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**** CHECK AGAINST DELIVERY ****

INTRODUCTION

[Acknowledgements omitted]

Your forum comes in the wake of significant, and what often seems like constant, challenges for the sector in both disaster management and regulatory change.

You may well be asking as you peruse the speakers list: what does an MP from Western Sydney with portfolio responsibility for Communications have to do with the insurance sector?

The answer is: a lot more than you might realise.

I actually started working in insurance within days of the 1999 Sydney hailstorms, a catastrophe which apparently still stands as the most costly natural disaster ever faced by Australian insurers. That says a lot considering recent tragic events across the nation if that is still correct.

My initial role at what was then known as NRMA Insurance was in Consumer Advocacy, which later morphed into Regulatory Affairs, with a boss whom some of you may know named Mr George Karagiannakis, now the esteemed Executive Manager of Government Relations at IAG.

I later became a lawyer at Gilbert + Tobin, specialising in competition and regulation in telecommunications, media and technology. My time spent in insurance instilled in me a fascination for the mechanics of complex liability clauses in contracts, and how they related (or not, as the case may be) to a party's actual appetite for risk.

And during this time, I also became a Councillor and Deputy Mayor of Blacktown City Council, then the largest local government area in New South Wales. It was there that I quickly developed an understanding of the need to prioritise significant investment in flood mitigation, which was explained to me as expenditure that residents don't necessarily see or appreciate, but they certainly know when it's not done.

As a backbencher in my first term, I was a member of the Parliamentary Committee which examined the operation of the insurance industry, particularly the claims process following natural disasters - an inquiry which held hearings on site in various parts of Australia during 2011 following yet another spate of fires, cyclones and floods.

And as a local MP, I want to acknowledge the strategic and long-term investments being undertaken by many players in the insurance sector to collaborate across all levels of government to foster meaningful projects and build confident communities – from sport to art to appreciating diversity. As any police local area command will tell you, knowing your neighbours is the first step to the sort of connectedness that overcomes insecurity and risk on a personal and regional level. I commend everyone here involved in those various initiatives.

Lastly, I live and breathe insurance vicariously through my husband, a partner at Corrs Chambers Westgarth who specialises in superannuation and pensions, general and life insurance, funds management, financial services reform and regulation.

I'm well aware that the focus of this forum is on the outcomes and response to the Royal Commission into the Banking, Superannuation and Financial Services Industry. So with that in mind, I'd like to cover the following:

- To return to some first principles of risk and balance, and the role of insurance as an economic and social enabler;
- With that as a policy basis, to discuss Labor's engagement with the sector and the role of mitigation as critical to sound public policy;
- An abiding area of policy interest that is as relevant as ever to the insurance sector, namely the role of data and technology; and
- Some key issues and challenges arising from both the Royal Commission and other regulatory developments.

RISK – AND GETTING THE BALANCE RIGHT

Uncertainty is not just an inherent property of nature, but also of human nature.

With time, institutions have been developed to pool and diversify risk, because that was identified as being the best way to safeguard against bad events.

At its core, insurance is about the allocation and pricing of risk.

The buyer of an insurance contract buys security, and in exchange, the seller accepts the uncertainty.

If society gets this balance wrong this can cause harm to consumers, businesses and the broader economy.

As both natural disasters and the Global Financial Crisis have taught us, shortcomings can create significant pressure for governments to intervene, often at far greater cost and disruption than if better arrangements had been in place to begin with.

However, if society gets this balance right, it can be a productive enabler of economic and social activity - a point I have sought to impress on those who underplay the role of the sector is noting the amount of economic activity which occurs, some of which would otherwise not occur, if we could not insure against the unknowns.

This is why insurance is increasingly recognised as a key pillar of not just consumer policy but of broader economic policy — and why ongoing co-operation on appropriate policy settings between government and the industry is vital.

LABOR'S ENGAGEMENT WITH THE SECTOR

The Labor economic team knows this sector well, and the issues which matter to this ICA, well.

Bill Shorten, as an Assistant Treasurer, enjoyed a good working relationship with the Council.

Together you engaged on a number of important reforms with the sector, particularly in the aftermath of the devastating Queensland floods in 2010.

There was important progress made over that period and the leadership displayed back then continues to have a meaningful impact to this day.

Firstly, we have a standard definition of flood — one which was developed by the industry in collaboration with Government.

This was an important achievement of which I'm sure many here played a part.

