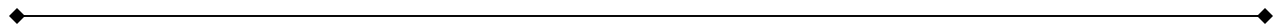




**MANAGING CONFLICTS OF INTEREST:  
A CONSULTATION PAPER ON ENHANCING  
AND HARMONIZING  
BEST PRACTICES**



**THE CANADIAN COUNCIL OF INSURANCE REGULATORS  
AND  
THE CANADIAN INSURANCE SERVICES REGULATORY  
ORGANIZATIONS**

**INDUSTRY PRACTICES REVIEW COMMITTEE**

**MARCH 2006**



## INTRODUCTION

The Insurance Brokers Association of Ontario (IBAO) is pleased to present this submission in response to the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO) Discussion Paper on Managing Conflicts of Interest: A Consultation Paper on Enhancing and Harmonizing Best Practices.

We would like to thank you for this opportunity to include our input in this consultation process and look forward to the next step in these deliberations.

Respectfully submitted March 27, 2006.

Should you have any further questions, please feel free to contact:

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Sincerely,

A handwritten signature in black ink that reads "Beth Pearson". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Beth Pearson, CIP, CAIB  
President

# THE ROLE OF THE INSURANCE BROKERS ASSOCIATION OF ONTARIO

The Insurance Brokers Association of Ontario (IBAO) represents in excess of 10,087 professional, independent insurance brokers plus support staff operating over 1,140 offices located throughout the province servicing the needs of the Ontario consumer. The Association represents the interests of our independent member brokers in a variety of ways:

- Advocates and works with governments on behalf of our members promoting free enterprise, in a fair, open and competitive marketplace.
- Advocates on behalf of their clients when proposed legislative changes affect the policies or insurance contracts available to the consuming public.
- IBAO also lobbies Insurance companies to ensure the voice of the independent broker is heard during their business planning and decision making processes in an effort to keep distribution costs as low as possible.
- IBAO will lobby insurers whenever we feel that their actions negatively impact consumers or consumer confidence.
- We provide ongoing continuing education and training opportunities to our members and strive to provide them high quality continuing education material in order to help maintain a higher level of professionalism than any other intermediaries that not only meets but exceeds the continuing education requirements of the Registered Insurance Brokers of Ontario to hold an insurance broker's license in the Province of Ontario.
- We also run licensing courses to introduce and educate new entrants into the insurance field with the basic knowledge requirements for an entry level license examination. We also provide continuing education to assist brokers in obtaining their RIBO Level II (unrestricted) License.

We continually ensure that our 10,087 members are kept up-to-date with any industry issues throughout various communication channels. We promote the professionalism and integrity of the Independent Insurance Broker and many other support initiatives on behalf of our members.

## IBAO'S MISSION STATEMENT

"To preserve and enhance the value and integrity of the  
Independent Broker Insurance Distribution System and  
to be recognized as an invaluable resource to and by member brokers"

## **THE ROLE OF THE INDEPENDENT INSURANCE BROKER**

Our member insurance brokers act on behalf of their clients, the insurance buying consumers of Ontario. More importantly, unlike other insurance intermediaries, insurance brokers are independent and essentially employed by the consumers they represent, and not the insurers with whom they negotiate. Ideally, Insurance Brokers purchase insurance protection from a variety of insurance providers to best match the consumers' needs.

When a consumer suffers a loss, the insurance broker is often the first point of contact. Although the claim is settled by the insurer, to help alleviate some of the stresses that can often arise in an unfamiliar claim process, brokers act as trusted confidants to their clients until such time the claim is settled.

In addition to placing coverage and assisting with claims, brokers take the time to help their clients better understand the exposures they face and how the insurance products they recommend address, or more importantly do not address them. For more complex accounts, brokers will often provide additional risk management services. Regardless of the type of coverage, purchasing insurance is often a complex decision-making process. There are literally several hundred insurance companies to choose from, each offering their own advantages. Insurance brokers live and work in every community in Ontario, and their primary role is to make the best possible recommendation in order for their client to make an informed decision on the insurance protection they purchase.

Our member brokers live and work in every community in the Province of Ontario and also act as consumer advocates with both Provincial and Federal governments as well as insurance companies.

# **MANAGING CONFLICTS OF INTEREST: A CONSULTATION PAPER ON ENHANCING AND HARMONIZING BEST PRACTICES**

Response to Consultation Paper “Managing Conflicts of Interest” released by the Canadian Council of Insurance Regulators, respectfully submitted by the Insurance Brokers Association of Ontario.

To open the response, the Insurance Brokers Association of Ontario (IBAO) would like to thank the Canadian Council of Insurance Regulators for the opportunity to respond to the consultation paper regarding these three recommendations.

Like our national association, the Insurance Brokers Association of Canada (IBAC), we believe the consultative approach is the best way to create and implement any suggested changes to regulations or legislation that affect the industry and insurance intermediaries’ practices and/or consumer protections necessary.

The paper proposes three recommendations. We will respond to each point as it is presented.

