

**Extracts from Public liability and professional indemnity insurance
Monitoring report
Australian Consumer and Competition Commission
July 2003
Available at <http://www.accc.gov.au/fs-insurance.htm>**

The ACCC has been requested by the Federal Government to monitor the cost of insurance premiums and whether the legislative reforms do reduce premiums. This is the base line report released in July 2003.

Public Liability Insurance

“The ACCC found that, in real terms, the costs of providing public liability insurance have increased over the past five years. Insurers have charged higher premiums in the past two years.

- Claims costs costs, which are the largest component of the premium charged by insurers, increased between 1997 and 2002.
- Compared to the number of policies, in 2002 fewer claims were reported to insurers than in previous years. At the same time, the average size of claims increased. In 1997 the average size of claims settled was \$10 237 (adjusted to 2002 dollars). By 2002 it had grown to \$17 906 (a 75 per cent increase).
- The time taken for claims to be settled has generally grown. In 1998 21 per cent of total claims settled took between three and five years of the incident occurring. In 2002 this had risen to 34 per cent. The longer it takes for a claim to be settled, the greater likelihood that the claim will be more expensive to settle.
- There were increases in costs across all settlement size bands, although the largest occurred in claims settled for amounts between \$50 001 and \$500 000 (mediumcost claims).
- Insurers generally considered that recent increases in the number and size of claims were due to an increasingly litigious society, court precedents/higher awards and a higher frequency of bodily injury claims (i.e. the number of bodily injury claims as a proportion of the number of policies written).
- Data analysed by the ACCC shows that the higher frequency of bodily injury claims is very recent, only evident in 2002. Between 1998 and 2001, the number and size of personal injury claims as proportions of total claims were stable.
- Average premiums (adjusted to 2002 dollars) in *public liability* were stable for the three years up to 2000, before increasing on average by 19 per cent in 2001 and then by an average of 44 per cent in 2002.
- Insurers generally perceive the recent rise in premiums to be linked to increases in claims costs and changes in conditions associated with the insurance cycle, such as stricter risk assessment of policyholders and previous poor underwriting returns.
- The ACCC’s analysis supports insurers’ assertions that claims costs have risen. Work conducted by the ACCC in March and September 2002 indicated

that insurers in the public liability class have previously incurred substantial losses. This is commented on later in this section.

- Insurers did not perceive unpredictable historic shocks, such as the liquidation of HIH or the 11 September 2001 terrorist attacks, when considered in isolation, to be major drivers of recent premium increases. This suggests that the impact of these one-off events may already have been absorbed by the industry.” (Page 9).

Professional Indemnity Insurance

“The ACCC found that costs associated with providing professional indemnity insurance have also increased over the past five years, leading to higher premiums being charged by insurers.

- Claims costs increased between 1997 and 2002.
- Compared to the number of policies, the number of claims reported to insurers remained unchanged over the period, except for a small decrease in 2002. At the same time, the average size of claims increased, from \$6 399 (adjusted to 2002 dollars) in 1997 to \$18 885 in 2002 (a 195 per cent increase). The 2002 settlement figure is affected by one very large claim settled during that year.
- Increases in the average size of claims settlements appears to have been driven by increases in the size of claims settled for more than \$500 000 (high cost claims).
- Insurers considered that recent increases in the number and size of claims were due to court precedents/higher awards and an increasingly litigious society.
- Average premiums (adjusted to 2002 dollars) in *professional indemnity* decreased by about 21 per cent between 1997 and 1999. Since then, they have risen by around 125 per cent between 1999 and 2002.
- Insurers generally perceive that the recent premium increases have been caused mainly by stricter risk assessment of policyholders by insurers, larger claims payouts and previous poor underwriting returns.
- Insurers’ perceptions of increasing claims costs are supported by the analysis above. As with public liability insurance, the ACCC’s work in March and September 2002 showed that insurers in the professional indemnity sector had incurred substantial losses in the past. (Page 10).

Has legal reform made any difference?

“Public liability insurance

All insurers expected premiums to rise in 2003, irrespective of the implementation of government reforms in 2002.

- In the absence of reform, most insurers expected premiums to increase at a national level between 11 and 20 per cent in 2003.

- The size of the expected savings in claims costs in 2003 arising from reforms differed across insurers and jurisdictions but are not considered large (on average around 5 per cent).
- Insurers expected this to translate into lower premium increases in 2003, with insurers lowering their expectations by around 3 per cent on average. Some insurers quantified the expected impact of enacted government reforms in particular jurisdictions, with the results showing that reduced rates of premium increases are expected in NSW, Qld, Vic, the ACT and possibly SA. The ACCC will monitor the impact of reforms in remaining states (WA, NT and Tas) in future reports as additional reforms become implemented.
- Some insurers thought it was too early to quantify the impact of government reforms on premiums in 2003 in the absence of reliable data that would indicate claims costs are being contained as a result of reform. Insurers regard the longer-term impact of government reforms on premiums as uncertain.
- Reasons cited by insurers related to an absence at this stage of observed trends in claims experience resulting from reforms and the impact of other factors that may influence premiums over time.

Professional indemnity insurance

All insurers expected premiums to rise in 2003, irrespective of the implementation of government reforms in 2002.

- In the absence of reform, most insurers expected premiums to increase between 11 and 20 per cent in 2003.
- No adjustments were expected to be made to premiums by insurers in 2003 as a result of tort law reforms implemented by governments in 2002.
- Reasons cited by insurers varied. Some insurers thought that no cost savings would apply to professional indemnity premiums in 2003 because the reforms in 2002 targeted personal injury claims, which are a small percentage of professional indemnity claims for insurers with a low percentage of medical malpractice business within their insurance portfolio. Other insurers commented that it was too early to tell or very difficult to estimate the impact on premiums at this stage. Based on responses received by the ACCC, government reforms dealing with personal injury claims were not expected to have a material impact on professional indemnity premiums in the long-term. (Page 11).

Conclusion

With public liability insurance, there is evidence that some insurers expect government reforms to reduce claims costs and have correspondingly adjusted expected premiums in 2003 downwards. These changes will moderate premium increases in 2003 rather than redress the premium increases of previous years. Other insurers do not appear to be factoring cost savings arising from reforms into the premium pricing for 2003. Uncertainty about the short and long-term impacts of recent reforms on claims costs is a consideration in the insurers' approaches to factoring in the effect of reforms. Insurers do not expect recent government reforms that target lower claims costs for personal injury to

materially affect professional indemnity costs and premiums because such claims are only a small proportion of claims within this class. Reforms considered by ministers in early 2003 focus directly on professional indemnity insurance. The extent to which these reforms are implemented and in turn impact on costs and premiums in the professional indemnity class may be considered in future monitoring reports. The ACCC considers that it is too early to say in this report the extent to which reforms have lowered insurers' costs and if these cost savings have been passed on to consumers. This will be assessed in future reports when data on actual outcomes becomes available.”(Page 12).