Second, flood insurance is now more available than ever before.

Prior to the universal definition of flood, which was driven and created by Bill Shorten, less than 5 per cent of insurance policies had the option of flood.

As of today, that figure stands at near 97 per cent, with an estimated 94 per cent of policy holders taking up the option.

And thirdly, claims resulting from natural disasters are being processed by the industry more quickly than before.

Just this week, Bill Shorten again travelled to flood affected Townsville to experience first-hand the recovery and response efforts underway.

And I believe it would be remiss not to mention that for a community that has suffered so much recently, the senseless loss of those two little brothers in the last day breaks our hearts.

During his visit, the Opposition Leader joined a community briefing being run by the Insurance Council and was updated on the industry's decision to declare a catastrophe.

The declaration means that claims from affected policy holders will be given priority, and claims from the worst-affected property owners will be triaged to direct urgent assistance.

As a result, the deployment of resources and expertise by insurers in response to the unprecedented floods in Townsville has been the fastest response to a catastrophe on record.

These efforts are critical towards ensuring everything is done to reduce the emotional and financial stress on families and businesses that are impacted.

Labor acknowledges the efforts of the Council and the industry during this difficult period.

The response is a tangible demonstration of how the planning, community engagement and claims handling processes during natural disasters has matured over the past decade.

The improvements are welcome and I want you to know they have not gone unnoticed.

MITIGATION

Government policy also has an important role to play in reducing risks that impact on individuals and the community. After all, insurers set premiums based on risk.

If you reduce the risk then you reduce the premium – and this provides a useful framework for thinking about the value of mitigation projects.

In Government, as part of the National Affordability Insurance Initiative, Labor initiated flood mitigation work, involving large scale levee banks, in Roma that protected over 550 homes and businesses, which resulted in an average premium drop of 34 per cent, with a peak premium drop of 75 per cent.

Unfortunately the Government walked away from the broader National Affordability Insurance Initiative in its 2014 Budget.

As the Productivity Commission noted in its Inquiry into Natural Disaster Funding Arrangements, prevention is usually cheaper than the cure, often vastly cheaper, and it will be important for both federal and state governments to remain engaged in identifying sensible opportunities for investment in mitigation measures.

Another area where public policy can play an important role in mitigating risk is of course climate change.

Global warming carries both direct and indirect costs and the insurance industry is acutely aware of this.

It is regrettable that we have a Government which has been in power for nearly six years and still does not have a credible plan to reduce emissions.

On one hand, the Prime Minister has just announced his plan to force taxpayers to fork out \$2 billion to double down on Tony Abbott's carbon blueprint, a failed plan which saw pollution go up and up.

This is the same Prime Minister who paraded a lump of coal in the Parliament when Treasurer.

On the other hand, the same Government then wants Australian taxpayers to underwrite the supply and operation of coal fired power stations.

There is only one way to describe this – a policy dumpster fire.

Frankly speaking, we need leadership on this issue and only a Shorten Labor Government is capable of delivering that.

I encourage the sector to remain engaged in highlighting the need for sensible policy adjustments to enhance resilience to extreme weather, as well as efficient measures to reduce carbon emissions.

DATA

Turning now to the evolving role of data and new technology in the insurance industry.

Like many industries, insurance is driven by data.

Nowadays, there is a lot of talk about 'big data' as well mistrust about its use.

But in some ways, 'big data' is just data – and data has been collected and used to promote a range of interests since the Domesday Book of 1086.

As new technologies disrupt, the insurance sector is adapting and innovating to harness the new opportunities.

Artificial Intelligence and automation are already being used in the insurance industry to personalise policies, make information about different policies more accessible and to improve claims processes for consumers.

AI also has the potential to help the industry fight fraudulent claims, which cost the industry a significant sum each year. According to Forbes magazine: "Instead of relying on humans to manually comb through reports to catch

inaccurate claims, AI algorithms can identify patterns in the data and recognise when something is fraudulent”.

The Internet of Things – connected consumer devices – will result in an avalanche of new data for insurance that will, according to McKinsey:

“allow carriers to understand their clients more deeply, resulting in new product categories, more personalised pricing, and increasingly real-time service delivery. For example, a wearable that is connected to an actuarial database could calculate a consumer’s personal risk score based on daily activities as well as the probability and severity of potential events”.

Robotics and automation, including autonomous vehicles and enhanced surgical robots, will change the way we think about and insure against risk.

