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Financial Markets Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

By email: ***insurancereview@mbie.govt.nz***

Review of Insurance Contract Law Issues Paper

1. Introduction

Thank you for the opportunity to make a submission on the *"Review of Insurance Contract Law" Issues Paper.* This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

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2. General comments

We welcome the review of insurance contract law. Insurance is a significant and growing household expense. However, the law has not been amended for a considerable time. As a result, New Zealand consumers have significantly less protection than those elsewhere. Law changes to improve consumer protection are overdue.

3. Answers to questions

Our answers to specific questions in the issues paper are set out in the submission template provided by the ministry.

Thank you for the opportunity to provide comment. If you require any further information on the points raised, please do not hesitate to contact me.

Yours sincerely

s 9(2)(a)

Sue Chetwin
Chief Executive

Responses to discussion document questions

Regarding the objectives of the review

1	Are these the right objectives to have in mind?
	We broadly agree with the objectives set out in the issues paper.
2	Do you have alternative or additional suggestions?

Regarding disclosure obligations and remedies for non-disclosure

3	Are consumers aware of their duty of disclosure?
	Evidence from complaints shows consumers are not always aware of their duty of disclosure. A recent complaint to the Insurance and Financial Services Ombudsman (IFSO) typifies the problems that arise. In this case, a consumer made a claim under their income protection insurance policy when they needed time off work for heart surgery. The insurer avoided the policy and declined the claim on the basis the consumer had not disclosed treatment for alcohol addiction, depression, an elbow injury and diverticulitis. The consumer was unaware the insurer required this information and considered the insurer should have checked his medical notes when he took out the insurance. As the 1998 Law Commission review found, the current treatment of disclosure is disadvantaging consumers. In many situations, it's unlikely consumers will be aware of the extent of information the insurer may consider material. They may also accidentally omit disclosing information because they've forgotten about it or don't fully understand the extent of information the insurer requires.
4	Do consumers understand that their duty of disclosure goes beyond the questions that an insurer may ask?
	Many consumers are unlikely to understand their duty of disclosure goes beyond the questions an insurer may ask. Moreover, it is unreasonable to expect consumers to have a comprehensive knowledge of all matters the insurer may consider relevant to its decision to insure.
5	Can consumers accurately assess what a prudent underwriter considers to be a material risk?
	Insurance is heavily promoted with advertising that conveys the impression it is easy to obtain. However, insurers do not expend the same effort advertising their underwriting conditions. The average consumer is not an expert in matters of insurance and should not be placed in the position of having to assess every matter the insurer deems a material risk.

	Comments from our 2016 insurance satisfaction survey highlight the problems consumers face in determining the information the insurer requires.[1] One respondent noted their insurer: *"has a catchall phrase along the lines of 'you must tell us everything that might affect our decision to offer this insurance.' How can we know what might affect their decisions?"* Another respondent commented: *"the onus for disclosure is overwhelming [sic] on the customer in instances where the customer has little or no idea of the relevance … I was asked if I had ever been investigated for any possible problems with my aorta. I can just imagine how well my 'yes' answer went down. It was a ROUTINE health check, the outcome of which was that, in conjunction with the rest of my vascular system, [it was] … strong."*
6	Do consumers understand the potential consequences of breaching their duty of disclosure?
	Evidence from complaints shows consumers are not sufficiently aware of the potential consequences of breaching their duty of disclosure. IFSO reports about 10 percent of the complaints it receives involve non-disclosure.[2] Given the low public awareness of the complaints resolution schemes, we expect the actual proportion of consumers who have had issues with their insurance company's disclosure requirements to be higher.
7	Does the consumer always know more about their own risks than the insurer? In what circumstances might they not? How might advances in technology affect this?
	As discussed above, consumers are not experts in insurance and are not in a position to judge every risk the insurer considers material. Insurers also ask consumers to share information dating back many years. In some cases, an insured will not remember the specifics of a car accident, speeding ticket, doctors' visit or operation they had five or 10 years earlier. When the insurer considers information material, it should have a duty to actively inquire into the information by, for example, requesting the consumer's medical records in the case of an application for health insurance.
8	Are there examples where breach of the duty of disclosure has led to disproportionate consequences for the consumer? Please give specific examples if you are aware of them.
	Complaints to dispute resolution schemes provide evidence of disproportionate consequences for consumers. For example, in a recent complaint heard by IFSO a consumer made a trauma claim under her life, trauma and income protection policy after being diagnosed with breast cancer. The insurer refused to consider the claim because the consumer had not told it about unrelated conditions (depression and knee pain). The Ombudsman held the insurer was entitled to avoid the policy.

[1] The survey took place in August 2016; 8058 Consumer NZ members participated.

