations governing their conduct.

In Summary:

There has been no evidence given that the insurance market place in Canada is currently not receiving proper representation by the people who sell insurance in it.

The driving factor for this whole debate has come about as a result of the illegal activities of a large insurance brokerage's operations in the United States and the response of an American regulator to that action. The end result of which has been recorded as no *Mia Culpa* on the part of the brokerage but an agreement to pay a large fine to end the investigation. No evidence has been given that such activities occurred in Canada or even might occur in Canada yet we stand staring

over the abyss of the possibility that some actions might need to be taken to prevent it from happening.

I remain one with my convictions and perceptions that this whole exercise has been much ado about nothing and this last discussion has been one with a hope that we find some meaning out of the ridiculous effort that came forth in the first analysis.

From where I sit, I see no advantage to any additional regulation. I see no additional protection to the buying public as a result of it. I do not see how any changes will produce any differences in the way in which the market place already reacts and I see an expansion of interference in the market place by the regulators as a negative factor. This will come with costs and confusion to the public and not without some consequence to those pushing for such changes.

Thank you for the opportunity to express my views.

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