I believe Government has much to learn from the insurance sector when it comes to better using data to target the right Government information and services to the right people.

I am of the view that the use of data and algorithms present a suite of new tools that have the power to promote public interest objectives in ways we never imagined – both positive and negative, of course.

The preliminary report of the ACCC Digital Platforms Inquiry includes a focus on data as it pertains to media and advertising, and notes that the increased collection of individuals’ data made possible by new technologies and devices has significant implications for consumers and society as a whole, and will require serious consideration by citizens and governments.

The report canvasses wearables, health monitors and implantable devices, smart home applications and connected vehicles. It notes that 5G technology, the fifth generation of mobile technology, is expected to increase the accuracy of location tracking which “will have a broad series of applications including important safety functions, for example, improving the functioning of self-driving cars, and allowing better-targeted public disaster and safety communications”, not to mention targeted advertising.

It notes the potential benefits and detriments for consumers, as extremely

detailed information on individuals' behaviour and attributes can be collected, compiled and accessed by both governments and private companies.

Online profiling and exclusionary targeting might promote inequality. Conversely, it may be used for legitimate means such as assisting vulnerable consumers.

Personalised pricing might help consumers with limited ability to pay by offering a lower price, but could also mean some consumers pay more, particularly if there is limited choice available. So clearly, there are benefits and challenges.

The report of the Productivity Commission Inquiry on 'Data Availability and Use' offers guidance on where the benefits of greater data use may be most evident, and ways that governments might engage with the public to generate community understanding of the costs, risks, and benefits associated with data sharing and use.

Investing in community understanding is going to be crucial to gaining trust in an increasingly data-driven economy. We need to bring people along with us.

The PC recommendation of a new Data Right, among other things, brings another set of issues that intersect with public interest policy for media and communications.

This is an area where Labor can see the benefits of a Data Right for both business and consumers, as well as the risks. The Consumer Data Right will offer a lot to the economy, only if it is done right – so Labor is listening closely to industry on this.

The Government has work to implement the new Data Right underway, with a rollout initially in the banking, telecommunications and energy sectors.

It is worth noting here, that these are sectors that are consistently ranked low on trust scores.

The Government's bungled rollout of the My Health Record, and the 2.5 million Australians who have opted out, is a stark lesson on the need to build trust when it comes to the smart use of data.

Government should be working with industry to ensure the use of data and new technology is ethical. This is why we have announced a commitment to invest in the establishment of a National Centre of AI Excellence, to champion the development of ethical AI frameworks and generate new firms and strengthen existing old ones. The centre will also work across levels of government to think about the evolution of AI and plan for its use to improve policy and decision-making.

Last year, Peter Leonard and Toby Walsh published an article that offers a useful take on how to operationalise principles for practical ethics for Artificial Intelligence and empower business with the methodologies, tools and lexicons for ethical decision making; to embed public interest values, such as social equity, fairness and ethics.

It is imperative we have trust around the use of data and related practices if we are to harness its full potential for industry and Government.

ROYAL COMMISSION RECOMMENDATIONS

I now wish to turn to the Royal Commission.

It is no secret that Labor called for many years for a royal commission into the banking sector.

Reports and evidence of community detriment were growing and it was increasingly clear something had to be done.

It became clear to Labor that these were not isolated incidents, and that there were systemic issues across the financial services industry that needed to be explored.

To achieve this we needed to rigorously examine how the industry understood and gave effect to its duty of care to consumers, and of course, how incentive structures, conflicts of interest, and organisational culture impacted on this.

Only a Royal Commission had the necessary powers to compel evidence and provide this level of scrutiny.

The Coalition Government opposed this Royal Commission at every turn, and voted against it 26 times in Parliament.

Nearly three years on from when Labor took a stand and called for a Royal Commission, we have now had a Royal Commission into the Financial Services Industry and a report has been handed down.

Our Shadow Treasurer, Chris Bowen, and our Shadow Minister for Financial Services, Clare O'Neil, have released Labor's detailed response to the Commission's recommendations.

In summary, Labor will implement 75 recommendations of the Royal Commission in full. The single remaining recommendation – Recommendation 1.3 which deals with mortgage broker remuneration – will be implemented in a manner that will achieve the objectives set out by Commissioner Hayne whilst being careful to avoid harming competition in the mortgage market.

