

20 December 2018

**By email to:** [consultation@eslinsurancemonitor.nsw.gov.au](mailto:consultation@eslinsurancemonitor.nsw.gov.au)

Pricing Analysis Project Team  
NSW Emergency Services Levy Insurance Monitor

Dear Project Team

### **Pricing Differences: New vs Existing Customers**

Thank you for the opportunity to comment on the NSW Emergency Services Levy Insurance Monitor's Discussion Paper, *Pricing Differences: New vs Existing Customers*, November 2018 (**Discussion Paper**).

Consumer Action strongly supports the Monitor's important work on insurance pricing and the development of the Discussion Paper. The Monitor's ability to collect and analyse pricing data is critical to a well-functioning insurance market that delivers fair outcomes for insurance consumers.

This submission comments on the 'loyalty tax' in insurance.

### **About Consumer Action**

Consumer Action Law Centre is an independent, not-for profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

### **The insurance 'loyalty tax'**

Insurance is a product that claims to reward loyalty. We are disappointed but unsurprised that the Monitor's analysis reveals that customers who renew their home and contents policies pay a 'loyalty tax'.

We note the Monitor's findings that:

- Average total and base premiums for existing customers have been consistently higher than for new customers;
- During June 2018, the price gap on total premiums between existing and new customers was nearly 27%; and
- Evidence suggests that insurers may have increased base premiums on some policies to compensate for the phased reduction in the Emergency Services Levy (**ESL**) between November 2016 and June 2017.

In our view, the extent of this differential pricing between existing and new customers, amounting to a loyalty tax, is fundamentally unfair.

Many insurers use loyalty in their marketing campaigns and retention programs. For example, both SGIO and NRMA heavily advertise loyalty programs. These programs can involve offering discounts for renewing with the insurer or providing better coverage at the same price. 'Loyalty' discounts reinforce people's aversion to shopping around. NRMA, for example, has an online loyalty discounts calculator which shows the percentage discount will apply depending on the number of policies held and the number of consecutive years that the policies have been held.<sup>1</sup>

In response to Consultation Question 6, it is likely that loyalty programs are misleading some consumers into thinking they are getting a good deal or receiving a net benefit from their loyalty to their insurer. Some consumers will also be confused or misled about the future cost of their policy due to heavily discounted loss-leader premiums at the time of sign-up. Consumers are not receiving full information about the likely cost of insurance policy if held for a number of years – as many would intend.

The existence of a loyalty tax is concerning given the low number of people who shop around at renewal time. Research from Roy Morgan has shown that 78.5% percent of comprehensive car insurance policies were automatically renewed without holders approaching another company in 2017.<sup>2</sup> The low rates of switching between insurance policies are symptomatic of brand loyalty but also of a disengaged customer base and the lack of standardised, comparable insurance policies.<sup>3</sup>

The Association of British Insurers (**ABI**) and British Insurance Brokers' Association (**BIBA**) released *Guiding Principles and Action Points for General Insurance Pricing* in May 2018,<sup>4</sup> perhaps in anticipation of the regulator's concerns about unfair price discrimination. Under these principles, ABI and BIBA members 'do not support excessive differences between new customer premiums and subsequent renewal premiums that unfairly penalise long-standing customers.' The Action Points are:

1. *ABI and BIBA members should make clear in written, online or verbal customer communications that the new customer premium only applies for that year and subsequent renewal premiums may be higher.*
2. *ABI and BIBA members who impact the final premium paid by customers should review their pricing approach for customers who have been with them longer than five years and assess whether this approach delivers a fair outcome.*
3. *ABI members will actively review their customers' tendency to shop around in line with the existing ABI and BIBA Code for potentially vulnerable customers at renewal, to ensure outcomes for these customers are carefully considered against the Guiding Principles.*

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<sup>1</sup> See <https://www.nrma.com.au/loyalty-discount>, accessed 19 December 2018.

<sup>2</sup> See <http://www.roymorgan.com/findings/7502-2-5-million-car-insurance-policies-at-risk-of-switching-201802160613>.

<sup>3</sup> For more information on the need for standard cover and standard definitions in insurance, see Consumer Action, *Submission: Senate Standing Committee on Economics inquiry into Australia's general insurance industry*, 10 February 2017, [http://consumeraction.org.au/wp-content/uploads/2017/02/170210\\_Senate\\_GenInsuranceInquiry\\_ConsumerActionSub\\_final.pdf](http://consumeraction.org.au/wp-content/uploads/2017/02/170210_Senate_GenInsuranceInquiry_ConsumerActionSub_final.pdf) and Senate Economics References Committee, *Proof Hansard: Australia's general insurance industry*, 13 April 2017.

