

Questions for Stakeholders

My Opening Comments

Incentive schemes are designed to move the beneficiary in a particular direction. Before considering the bias of the intermediary, you must consider the motivation of the insurer. Monetary and non-monetary benefits offered by the insurer are offered to influence the broker to place particular types of business with them against their better judgment; otherwise the incentive would not be necessary. Whether or not the intermediary is influenced or not, should not be the issue. If insurers were not seeing benefits would they continue to offer the incentives?

It is my view that currently and historically, insurance intermediaries have had a dual nature:

Brokers as Sales and marketing work force for the Insurer

- The majority of companies use brokers to sell their insurance policies.
- Insurance companies use standard contracts with their brokers that undertake to sell insurance on the company's behalf.

Consultation Paper p. 4

The broker's purpose according to the consultation paper - whether independent or not - is to represent the insurer and assist in the sales process. In this case, it is natural that insurers provide contingent commission based on sales volume, profitability, growth and retention. The broker, as a retailer of insurance products, provides information on the spectrum of products that he has for sale, just as the technician/sales person at Sony or Future Shop gives "expert" advice on which television will best suit your needs. The consumer can go next door for a better deal and most people understand whether they are being unduly influenced.

This may be acceptable where the insurance product is simple to understand or highly regulated, and standardized. The interest of the consumer is protected by their own knowledge, government regulations and the law. Just as with any commodity, the consumer can shop for the best price based on personal requirements and perceptions influenced by marketing techniques. With the advent of the internet, information is more readily available to the general public, as well as fairly impartial advice.

Broker as consultant and professional advisor to client

If the insurance product is complex, not regulated and/or manuscript, the broker must act as an insurance professional and represent the needs of the client. The broker also moves into a consultant role when they go beyond the salesperson and provide loss control advice, risk management techniques and/or claims handling advice. In this case, all sales incentives need to be removed and the broker should be compensated by only by the party to whom he/she is providing the advice. How can a broker be expected to provide unbiased advice on claims reporting when he/she is being compensated by the insurer based on the profitability of the business? In this role, the intermediary has privileged

information (experience and knowledge not readily available) and the client must be able to trust the information that they are being presented is true and biased in their favour.

Direct writers, e-commerce and greater government regulation of insurance products in today's marketplace have greatly undermined the role of broker as sales and marketing force. The public's perception of need for risk consultancy has increased due to recent well-known natural and human catastrophes. This perception has been supported by the professional insurance broker organization through advertising and professional education campaigns.

Still the dual nature of the broker remains. In law, the insurance broker owes a duty of care to both the insurer and the insured. The compensation structures related to the broker's salesperson role remain deeply imbedded in the insurance industry structure.

Responses

Policy Options

1. How do the policy options affect you (consumer, intermediary or insurer)?

I am currently a consumer of both commercial and personal P&C and LH products. I have also worked in the past as an underwriter with two separate insurers.

Do the policy options alter current intermediary relationships with insurers and consumers/clients respectively, and if so, how?

The possible policy options would dramatically alter the current intermediary relationship with insurers and clients by speeding up the industry trend away from the "salesperson" model and solidifying the role of the intermediary as a consultant/professional.

2. How would the policy options affect the existing methods of insurance distribution?

If the policy options were enacted, the relationship between the broker and the insurer would need serious reconsideration because it is grounded in the salesperson model.

3. Are the policy options the best means of accomplishing the objectives identified in the consultation paper?

Yes

4. Have the policy options overlooked any other approaches or considerations? If so, please provide us with an outline of those approaches or considerations.

No

5. As a consumer/client do you feel your interests will be better protected by some or all of the policy options?

Yes

Which policy options do you believe would offer the most value in making your insurance purchasing decisions?

I have taken the steps that I feel are necessary to create a consultant based relationship with our broker. These include drafting a contract between the client and the broker, quotation on pricing based on a set fee (not commission) before services are rendered and setting performance expectations on that service. The enhanced transparency of compensation and the restricting of performance-linked benefits would ensure that these expectations will be met.

6. Are there any regional issues or considerations such as different distribution channels that have not been adequately considered?

Unknown

Scope and Applicability

7. This consultation paper proposes two potential approaches for determining the scope and applicability of the policy options. Do you have a suggested approach for determining the scope and applicability of the policy options?