For now I want to make a moment to discuss recommendations 2.5 and 2.6, which relate to conflicted remuneration for the sale of certain insurance products, and then Recommendation 4.7, which relates to the application of unfair contract term provisions to insurance contracts.

CONFLICTS OF REMUNERATION

A key position of the Royal Commission report is that conflicts of interest and conflicts between duty and interest should be removed. That is, a recognition that conflicts of interest, and conflicts between duty and interest, should be eliminated rather than 'managed'.

This is a shift that Labor supports.

In this context, Commissioner Hayne has recommended steps that would bring practices governing the sale of life insurance in line with other parts of the financial services sector.

As it stands, commissions on life insurance products are exempt from the ban on conflicted remuneration.

This meant that product issuers could continue to pay financial advisers high rates of upfront and trail commission to encourage the advisers to recommend their products.

In the period from 2013 to 2018 insurers paid more than \$6.1 billion in commissions to financial advisers.

In handing down his report, the Commissioner has recommended ASIC, as part of a planned review in 2022 into the ASIC Corporations (Life Insurance Commissions) Instrument, consider further reducing the cap on commissions for life insurance products.

The Commissioner went on to say that unless ASIC identified a clear justification for retaining those commissions, the cap should ultimately be reduced to zero.

Labor supports this recommendation, and will implement it if elected.

As a first step, Labor will ensure that ASIC conducts a review of life insurance commissions.

A key question here is whether the potential for under-insurance outweighs the ongoing consumer detriment arising from the current conflicts of interest.

Consistent with the recommendation, if ASIC finds there is no clear justification for retaining the life insurance commissions then Labor will take the necessary steps to reduce them to zero.

There must be a strong argument to allow conflicted remuneration to continue in any part of the financial services industry, and Labor is confident the proposed process will set a prudent and evidence-based test to examine the issue, with ASIC leading the assessment.

The Commissioner has also recommended ASIC giving consideration to whether the other exemptions to the ban on conflicted remuneration for general insurance products and consumer credit insurance products remain appropriate, given they have now been in place for ten years.

We think this is a sensible step and support ASIC giving consideration to these matters.

We also note that, as far as consumer credit insurance goes, the Commissioner recommended a deferred sales model should be implemented for add-on insurance – including consumer credit insurance. Labor will consult on the detail of this deferred sales model, and will fully implement this recommendation.

UNFAIR CONTRACT TERMS

I would now like to turn to Unfair Contract Terms.

In 2010, Labor introduced Unfair Contract Terms laws to address the detriment that could arise when consumers are offered contracts on a 'take it or leave it' basis, and those contracts contain terms that are unfair.

Under the changes, a term in a standard-form contract could be considered unfair if:

- It causes a significant imbalance in the parties rights and obligations under the contract
- The term is not reasonably necessary to protect the legitimate interests of the party who would be advantaged by the term
- It would cause detriment to a party if relied upon

At present, these safeguards apply to contracts for financial products and services, but not insurance contracts.

Recommendation 4.7 of the Royal Commission report proposes to deal with this by applying the unfair contract terms provisions currently set out in the ASIC Act to insurance contracts currently regulated by the Insurance Contracts Act.

Further, the Commissioner has recommended the provisions should be

amended to provide a definition such that the “main subject matter” of an insurance contract is the terms of the contract which describe what is being insured.

I understand these issues here have been given attention over the past few years.

Having regard for these factors, the views of stakeholders on the scope of “main subject matter” definition, and the harms experienced by consumers as a result of unfair terms, Labor is satisfied that Commissioner Hayne’s recommendation is the best path forward and we have undertaken to implement his recommendation in full.

We are mindful the recommendation is a source of concern to the industry.

However, we are being clear that the on issue of the “main subject matter” definition and that Labor will be implementing Commissioner Hayne’s recommendation in full.

The undertaking we can provide is if Labor is elected, we will work closely with the Council and the industry to avoid unintended consequences.

We recognise insurance contracts are complex and that engagement is necessary to ensure we get the details right.

CREATING A LEVEL PLAYING FIELD FOR CAR MECHANICS

I now want to turn briefly to Labor’s policy to support independent car mechanics.

There are currently around 23,000 independent mechanics, and it should therefore come as no surprise that most Australians have their car serviced by an independent mechanic.

A key issue is that technology and data driven functionality are becoming increasingly integrated into new vehicles.

