

Address to the Insurance Council Conference – National Conference

Good afternoon, it's great to be here.

This afternoon I'm going to speak about the Morrison Government's vision for the industry, creating much needed certainty, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry and some other policy matters we are progressing with.

Government's vision

In the wake of the Royal Commission the Morrison Government's principal focus is on restoring trust in our financial system and delivering better outcomes, while maintaining the flow of credit and continuing to promote competition.

These objectives are important to the health of the economy and therefore the health of our community.

The Government aims to restore confidence in the financial system in four key ways:

- Strengthen and expand protections for consumers, small business, rural and remote communities
- Raise accountability and governance standards
- Enhance the effectiveness of regulators
- Provide for remediation for those harmed by misconduct.

Getting change right and creating certainty

One of Commissioner Hayne's key findings is that complexity of financial services laws has been part of the problem. To ensure Parliament, in trying to find solutions, doesn't create more problems, the Law Council of Australia also warned that 'Parliament must hasten slowly'.

Consistent with this, the Government is committed to a legislation program which is carefully thought through, responsible and thoroughly consulted upon. We will work with the insurance industry as well as the financial sector and consumer groups to get our legislation right.

This is a key point of difference between the Coalition Government and Labor.

Last fortnight, we saw Labor try and rush Bills into Parliament for the sake of a reckless political stunt. This was irresponsible and clumsy. The legislation drafted by Labor had serious flaws and would have harmful unintended consequences. No doubt the way Labor tried to ram this faulty legislation through the Parliament would have alarmed many of you.

In contrast, the Government will deliver on a program of consultation papers and exposure draft bills to implement our response to the Royal Commission.

This Government is about creating an environment of certainty for industry and consumers.

This is in stark contrast to Labor.

They're saying in their formal response to the Royal Commission, that they will not accept all of its recommendations despite saying for weeks that they would.

Chris Bowen and Clare O'Neil have for three weeks been saying that Labor had accepted all of Commissioner Hayne's recommendations, yet they didn't respond for 18 days. And for 18 days Labor kept up the pretence that they would accept all of its recommendations. Chris Bowen said "We've accepted the recommendations" (RN Breakfast, 5 February). Clare O'Neil said "We will implement every single recommendation that's in the Royal Commission report (ABC News Breakfast, 4 February).

Labor couldn't even bring themselves to respond to all 76 recommendations. They said they will implement 75 recommendations, even though they had for weeks specifically said they would accept the Hayne recommendation on mortgage broking.

Their flip-flopping and back-flipping will create uncertainty and confusion for industry and consumers alike.

Royal Commission

The Government has agreed to take action on all 76 recommendations made by the Commissioner Hayne.

We're going even further on 11 of the recommendations. These include:

- Recommendation 4.2 – relating to funeral expenses policies, the Government will also restrict the use of the term ‘insurer’ and ‘insurance’.
- Recommendation 4.3 – relating to the deferred sales model for add-on insurance, the Government will implement the Design and Distribution Obligations (DDOs) and a Product Intervention Power (PIP) for ASIC.
- Recommendations 1.17, 3.9, 4.12, 6.6, 6.7 and 6.8 – relating to the extension of the Banking Executive Accountability Regime (BEAR) to a wider range of financial firms, including insurers.

Other recommendations relating to insurance that the Government is taking action on include:

- Recommendation 4.5 – the Government has agreed to amend the duty of disclosure for consumers in the *Insurance Contracts Act 1984* to ensure disclosure obligations do not enable insurers to unduly reject the payment of legitimate claims.
- Recommendation 4.6 – the Government will amend the Insurance Contracts Act to ensure insurers only avoid a life insurance contract on the basis of non-disclosure or misrepresentation if it can show that it would not have entered into a contract on any terms.

These changes will help to balance the Insurance Contracts Act between safeguarding the rights of consumers and enabling insurers to effectively price and underwrite risks.

The Royal Commission also demonstrated the consequences of vulnerable consumers being sold insurance products through unsolicited phone calls. That is why the Government is taking action on recommendation 4.1 and is working towards prohibiting the hawking of insurance. The definition of hawking will be clarified to include selling of a financial product during a meeting, call or other contact initiated to discuss an unrelated financial product.

