



Travelers Canada
165 University Avenue
Toronto, Ontario M5H 3B9
800.268.8447

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By email: consultation_ldpsf@finances.gouv.qc.ca

Monsieur Richard Boivin
Sous-ministre adjoint aux Politiques relatives aux institutions financières et au droit corporatif
Ministère des Finances
8, rue Cook, 4^e étage
Québec (Québec)
G1R 0A4

**RE: Travelers Canada’s Response to the Quebec Ministry of Finance’s
“Consultation on the Rules Limiting Ownership of General Insurance Brokerage Firms”**

Travelers Canada would like to thank the Ministry of Finance for this invitation to respond to its consultation regarding the ownership of general insurance brokers in Quebec.

Travelers Canada

Travelers Canada is a Canadian insurance group and part of The Travelers Companies Inc. (“Travelers”), a leading US-based property and casualty insurance group. Travelers is the second largest commercial insurer in the United States, and is a member of the Dow Jones Industrial Average. Following the addition of The Dominion of Canada General Insurance Company in November 2013, Travelers Canada became a top ten underwriter of property and casualty insurance products in the Canadian marketplace with an overall workforce of over 1,500 full-time employees with operations across Canada, including Quebec. Travelers Canada provides personal and commercial products which include personal and commercial automobile, homeowners, casualty, marine, property, directors’ & officers’ liability, errors and omissions liability, surety, warranty, kidnap and ransom, fiduciary liability, employment practices liability, and boiler insurance. Travelers Canada distributes these products through over 800 brokers across all provinces and territories.

Background

To guarantee brokers’ objectivity and professional independence, in 1988 the Ministry of Finance introduced the *Act Respecting Market Intermediaries* and the “20% Rule”. The 20% Rule limits a property and casualty insurer from owning more than 20% of the shares of a broker



licensed in Quebec. Currently, the government is reviewing this stipulation ostensibly at the request of one particular financial institution which has substantial ownerships in brokerages in Quebec as well as other provinces.

The Quebec Insurance Market and Regulation

The Quebec insurance market is dynamic and developing rapidly. Quebecois consumer needs and expectations are evolving at a commensurate pace. As new products and new methods of pricing, sales and distribution are introduced to the market, regulators face the challenge of welcoming innovation while protecting consumers and the overall integrity of the financial services marketplace.

In this period of rapid change, the government must continue to ensure that consumers are protected and treated fairly. Consumers, for good reason, are increasingly concerned about transparency. Transparency is an essential, fundamental component of a stable, reputable financial services system. Hidden, undisclosed conflicts of interest destroy transparency and with it consumer confidence in the market and in the government officials who regulate the market.

Independent Brokers Need to Work for Consumers, NOT an Insurer

Given the complexity of P&C insurance products, consumers need independent brokers for well-informed, non-biased advice. Independent brokers work to protect the interests of consumers to whom they owe a fiduciary duty, and that fiduciary duty entails offering consumers an unbiased choice of insurer, product and price. As the term rightly implies, brokers need to be independent from the insurers who provide insurance products. Once a broker's objectivity and independence is compromised, consumers suffer and the integrity of the marketplace is undermined.

Importance of the 20% Rule

A large ownership stake gives an insurer an unhealthy degree of control and authority over a broker and can create the worst type of incentivization. In this context, ownership is the most flagrant of conflicts of interest. How can a broker act independently when it is financially beholden to, and thus controlled by, an insurer?

The whole point of an independent broker is to be free from any insurer's control and subject to no insurer's authority. Indeed, a true brokerage firm cannot, in good faith, call itself independent if an insurer has a holding in that intermediary that exceeds 20%.

The 20% Rule defines, in an objective manner, the point at which a broker's independence is compromised by an insurer's ownership stake. This stipulation thus protects customers from broker conflicts of interest. This is hugely important for consumer choice and wellbeing.



Travelers Canada, which does not have an ownership stake in any Canadian broker, strongly believes that the current 20% Rule is essential to ensure the independence of brokers. It provides transparency and protection for consumers against the most glaring conflict of interest and should be maintained, making Quebec a market leader in Canada on this issue.

Market Conduct Violations

Most insurers have adhered to the 20% Rule. There is a small number of insurers who have not. Not surprisingly, it is only they who are advocating for a change in the regulation – they, and the brokers under their control, who have ceased to be independent.

Should companies that violate regulations be rewarded, simply because of their considerable market share?