I believe that all intermediaries should be considered non-independent unless they can demonstrate their independence.

8. Should some or all of the policy options apply only to intermediaries that hold themselves out as independent, or should they apply to all intermediaries?

Only independent brokers should be subject. Agents and direct writers are simply a sales force and should not be providing any professional or consultant advice. Different classes of license should be issued and these should be displayed prominently and disclosed to the customer immediately.

9. Do you have any suggestions for describing or interpreting independence?

Criteria Should Include

- Number of markets (at least 4 for L&H and Personal Lines, more for commercial)
- Corporate ownership
- Level of license/training

10. Some intermediaries provide additional services to insurers or to consumers on behalf of insurers. Are there any services provided by intermediaries that may create conflicts of interest or potential conflicts of interest? If so, do you have any suggestions to address such conflicts?

Direct writers/agents need to have their role limited and should not provide any claims advice as their compensation remains linked to profitability. Independent brokers should be providing “consultancy” services outside of the traditional sales equation with billing for hours spent.

Performance-Linked Benefits Provided by Insurers to Intermediaries

11. Is the concept of performance-linked benefits sufficiently clear?

Yes

12. Should performance-linked benefits be regulated, and if so, how?

Yes, all performance-linked benefits from the insurer should be restricted

13. Should the restrictions on performance-linked benefits be absolute or limited by introducing appropriate controls and qualifications (e.g. setting a maximum dollar amount)?

Restrictions should be absolute. Setting controls and qualifications would require more policing (hence greater costs) and invites abuses.

14. In determining what constitutes a performance-linked benefit, should the relevant rules be principle-based or compliance-based?

Should be principle based and both parties should be heavily fined for breaches

15. Some insurers offer services or assistance to intermediaries (e.g. office space). While these services or assistance may not be linked to a specific performance target, some may argue that they create a potential conflict of interest. Do you agree that regulatory measures need to be introduced to address this potential conflict of interest?

Yes, these types of arrangements need to be disclosed, as they set up a negative performance target, you are not meeting our expectations, and therefore we are withdrawing this benefit.

Disclosure

16. The disclosure option provides for differing levels of detail, timing and methods of disclosure. As an intermediary or insurer, do you anticipate any difficulties in complying with this option?

N/A

As a consumer/client does this option provide information on intermediary relationships with insurers that is meaningful and useful for an insurance purchase?

Some consultation with the insurer and the broker would be necessary to determine what changes would be needed to provide this level of detail.

17. Is the scope of the disclosure option broad enough to provide consumers/clients with sufficient information to make informed purchase decisions?

Too much of the important information is to be provided after purchase - at that time it is too late to affect the transaction. Brokers need to be upfront with their clients. Key written information should be provided in a standard format before the transaction occurs. For renewals, updated information should be sent prior to renewal date. What services are to be provided and at what cost are issues that should be established before work is done.

If not, what else should be included? Do you have any suggestions as to how this disclosure option could be structured so that it would be easier to understand?

I would suggest a standardized form that would allow the client to compare between brokers and insurance companies.

18. As an intermediary or insurer, do you anticipate any difficulties disclosing the **quantum** of any commissions and service fees associated with the specific transaction, excluding any contingent commissions, expressed in dollars and as a percentage of the premium?

N/A

19. Do consumers need to understand how an intermediary is paid for his/her services (e.g. contingent commissions and bonuses) and how much in financial terms the intermediary earns from the sale of a policy to a consumer?

If the broker is working as a consultant for the client than yes, the client should be able to understand how much money they are paying for the service.

Is it relevant information for the consumer?

In order to compare differences in pricing for the service that they are receiving, it is very important.

20. Are there any innovative methods of satisfying disclosure requirements that you can provide that have not been considered in this consultation paper?

Post the information on the company website

21. Are there any alternatives to disclosure that regulators should consider?

Removing all performance-linked benefits and disclosing all other compensation, will enable the public to reinstate their faith in the broker system.

L&H Insurance

22. Should all L&H products be subject to the same requirements or are there situations where exemptions should be permitted?

Yes

Regulatory Compliance

23. Are the policy options cost-effective and enforceable?

In my opinion these changes would cause a fundamental shift in the brokers focus. Changing a business model has certain costs associated with it. If the rules are kept simple, they should be easy to enforce.