Modern cars are computers on wheels and if mechanics don't have real time

access to the necessary digital files and codes unique to a given vehicle, they can't service them properly.

Car manufacturers generally own and control this technical information and in many cases are the only sources.

In 2014, a voluntary code was put in place to try and address the lack of information sharing, however, it became increasingly clear the voluntary code was not working.

In response to this issue our Shadow Assistant Treasurer Andrew Leigh has formulated and set out a clear policy that Labor would take to the federal election.

Unlike the Government who after years of silence decided to release a discussion paper, Labor has made clear that, if elected, we will require car manufacturers to share technical information with independent mechanics on commercially fair and reasonable terms.

This policy is good for choice, it is good for consumers and it is important for the future sustainability of independent mechanics.

We also believe it is of benefit to the insurance sector.

By creating a level playing field for independent mechanics there will be more choice for insurers in their servicing agreements, and this means more competition to keep prices down.

Andrew Leigh has developed a very good policy here and we would like to see the Government get on board and support Labor's direction.

INDUSTRY LEADERSHIP

Finally, as the Shadow Minister responsible for the Communications portfolio, I wanted to offer a few thoughts on the role of industry leadership in consumer policy.

In my experience the undercurrents of policy direction are more often than not a

product of the social, political, economic and technological context of their time.

It goes without saying that one of the more dominant themes of recent times is ensuring consumers are treated fairly and that reasonable community expectations are met.

Whether it is banking, financial services, telecommunications or energy – in every direction you look — there are interventions happening across just about every industry sector with a mass market consumer interface.

This becomes a question of trust.

In this context, it would not be unreasonable to assume that governments will have less tolerance than before for arrangements, products or practices that cause detriment to consumers.

I am not offering this as a statement of policy but rather an observation of reality.

What I want to convey is that in such moments there is an opportunity for industry to lead.

Politicians have a short memory for many things but let me tell you about one of the things they won't forget: the moments when industry step up to address a legitimate problem that nobody was forcing them to fix yet.

If there appears to be a yawning gap between current practices, and the right thing to do by the customer, that is an opportunity to challenge yourself to find a better way.

This helps differentiate both industry sectors and brands, and the sentiment that consumers attach to them.

CONCLUSION

I mentioned at the outset how I variously practice in the insurance sector via my distinguished husband. I thought it would be a good idea to read some of his opinions in case I get quizzed by him after this event, which is likely.

In 2014, he wrote a piece about the Murray Financial System Inquiry and the need to make financial literacy a priority, in which he said that Inquiry:

“...lifted the lid on one of the worst kept secrets in the financial services industry – product disclosure is not working”.

To gauge the veracity of that statement today, I visited the ICA website. One of the first markers I saw was a friendly box entitled,

“Understanding insurance – a financial literacy initiative of the ICA”.

It is actually one of the most informative portals I have seen, and clearly a lot of effort went into making its tone both independent and critical. I commend the ICA for this initiative and if I may make one suggestion that transcends the political: some local members, like myself, run regular events in our local areas for cohorts like seniors and school leavers to disseminate important information. I have invited everyone from consumer advocates to government agencies to present at such forums. Your Understanding Insurance initiative is something that I am confident would be widely supported by local members, and I am certainly interested in inviting you to come to Western Sydney and share this information with my constituents.

And beyond financial literacy, I believe there is a need for greater data literacy. Not only as an improvement in the skills of workers as we move towards a data-driven future, but also a better understanding by consumers of what their data is, and how it is used, which would inform their consent to its collection.

I note the digital platforms inquiry talks around this, noting the need for media literacy and better informed consent around data use.

So I hope today I have imparted a sense of the importance Labor places on the insurance sector, its intersection with portfolios such as communications, and that our approach to government recognises the primacy of stability and confidence, working with industry, predictability, consultation and proper cabinet processes.

And not for one minute do we get ahead of ourselves.

Make no mistake: the upcoming Federal election will be a close run race.

There are those who say politics is the art of the possible.

While that may be true, I'd like to think that for consumer facing sectors the art lies in ensuring the fair treatment of customers is good business.

To the Insurance Council, I want to extend my thanks for the invitation to speak here today.

The progress the industry has made over the last decade in how it responds to natural disasters is commendable.

You are the face of the general insurance industry, and both sides of politics value the role you play in informing debate.

Labor looks forward to continuing its engagement with the Council and the sector in the months and years ahead.

Thank you.

ENDS

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