Financing for Brokers

The 20% Rule does not limit independent brokers from obtaining financing. Brokers can obtain investment through loans or by selling an ownership interest to an entity other than an insurer. Indeed, Travelers Canada regularly provides such financing to brokers in order to assist them in growing their business and better serving their clients.

Consultation Questions:

1. Does the provision limiting the ownership of insurance brokerage firms ensure the objectivity of the broker and adequately avoid conflicts of interest?

The 20% rule is very important for ensuring the independence and objectivity of brokers. Other conflicts of interest, however, do exist in the form of financing arrangements and concentration of business. In accordance with international best practices, such as those put forward by the International Association of Insurance Supervisors' Insurance Core Principles, independent brokers should disclose to their customers any ownership stake and financial relationship it may have with an insurer and any concentration of business that exceeds 50% with one insurer, regardless of whether that insurer has an ownership stake in the brokerage.

The International Association of Insurance Supervisors' Insurance Core Principle 18.5.10 states:

18.5.10 Potential conflicts of interest can arise if an intermediary is part of a wider insurance group or if the intermediary has a financial interest, such as a shareholding, in an insurer or insurance group. Such relationships should be disclosed to customers.

The European Union's Insurance Distribution Directive (IDD) Article 19 on conflicts of interest and transparency provides that:

Member States shall ensure that in good time before the conclusion of an insurance contract, an insurance intermediary provides the customer with at least the following information:

- (a) whether it has a holding, direct or indirect, representing 10% or more of the voting rights or of the capital in a given insurance undertaking;
- (b) whether a given insurance undertaking or parent undertaking of a given insurance undertaking has a holding, direct or indirect, representing 10% or more of the voting rights or of the capital in the insurance intermediary;

The IDD includes a number of additional provisions on the prevention, management and disclosure of conflicts of interest. Note that the IDD does not distinguish between the different types of intermediaries (i.e., exclusive agents, multi-tied, brokers, etc.), but rather in terms of the services provided (e.g., no advice, advice, advice on a fair and personal basis, etc.).

2. Can we regulate conflicts of interest without imposing rules of ownership?

The challenge in regulating conflicts of interest without imposing rules of ownership is that a broker, by any generally accepted understanding, is meant to be independent and not subject to direct or indirect influence over how it conducts its business and which insurers it represents. The disclosure of ownership in a broker by an insurer is followed throughout the Canadian marketplace, including Quebec. This practice, however, is flawed. Empirical evidence suggests that it is almost never read and does not assist the client in making an informed decision. For disclosure to be an effective means of managing this conflict of interest, the client must be able to make an informed assessment of how insurer ownership might affect the broker's recommendations. In particular, the client needs to be able to understand that an ownership arrangement may result in a preference for the products of insurers whom the broker has available as markets. Regrettably, some insurers that own majority positions in brokerages in Canada have used their ownership to limit competition by compelling brokers to exclude markets that can provide price competition and have limited the markets available to the consumer to those which are not able to offer compelling pricing and terms for good risks. This practice undermines the efficiency of the marketplace and leaves the consumer poorly served.

3. What justifies the difference between life and health insurance and P&C insurance?

The property & casualty business in Canada has evolved in Canada under a system of brokerage whereby the general insurance broker acted as an agent of the consumer, seeking out the best product from any of a dozen or more general insurance companies. In contrast, the life insurance industry evolved based on a system of single company representation, whereby life insurers distributed policies through life-licensed members of employee benefit consulting firms and employees of some general insurance brokerages. Similarly, companies commonly sold group products to agents of other companies. However, life insurers in Canada had historically been much more liberal in their application of the single company representation rules than others, allowing their agents considerable leeway in deciding with which insurer their business should be placed. Some smaller life insurers who were unable to undertake large-scale recruiting and financing of new agents, attempted to grow by offering incentives such as larger commissions to agents who placed business with them



which caused some of the larger life insurers to set up their own brokerage offices to secure a share of this business. Thus, the evolution of the different distribution models and approaches inherent therein, justify the difference between life and health insurance and P&C insurance.

4. If the 20% Rule were deleted, should the rule concerning business ties or the titles of representatives be revised in order to inform the consumer?

As outlined above, mandating disclosure through the rule concerning business ties or the titles of representatives will not address the underlying issue concerning ownership by insurers in brokerages. Simply changing the title is not sufficient for the consumer to fully understand the nature of the conflict.

Yours truly,

A handwritten signature in black ink that reads "Heather Masterson". The signature is written in a cursive, flowing style.



Heather Masterson, President and CEO

Ph. 416.350.6860

hmasters@travelers.com | www.travelerscanada.ca