



8 March 2018

Mr. Patrick Déry
Chairman,
Canadian Council of Insurance Regulators
5160 Yonge St.,
Toronto, ON, M2N 6L9 ccir-ccrra@fsco.gov.on.ca

Dear Mr. Déry,

Re: Guidance – Conduct of Insurance Business and Fair Treatment of Consumers (FTC)

Introduction

The Canadian Association of Direct Relationship Insurers is the voice of insurance enterprises that offer automobile, home and commercial insurance directly to Canadians. We advocate for flexible and evolving regulatory and legislative frameworks governing automobile, property and commercial insurance to enable product and service innovation so that Canadians can easily choose insurance that serves their needs through the delivery channels of their choice.

CADRI appreciates the opportunity to participate in consultations that seek to modernize existing legislation and regulations as well as harmonize rules across jurisdictions. These measures allow CADRI members to provide efficient service to their customers and to meet their needs and expectations.

CADRI prides itself on its focus on consumers. Key priorities of CADRI's *2017 – 2020 Strategic Plan* seek to create a regulatory and operating environment that benefits consumers. In particular, we aim to:

- expand consumers' choice of channels through which they can access insurance,
- urge policy makers to adapt quickly to changes in consumer behaviour,
- influence legislative and regulatory evolution to support technological advances in delivery, online sales and service, telematics, use of electronic documents, customization of pricing options, and
- encourage consistent regulations, processes and administrative practices across the country.

For CADRI, treating consumers fairly means updating and modernizing regulations to enable consumers to experience insurance in the same way they experience other financial services. The industry is investing heavily in creating the capabilities to meet these expectations. (See our accompanying document, *Perspectives in Innovation*.) However, to close the gap, we need flexible regulation rooted in putting consumers' needs and interests first.

CCIR's draft *Guidance – Conduct of insurance business and FTC*

CADRI recently attended a session with CCIR and has reviewed the draft guidance provided. We understand that there is an upcoming public consultation process with a longer period of time to comment on the guidelines. For that reason, we will keep our observations and comments here to a high level.

Treating consumers fairly is of utmost importance to CADRI members. For this reason, each has internal codes of conduct, policies and procedures, to ensure its employees put customers' needs first.

In this context, we would like to draw four issues of concern to CCIR's attention, including:

1. Harmonization of compliance between the CCIR and its members,
2. Recognition that the guidance details activities governed by existing legislation and regulations,
3. Clarification of the term intermediaries, and the scope of the guidelines as they pertain to outsourcing to partners in the value chain, and
4. Assumptions rooted in a traditional rather than contemporary business model.

1. Harmonization – alignment of consumer protection guidelines

Annually, CADRI members provide required information to the CCIR in the form of the newly-expanded *Annual Statement of Market Conduct*. We have heard that this process will soon include criteria identified in the FTC guidelines.

As stated at the outset of the CCIR's guidelines, "the conduct of business in insurance is the exclusive authority of the provinces". Therefore, CCIR representatives have acknowledged that individual provinces and territories may publish their own FTC guidelines, and increase their own reporting requirements, to ensure compliance to their FTC guidelines. For example, the province of Ontario has circulated draft guidelines which are to apply to all the financial services regulated by the Financial Service Commission of Ontario (FSCO). FSCO has stated its intention to hold a public consultation process in the coming months.

CADRI submits that the creation of pan-Canadian guidance by the CCIR, followed by the creation of 13 more, separate and different sets of guidelines for each of the provinces and territories, may not advance its intentions relative to the fair treatment of consumers. In order for the insurer to ensure compliance to each of the 14 new codes of conduct, it will need to create more administrative overhead and, therefore, generate additional costs to be passed on to the consumer.

Recommendation:

In this context, CADRI requests that the CCIR consult with its members to determine a process whereby the guidelines are, in the majority, alike and that, as much as possible, the CCIR collect information that is then redistributed to its members.

2. Overlap with existing legislation and regulation

The CCIR's FTC guidance is thorough, and, for that reason, far reaching. It touches upon any number of areas which may be seen as duplicative with areas where insurers already comply with legislation and regulations across the country. This would include, but not be limited to, privacy, e-commerce and e-documents, complaints processes etc.

Recommendation:

For the sake of clarity, CADRI recommends that CCIR insert a paragraph in its guidance that notes that these guidelines respect existing rules of law.

3. Intermediaries and the outsourced supply chain

It's CADRI's understanding that CCIR seeks to ensure fair treatment of consumers at every touchpoint and throughout the life cycle of the customer's relationship with an insurer. We share that goal.

CADRI's members employ any number of professions as well as employee agents to provide customer service to their clients. These employees thrive in healthy corporate cultures which emphasize customer service and fair treatment. Each company has codes of conduct, guidelines, policies and procedures, training exercises, risk, compliance and internal human resource practices to ensure that customers' needs are put first.

In this context, CADRI is unclear about CCIR's intentions relative to intermediaries, and outsourcing to partners in the supply chain. The current definition of intermediary refers to the distribution of products and services. Services is a very broad category. Is it CCIR's intention to have its guidelines extend beyond the distribution of insurance?

Direct-relationship insurers enter into contracts with third parties to provide other services, some related to the insurance value chain, and others more administrative. For instance, for auto insurance, health care providers and auto body shops provide support to the claims process. The health care providers are separately regulated from insurers and financial services. Is it CCIR's intention to capture these third-party suppliers with the guidelines? In addition, it is not clear whether the term 'intermediary' is used interchangeably for these third-party suppliers.

If the CCIR intends that its guidelines be applied to outsourced services, we have serious concerns that such obligations for may be impractical, if not impossible, to comply with.

Recommendation:

CCIR review the guidance as it pertains to outsourcing with the intention of narrowing its scope to a practical framework which applies to activities under direct control of the insurer.

4. Fair treatment of consumers which looks to the future

We are pleased to see that the CCIR acknowledges that “(d)istribution models have evolved and CCIR expects this evolutionary process to continue, particularly considering the rapid pace of change brought on by technological developments in the financial services sector.” We would agree.

However, as written, the CCIR FTC guidelines appear to apply to a conventional business model which does not reflect the myriad of choices consumers have today. From the underlying assumptions about how insurers interact with their customers to the characterization of intermediaries, or to the necessity to provide disclosure “in written format, on paper or another durable and accessible medium”, this approach belies the complexity and rapid evolution of the insurer’s business environment.

In October 2017, in the course of its *Stakeholder Dialogue*, CADRI provided CCIR with research outlining consumers’ expectations, insurers’ work to meet those demands, and identified some of the new players active in the environment today. That *“Perspectives on Innovation”* accompanies this submission as a reminder of what fair treatment of consumers means to those working daily to treat their customers fairly.

Recommendation:

CCIR review its guidance and edit it to ensure it is technologically neutral and aligned with the evolving operating environment.

Conclusion

CADRI members embrace the CCIR’s intent to provide a common framework so that Canadians can be assured that they are being treated fairly when they interact with the insurance sector.

If implemented, we believe our four recommendations will enhance the implementation of the CCIR’s guidance among direct-relationship insurers – to the benefit of their customers.

Thank you for the opportunity to comment, as requested, on CCIR’s draft guidelines on business conduct and fair treatment of consumers.

We would be pleased to elaborate on these observations to CCIR.

Yours sincerely,



Alain Thibault,
Chair and CEO, CADRI

Attachment

CC:

CADRI Board of Directors
CADRI FTC Working Group