



July 31, 2013

J. Scott Moore  
Deputy Superintendent of Financial Institutions-Insurance  
Financial Institutions Regulation Branch  
1115-405 Broadway  
Winnipeg MB R3C 3L6

Via Email: [insurance@gov.mb.ca](mailto:insurance@gov.mb.ca)

Dear Mr. Moore,

**Re: Manitoba's Insurance Agents and Adjusters Regulations – Draft Amendments**

1. The Canadian Wireless Telecommunications Association (CWTA) is the authority on wireless issues, developments and trends in Canada. It represents cellular, PCS, messaging, mobile radio, fixed wireless and mobile satellite carriers as well as companies that develop and produce products and services for the industry, including handset and equipment manufacturers, content and application creators and business-to-business service providers.
2. CWTA is pleased to file its comments with respect to Manitoba's draft amendments of its Insurance Agents and Adjusters Regulations. CWTA recognizes that the ultimate intent of the draft regulations is to bring into force specific sections of the *Insurance Amendment Act*. Through correspondence with the Province we are also aware that particular products offered by our members, directly or on behalf of properly qualified service provider in the business of carrying insurance, are intended to be captured by the "portable electronics" insurance and vendor requirements in the regulations.
3. In anticipation of the final regulations, CWTA's principal concern is that the final regulations and the accompanying administrative processes be as clear and straightforward as possible. However well-intended in theory, if not developed properly, regulations can become overly complex and unnecessarily onerous in practice. The unfortunate consequence of significantly increasing carriers' administrative burden is that they may remove such products or services from the market altogether.
4. Therefore, we request that the final regulations and accompanying administrative processes for Restricted Insurance Agent Licences are (i) clearly defined and straightforward, and (ii) developed in consultation with the industry to ensure they are clear, straightforward, and not unduly onerous, and reflect the ways in which additional loss and theft insurance for portable electronics is actually offered to consumers in Manitoba.

**Publish final regulations and process requirements that are clearly defined and straightforward**

5. On first view the draft Restricted Insurance Agent Licence regulations pose several fundamental questions, including but not limited to:

- Can the provisions in Section 16.1(2) be substantially clarified?
  - What specifically distinguishes portable electronics *insurance* from an extended portable electronics *warranty*?
    - Do, for instance, the regulations capture extended warranties – that include accidental damage coverage – offered by device manufacturers?
  - Is it the Province’s intent in defining portable electronics insurance to bring new insurance products under regulation?
    - Our understanding is the regulations are intended to capture the retail aspect of electronics insurance, but not necessarily to bring new forms of insurance under regulation. Currently, we do not believe any other province considers coverage for damage to wireless devices as being insurance. Is it the intention of the Province to capture this type of insurance and would Manitoba’s *Insurance Act* would also apply to such products?
  - Will there be differentiation in the regulations generally, and with respect to the obligations regarding personal information received from a consumer, among other things, between a portable electronics vendor that sells the portable electronics insurance directly to the consumer and a portable electronics vendor that sells such insurance on behalf of a qualified third party service provider in the business of providing insurance to consumers?
    - In the latter situation, it would seem that the portable electronics vendor is actually the qualified entity and the third party service provider is the party that is required to apply for the restricted insurance agent licence.
    - If the Province does not agree with the above interpretation, will there be tiered licensing requirements in the regulations generally for those portable electronic vendors that do transact through a qualified entity and have no contractual relationship with the end insurer directly?
  - What constitutes a “written recommendation of an insurer”?
  - What are “reasonable and demonstrable policies and procedures to ensure that anyone who solicits, negotiates or transacts insurance on behalf of the restricted licence holder is knowledgeable, competent and suitable”?
  - What is the intent and extent of the obligation to notify a consumer that a restricted license holder or the qualified entity receives direct or indirect compensation, or a direct or indirect inducement or benefit, from the insurer for soliciting, negotiating or transacting the insurance?
    - This could be particularly onerous and runs counter to general retail practices, including the confidentiality of existing business agreements.
6. CWTA recognizes that the answers to the questions above, as well as others, will be made clear as the regulations and administrative requirements are finalized. We therefore respectfully request that the Province ensure that all aspects of the regulations are clearly defined and straightforward. Specifically, the regulations and requirements must be readily understandable not only for those businesses and associations that are active in this consultation process, but for future businesses that may require a restricted insurance agent licence or are designated a qualified entity.
7. We have found that providing case-specific scenarios, as well as easy-to-understand FAQ lists, greatly contribute to the understanding of new regulations, and we recommend the Province adopt a similar approach. As we mention below, we also respectfully request that the final regulations and, in particular, the accompanying administrative processes be developed in consultation with the industry.

**Develop the final regulations and requirements in consultation with the industry to ensure they are not unduly onerous reflect current business practices**

8. CWTA members have concerns that some of the processes required to obtain and maintain a Restricted Insurance Agent Licence, as outlined in the draft regulations, may be significantly and unnecessarily burdensome. As noted above, it remains unclear at this stage of the process exactly what will be required to demonstrate that retail staff are “knowledgeable, competent and suitable”.
9. The draft regulations also state that a licence holder must “make and maintain a record of all persons authorized by the restricted licence holder to solicit, negotiate or transact insurance on the restricted licence holder's behalf.” There are hundreds of wireless retail outlets in Manitoba. These retail outlets experience steady staff turnover. Depending on the extent of this requirement, it would be difficult for large carriers with large retail operations to maintain such records for compliance purposes. On the other hand, by consulting with CWTA members and harmonizing requirements with existing staffing practices, the Province could ensure this requirement could be easier to maintain.
10. At present, for example, no carrier offering retail wireless service in Manitoba would be able to produce, on short order, an instant list of all retail employees “authorized” to offer extended loss or damage protection for smartphones sold in the province. For some carriers who operate in multiple provinces, that list would have to include sales staff located in call centres outside of Manitoba. Again, it is unlikely that those carriers’ operational personnel in Manitoba would have access to an up-to-date list of their call centre staff located in another province. In any event, those lists of “all persons authorized by the restricted licence holder” to offer a customer loss and damage protection for their smartphone would run to hundreds, in many cases thousands, of names –names that would necessarily turn over on a steady basis as employees leave and are replaced. It is not clear to CWTA what this requirement is meant to achieve, or how it furthers the objectives of the underlying legislative framework.
11. As such, CWTA requests the Province work closely with the industry when developing the final regulations and in particular, the compliance requirements, for the Restricted Insurance Agent Licence. Portable electronics vendors, including carriers, are uniquely positioned to identify how the licence requirements can be synchronized and harmonized with existing processes to reduce the administrative burden.

**Conclusion**

12. CWTA appreciates the opportunity to comment on the Province of Manitoba’s draft Restricted Insurance Agent Licence regulations. Our members look forward to working with the Province on the development of the final regulations and related administrative requirements. We believe that by working with the industry, the Province can develop process requirements that provide the complete benefit of the regulations to Manitoba consumers, without being unduly onerous to retailers and carriers.

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