The Government is committed to ensuring that senior individuals who operate in the financial sector conduct themselves in an appropriate manner and face consequences where they fail to meet these standards. The extension of BEAR will ensure executives conduct themselves in an appropriate manner and are held to account for the products their businesses sell.

In its response to Recommendation 2.3 of the Royal Commission, the Government agreed to a review in three years’ time on the effectiveness of measures to improve the quality of advice. This will include a review of the remaining exemptions to the ban on conflicted remuneration, such as those for general insurance and consumer credit insurance (Recommendation 2.6).

The Government has also introduced the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018 into Parliament. The Design and Distribution Obligations (DDOs) and the PIP seek to promote the provision of suitable financial products to consumers and to enable ASIC to proactively reduce the risk of consumer detriment from unsuitable products. These regimes will assist in preventing consumer detriment resulting from poor design or inappropriate distribution practices such as those which have been well documented in respect of add-on insurance products.

Including claims handling as a financial service

The Government is taking action on recommendation 4.8 and will soon release a consultation paper on removing the exclusion of insurance claims handling from the definition of ‘financial service’.

The Government supports the regulation of insurance claims handling as a financial service under the *Corporation Act 2001*. This will allow the Australian Securities and Investments Commission to enforce a higher standard of behaviour in the industry and ensure consumers can expect the same standard from insurers handling claims as they can from all financial service providers.

However, the Government acknowledges the industry’s concerns about the removal of the exemption. For example, some claims handling staff may be deemed as providing personal financial advice.

As you know, Labor’s part-response was defective. While it removes the formal exemption by repealing the relevant regulation, some of the claims handling activities carried on by insurers will not fall within the current definition of a “financial service” and so not be captured.

The consultation paper that the Treasury Royal Commission Implementation Taskforce will shortly issue will help to identify these issues so that the Royal Commission’s recommendation can be implemented without increasing regulatory complexity, but ensuring that insurers are subject to appropriate obligations and requirements.

The consultation paper will outline a proposed model for implementing the reform that will first involve removing the current exemption for claims handling from the definition of financial services. Handling and settling an insurance claim would then be defined as a new financial service for the purposes of the Corporations Act. This is intended to bring the claims handling process within the definition of a financial service while mitigating any unintended consequences.

I strongly encourage you all to engage with this consultation process and to provide your views to Treasury. The Government will then carefully consider all submissions before deciding on the final proposal to be implemented.

Compensation scheme of last resort

The Government has committed to establish an industry-funded, forward-looking compensation scheme of last resort, as part of its response to the Royal Commission.

This commitment is an important step to building trust and confidence in the dispute resolution framework in the financial system and will ensure that individual and small business consumers have confidence that when a dispute is determined in their favour that compensation will be awarded, even if the financial firm becomes insolvent.

Under the proposed arrangements, the scheme will be established as part of the Australian Financial Compensation Authority (AFCA) and will be designed consistently with the recommendations of the Supplementary Final Report of the Review of the financial system external dispute resolution framework (Ramsay Review).

The Government is now working to implement the compensation scheme of last resort and will be releasing information on the key design features and eligibility requirements in due course.

Labor's copy of the Morrison Government's scheme has had little consideration for the unintended impacts on consumers. AFCA's indexed monetary limit of \$1 million and compensation cap of \$500,000 was almost double the existing limits of predecessor schemes and lead to significantly enhanced access to redress for consumers and small businesses who wrongfully suffer losses.

Importantly, these caps were set following advice from the Ramsey Review warning that increases in the compensation cap could have an impact on competition if it results in smaller firms in some areas of financial services being unable to obtain professional indemnity insurance and therefore being unable to enter or remain in the market.

Labor's scheme is also at odds with the clear advice from Hayne that: "There would be no merit in allowing further access to redress in any case where the consumer or small business concerned has already resorted to dispute resolution by a court, tribunal or external dispute resolution body or has settled the dispute."