**1. Priority of the client’s interest: An intermediary must place the interests of policyholders and prospective purchasers of insurance ahead of his or her own interests.**

It is the understanding of IBAO that the idea for this proposal is to simplify the legislative requirements on brokers nationally by harmonizing the existing regulations’ wordings across the country. We have no doubt that every association responding to this consultation paper will advise you that insurance brokers are already meeting this guideline, and have instilled this principle into professional conduct practices since their first day as a broker. Every educational textbook addressing the broker’s role, from initial licensing qualification textbooks to the highest designation programs, repeat the brokers’ mantra that the client’s interests are paramount. Insurance brokers promote this fact themselves through their own associations’ codes of conduct, and in their advertising to the insurance buying public to differentiate themselves from other insurance intermediaries. Those provinces that may not have this legislated will advise that there is no need for such legislation, as this basic understanding is the cornerstone of the profession they are practicing. Ontario is no exception. Our brokers hold the client’s interest above any other.

As this is the case, IBAO would recommend that creating a wording to apply nationally for insurance brokers to accept is moot. Brokers already accept this duty as part of their job description. Time may be better served working with the direct writers to create legislation to help insurance agents to better balance their responsibility to the consumers and insurance buying public with the interests of the companies they represent.

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

Currently, brokers in Ontario voluntarily provide a transparency document to their clients at the point of sale outlining the insurers represented within the broker's office; the commission range by product line as well as recognition of any contingent commission arrangements. Brokers believe transparency is ultimately good for the consumer, and therefore voluntarily introduced this document.

The consultation paper lists seven (7) points the IPRC feels could alleviate any potential conflict of interest. We disagree strongly with one of these.

- insurers represented and the name of any insurer(s) with a significant volume of business placed

IBAO does not support the disclosure of volumes with markets in a broker's office. We do not see how this benefits the consumer, and feel strongly that it could compromise a broker's relationship with other insurers represented. Disclosing this information to the consumer means disclosing volume distribution to all of the broker's markets, which could severely impact these business relationships, and in turn, damage the consumer's relationship with the insurer.

It could be argued that large volumes with one insurer could:

- (a) be the result of the insurer having an excellent product
- (b) give the broker more 'influence with the insurer' and hence, is better for the consumer
- (c) be the result of the provider having only one or two markets

Disclosing market volumes presents no advantage to the insurance-buying consumer and, in our opinion, will simply create confusion. Since the recommendation in point one is always stringently followed, there would be no conflict of interest highlighted through market distribution, especially considering the consumer will no doubt be aware at that point what companies the broker represents, the finer points of the product comparisons between the companies and the prices for the most suitable products for the customer's particular insurance needs. In Ontario, the consumer will also be aware of the commission ranges the broker would receive from those insurers whose products are presented. In our opinion, consumers are already sufficiently well informed to avoid any suspected conflict of interest in the placing of their business.

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

The insurance broker's role can be better understood as a buyer of insurance on behalf of a consumer as opposed to a seller of insurance. Their advice is always in the consumer's best interest, as is suggested by your recommendation one. A broker's understanding of a suitable product is not necessarily the same as a consumer's, and since this discrepancy exists, the responsibility of ensuring the suitability must rest with the consumer. The broker is a guide to the products, offering information and advice about the products from which the consumer is to make a decision.

The insurance consumer must ultimately make the decision as to whether an insurance product adequately protects them. To legislate this would open the doors for endless litigation against insurance brokers who, in the past for example, had recommended a liability limit that the insured chose to ignore and purchase a lower limit. In any instance where the insured was underinsured, in Ontario they would have a case to launch an Errors & Omissions claim against a broker, citing support from the insurance regulations.

While we fully support all measures to protect the public, the decision about the products they purchase must remain their own.

In closing, we believe that in Ontario, the spirit of all these recommendations is already supported by brokers through the existing RIB Act by-laws, the IBAO member's Code of Ethics and the voluntarily assumed Transparency document requirements by Ontario brokers. Consumer protection is a very important topic to all insurance brokers, and as such, we strive to provide as much information as possible to the public about the industry and the broker's role within it.

What is absent is a uniform application of all regulations put forth to all insurance intermediaries, regardless of geographical location, that are permitted to sell insurance in Ontario. If all intermediaries in this province were held to the same levels of professionalism and transparency as the insurance brokers, the insurance buying consumer would then truly be able to make an educated decision about the insurance purchases they make and better understand the relationship that exists between the intermediary and the insurer.

IBAO would like to see a level playing field of regulatory requirements for all individuals holding any class of license that permits them to sell property and casualty insurance. As a result of the work CCIR has done reviewing current practices for independent intermediaries, brokers are now regulated when it comes to transparency and disclosure, and there needs to be the same investigative and suggestive work done to ensure compliance of captive intermediaries.

Since the introduction of the industry protocol in the fall of 2004, no progress has been made to ensure that the protocols that were suggested are being implemented on the front line. No requirements exist for continuing education, residence in a particular province or disclosure of compensation structures for these individuals.

IBAO believes that before any further regulations are imposed upon the industry, harmonizing the regulatory framework on behalf of consumers should be our first priority. Our understanding of the intent of the work by the CCIR is to better serve the public and increase their understanding of the respective roles of insurance intermediaries. We need to ensure consumers are making informed choices when purchasing insurance. For consumers using the broker as an intermediary, the current guidelines work well. For any consumer using an agent, direct writer or offshore call center, the level of required disclosure needs to be enforced so consumers are not disadvantaged when making a buying decision.