

Submission on Review of Insurance Contract Law

Your name and organisation

Name	s 9(2)(a)
Organisation	Private Citizen

Background

I have not entirely stuck to your template because you come across as having already made up your minds about the issues, whether or not the issues really matter to me as a consumer (who had also worked for some years for one of NZ's insurers, so I am not entirely senile or ignorant) and whether or not those issues actually adversely affect me as a consumer.

Regarding consumers' disclosure obligations

Any customer who is not entirely useless and who can read or hear will know that they have to answer a bunch of questions truthfully. They also get told what might happen if they don't. There is nothing sinister about NZ insurers generally. They also get asked if there is anything else that might make the **insurer** not want to insure them. The insurer is the appropriate yardstick here – they run a business, not a charity. It's not by any man, woman or dog's yardstick. And that is how it should be.

If you don't know if something is material to the **insurer** or not, it is not up to you to argue that it should be whether something is material to **you** or not – if that's the case, then God help us all, because you might have incredibly low standards, and the rest of the population will have to carry you. Why should we? We are all meant to be equal, but that standard seems to change just because it suits someone.

We all have to obey the law, even if we have a different interpretation of it. Ignorance is no defence. Same with insurance – the insurance companies don't **have** to sell you insurance. Sure, you might say insurance is a "necessary evil" – well, maybe you should look at what it cost insurers to battle people who burn down their own houses/businesses and then make an insurance claim – the cost could top \$1,000,000. This cost will be factored into the pricing mix of the insurer and get passed on to you and me. That is a sobering thought, isn't it? It doesn't disappear into thin air – no one is in business to fail or do poorly. Look at our government – not even in business, but everytime they want to pay for something, they raise taxes or create new taxes. You might not have been born yet, but before 1986, we did not even have GST.

I always say to people, if in doubt, disclose. Also, if you buy insurance over the phone, the call is usually recorded – so if you've disclosed something (even if it seemed unimportant at the time), the insurer cannot later deny that they did not know.

People are funny about disclosing things to insurers, but are more than happy to get on social networks and tell the world everything about themselves!

Someone recently told me that insurers should not need to ask any questions as they can find out about us from data provided by other companies. Thank you, but the insurance company will have

to pay for that information (so you and I will pay for a share of that cost, just because you like to be dumbed down on) – and what if the information is wrong? I can just see you turning around and pointing the finger back at the insurer and saying they should not have relied on that information. It's like financial literacy – we take no responsibilities, but want all good stuff to just 'happen'. The world isn't like that, sadly.

So I will end this section by saying that insurers make it very clear what could happen if the customer does not disclose something important. There's no ifs and buts about it. However, it is also human nature for some of us to also claim that if you inflate your claim or file a false claim, that's how you make insurance work for you. Well, that's dead dishonest and it ends up with everyone paying for you – but your premium is also likely to increase.

Regarding conduct of insurers

Insurers who misbehave and act inappropriately should not go unpunished. I am referring to claims that are founded.

I did hear that there were very complicating factors in the Canterbury earthquakes that would bring those events out of "business as usual". In that sort of scenario – and a world-first – you cannot simply apply BAU formula to that scenario.

Comparisons

Comparing policies – I'm not in favour of that because the policies can be different in many ways – by putting them all on a platform, you are going to increase the cost of insurance to the people who can least afford it.

Other comments

The government needs to be really careful. First of all, you need to actually understand Insurance Law in NZ and understand the actual mischief (if there is any) that you are trying to fix. Before you cut and paste UK or Australia's law into our law, you need to do your homework very thoroughly – is their law working? Is it working *well*? What is different in their jurisdictions that might mean anything adopted won't work so well in NZ? Is our law really broken? To me, if a law is old (like me!) does not mean it is no longer useful – I think it would be insulting if you said old people need to be shoved over the jetty. Apply that logic to the law. I have an old car – I'm not trading it in for a new car unless it's broken and cannot be fixed.

This should not be about how many pieces of new law you can cram and force through in your time. It is not about you and your political aspirations and what you're going to be remembered for, although I suspect it is (disappointing, if I am actually right). If you really do care about consumers like me – and it must not be a knee-jerk reaction to headlines – you must carefully look at the statistics/data/information.

You would do us folks a great disservice if we end up with even more pricey insurance. When I was at the insurance company, they had a few lawyers and one Compliance person – by the time I left, these teams had exploded in size. Yes, we needed laws to protect policyholders, but you have to ask: Is this getting out of hand now?