Labor is also promising to pass the cost of compensating victims of past unpaid claims from ombudsmen schemes onto the industry. This will impose a retrospective burden on many small financial businesses that had nothing to do with the misconduct and that may not have even been in existence at the time. These businesses will ultimately have to pass these costs onto their customers.

Unfair Contract Terms

We are also getting on with the job, continuing with the policy program that we had kicked-off prior to the Royal Commission final report.

The Government has agreed to recommendation 4.7 – Unfair contract terms for insurers from the Financial Services Royal Commission in full, consistent with our response to the 2017 Senate Economics References Committee Inquiry into the General Insurance Industry.

The Government will introduce legislation in accordance with the Financial Services Royal Commission recommendation, including defining the main subject matter exception in the law as outlined by the Royal Commission.

Insurance contracts are excluded from the industry-wide unfair contract provisions in the ASIC Act. Removing this exemption will ensure that standard form insurance contracts offered to consumers and small businesses on a 'take it or leave it' basis cannot include terms that are considered unfair.

Consultation with industry on this policy occurred between June and August 2018.

Disclosure Paper

The Morrison Government is continuing to enhance consumer understanding and access to information by releasing a discussion paper on improving disclosure in the general insurance sector.

This discussion paper follows from recommendations made in the Senate Economics References Committee report into the general insurance industry, and seeks views on the issues and objectives behind component pricing, disclosure of year-on-year premiums, standard cover and definitions in insurance contracts, and the Key Facts Sheet.

Improving disclosure practices of the insurance industry will enable consumers to be informed and ensure the market remains fair and competitive. Lack of transparency or poor disclosure practices limits choice and makes it harder for consumers to make informed and appropriate decisions on insurance coverage.

The Government recognises the efforts being made by the general insurance industry to improve disclosure practices and encourages the continuation of this work.

The discussion paper will assist in defining proposals to enable the Government to use regulatory tools to achieve recommendations from the Senate report and identify actions that the industry can take. Some of the issues the paper has identified for discussion include:

- the effectiveness of the standard cover regime;
- standardising the definition of key terms; and
- reviewing the utility of key fact sheets.

The standard cover regime has already changed since it was first introduced in 1984. For example, it did not provide for standard definitions. While there is now a standardised definition of 'flood' there are host of other key terms that could be standardised.

This is critical as it is clear standard cover regime by itself is unable to deliver consistent coverage and enhance consumer understanding. Insurance contracts that are required to include the same terms and conditions may still deliver variable levels of coverage, if the terms of the contract do not rely on a standard definition. Inconsistent definitions between policies risk misleading consumers into thinking they have cover for certain events when they do not.

It may appear that simply increasing the use of standard definitions could improve consumer awareness and their ability to compare policies. However, there are challenges in developing standard definitions. This was the case when the standard definition of 'flood' was being developed.

That is why the Government will carefully consider all submissions that have been received when deliberating on how to address this and other issues in disclosure. The Government will also have regard to any recommendations relating to disclosure from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry and the recommendations in the First Interim Report of the Australian Competition and Consumer Commission's Northern Australia Insurance Inquiry before developing regulatory proposals and identifying the actions industry can also take.

The Government will then prepare a proposed model for regulatory intervention and identify any further action that industry can take to improve disclosure.

Conclusion

Thank you for the opportunity to be able to speak with you.

The Morrison Government is working to ensure we provide the industry with certainty while addressing the Royal Commission's findings.

We've taken the Royal Commission seriously, not just taking action on all 76 recommendations, but going further on 11 of them.

We believe this will create a better environment for both industry and consumers.

Alternatively, Labor took 18 days to respond to the Royal Commission. Despite indications they had accepted all of the recommendations, they have not. This is yet another case of having to judge Labor by what they do – or don't do – rather than what they say.

I want to finish with how I started by outlying how the Government aims to restore confidence in the financial system:

- Strengthen and expand protections for consumers, small business, rural and remote communities
- Raise accountability and governance standards
- Enhance the effectiveness of regulators
- Provide for remediation for those harmed by misconduct.

Thank you again.