<sup>4</sup> See <https://www.abi.org.uk/globalassets/files/publications/public/gpap/gpap.pdf>.



4. *The ABI and BIBA will publish a report in no more than two years' time that demonstrates how ABI and BIBA members have sought to tackle excessive differences between new customer premiums and subsequent renewal premiums that unfairly penalise long-standing customers.*
5. *The ABI and BIBA will not seek to defend cases where there are excessive differences between new customer premiums and subsequent renewal premiums that unfairly penalise long-standing customers.*

We recommend that the General Insurance industry in Australia commit to similar principles and actions.

However, we consider that law reform is likely to be required, in addition to industry commitments to better practice, in order to address the loyalty tax problem in insurance. This should include:

- A requirement for insurers to disclose last year's premium at each renewal, so that it can be easily compared to the new premium offered. This information should be presented in a prominent, clear and accurate format. This would align with similar rules that were introduced in the UK in April 2017,<sup>5</sup> which according to research from Consumer Intelligence helped car and home insurance customers save, on average, £100 per year on their renewal.<sup>6</sup> We note and support the section 30 order published by the Monitor relating to year on year comparisons for the issue of regulated contracts of insurance.
- Restricting or prohibiting auto-renewal or rollover practices, whereby insurers include provisions in policies that allow for automatic renewal. This practice is common in car and other general insurance policies. Not only can such auto-renewals catch consumers by surprise, particularly where payments are taken from a credit card or debit account unexpectedly, they reduce the likelihood of people considering whether a premium is competitive and thus contribute to the loyalty penalty. While ASIC has taken some action to create better disclosure of auto-renewals, given that they can contribute to the loyalty penalty, consideration should be given to further restrictions.<sup>7</sup>
- Consideration of whether there should be further limits or restrictions on price differentials between new and renewal customers. We note that the recent response from the UK Competition & Markets Authority to the super-complaint lodged by Citizen's Advice on the loyalty penalty includes a recommendation to further develop rules which limit such price differentials, a form of price regulation.<sup>8</sup> Price regulation is being adopted in other markets which have demonstrated unfair loyalty discounts, such as energy.<sup>9</sup>

Further, we strongly support the proposed Design and Distribution Obligations (**DADOs**) applying to insurance renewals. Applying the DADOs to renewals, which was supported by the Senate Economics Committee in its recent report on the Bill,<sup>10</sup> would ensure insurers engage more closely with consumers to assist them with taking active steps to confirm they remain within the product's target market. Insurers used to take similar

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<sup>5</sup> See <https://www.fca.org.uk/firms/transparency-insurance-renewals>.

<sup>6</sup> See <https://www.moneywise.co.uk/news/2018-04-11/insurance-renewal-rules-prompt-consumers-to-switch-to-better-deals>.

<sup>7</sup> See <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2015-releases/15-345mr-asic-drives-better-disclosure-of-automatic-renewal-of-car-insurance/>.

<sup>8</sup> See [8.59], page 132:

[https://assets.publishing.service.gov.uk/media/5c194665e5274a4685bfbafa/response\\_to\\_super\\_complaint\\_pdf.pdf](https://assets.publishing.service.gov.uk/media/5c194665e5274a4685bfbafa/response_to_super_complaint_pdf.pdf)

<sup>9</sup> See <https://www.premier.vic.gov.au/new-victorian-energy-default-offer/>.

<sup>10</sup> See

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/TLABproductintervention/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/TLABproductintervention/Report).



steps before the days of automatic renewals and business models that profit from a 'set and forget' approach to insurance engagement and disclosure.<sup>11</sup>

### **Further investigation**

We strongly support the Monitor's further investigation and analysis of the data and findings from this study at an individual insurance policy level.

The insurance industry and individual insurers must respond to and address the troubling findings in the Discussion Paper. We look forward to the insurance industry's full cooperation with the Monitor's inquiry.

Should this not occur, we encourage the Monitor to use its statutory powers to progress its investigation, particularly into the concerns about the rise in average base premiums during the phased reduction of the ESL in 2016-17.

### **Contact details**

Please contact Cat Newton, Senior Policy Officer (Insurance), with any queries on 03 9670 5088 or at [cat@consumeraction.org.au](mailto:cat@consumeraction.org.au).

Yours Sincerely,

**CONSUMER ACTION LAW CENTRE**



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<sup>11</sup> See <https://policy.consumeraction.org.au/2018/08/16/submission-revised-dado-pip/>.