[2] ***https://www.ifso.nz/news-and-publications/media-releases/non-disclosure-can-ruin-your-life/***

	In another case, a consumer renewing her car insurance policy failed to declare that a new partner with criminal convictions had become a regular driver. When the partner wrote off the car, the insurance company declined the claim for non-disclosure and then cancelled her household insurances because of the partner's presence in the house. As a result of not having house insurance, the bank foreclosed under the mortgage.[3]
9	Should unintentional non-disclosure (i.e. a mistake or ignorance) be treated differently from intentional non-disclosure (i.e. fraud)? If so, how could this practically be done?
	Where a consumer has acted fraudulently in relation to a significant part of a claim, the insurer has reasonable grounds to avoid the policy. Accidental or innocent non-disclosure should be treated differently from fraudulent non-disclosure. In the first instance, the duty should be on the insurer to clearly identify the information it needs to underwrite the insurance. The insurer's ability to limit any payout under a policy should be constrained, taking into account whether it has fulfilled its duty and whether the consumer has taken reasonable care to answer questions.
10	Should the remedy available to the insurer be more proportionate to the harm suffered by the insurer?
	Remedies available to the insurer should be more proportionate to the harm suffered by the insurer and reflect the extent to which it's clearly identified the information it needs to underwrite the insurance.
11	Should non-disclosure be treated differently from misrepresentation?
	In situations where misrepresentation is proven to be negligent, there are arguable grounds for it be treated differently.
12	Should different classes of insureds (e.g. businesses, consumers, local government etc.) be treated differently? Why or why not?
	Our primary concern is with consumers. Consumers are in a significantly weaker bargaining position than business or local government. Specific consumer safeguards are therefore required to ensure they are treated fairly.
13	In your experience, do insurers typically choose to avoid claims when they discover that an insured has not disclosed something? Or do they treat non-disclosure on a case-by-case basis?
	Evidence from complaints suggests insurers typically choose to avoid claims when they discover that an insured has not disclosed something. For example, we recently received a complaint from an elderly man whose insurance claim for storm damage to his home was denied because he had referred to the part of his home that was damaged as a "granny flat". The man explained to his insurer the "granny flat" was,

[3] Karen Stevens quoted in ***https://www.nzherald.co.nz/personal-finance/news/article.cfm?c_id=12&objectid=3605351***

	in fact, part of his main residence but it took three months to resolve the issue.
14	What factors does an insurer take into account when responding to instances of non-disclosure? Does this process vary to that taken in response to instances where the insurer discovers the insured has misrepresented information?

Regarding conduct and supervision

15	What do you think fair treatment looks like from both an insurer's and consumer's perspective? What behaviours and obligations should each party have during the lifecycle of an insurance contract that would constitute fair treatment?
	The essential requirements for a fair market are that: • Consumers can easily compare products and services, and make informed choices. • Price information is transparent. • The terms of insurance contracts are clear and fair. • Consumers have access to effective dispute resolution. • There is an active regulator responsible for monitoring the market. These requirements are not being met in the current market. In addition to changes to disclosure provisions discussed above, other key changes needed are: • Making cover clearer: consumers' ability to navigate the market would be signficantly improved if insurers were required to provide one-page summaries of core policy features. • Improving price transparency: premium costs need to be transparent, not only at the time a policy is taken out but also at renewal. Consumer choice would be improved if insurers were required to display the previous year's premium in renewal notices. • Fixing unfair terms: as discussed below, insurers should be subject to the Fair Trading Act ban on unfair terms in consumer contracts.
16	To what extent is the gap between ICP 19 and the status quo in New Zealand (as identified by the IMF) a concern?
	This is a major concern. As the IMF report makes clear, key areas of the market where there may be misconduct are effectively unregulated. Industry self-regulation and the Fair Insurance Code are not sufficient to ensure consumers are adequately protected. In relation to dispute resolution schemes, we've previously commented on the problems for consumers caused by having four schemes. In Australia, legislation was passed this year to create the Australian Financial Complaints Authority (AFCA). AFCA will replace the three financial dispute schemes in Australia. The UK also has a single dispute resolution body, the Financial Ombudsman Service, covering the

financial system.

It is also important that dispute resolution processes are transparent. To this end, we believe disputes schemes should be required to publish their decisions. In the UK, the Financial Ombudsman Service is required to publish all determinations unless there are good grounds for withholding them.

17 Does the lack of oversight over the full insurance policy 'lifecycle' pose a significant risk to purchasers of insurance?

In our view, the lack of oversight poses a significant risk to purchasers of insurance. Insurance is a major and growing household cost. The lack of oversight exposes consumers to a high risk they will be sold products that aren't appropriate and do not meet their needs.

This risk is exacerbated by commission-based sales. Where sales are incentivised by commission payments, consumers are more likely to be sold products they don't need, leaving them financially worse off.

Research by the Financial Markets Authority (FMA) has shown the influence of commission payments on the behaviour of life insurance brokers. Evidence from the Australian banking inquiry also starkly highlights the risks to consumers from commission-based selling.

18 What has your experience been of the claims handling process? Please comment particularly on:

- timeliness the information from the claims handler about:
  - timeframes and updates on timeframes
  - reasons for declining the claim (if relevant)
  - how you can complain if declined
- The handling of complaints (if relevant)

Our 2016 insurance satisfaction survey found consumers' experience of the claims process varied depending on the type of insurance.

For travel insurance, only 54 percent of respondents were very satisfied with the claims process.

For house insurance, 63 percent were very satisfied. The figure was 69 percent for contents insurance.

Satisfaction with the health insurance claims process was higher (78 percent).

The highest satisfaction rate was for car insurance claims (82 percent).

We also conducted a survey in 2012 of our Christchurch members to ask about the performance of both the Earthquake Commission and insurance companies in handling claims. Of the 321 members who provided information about their insurer, only 46 percent were fairly or very satisfied with the company (see table 1 below).

While 60 percent of respondents said they had been given a description of the overall claims process, just 27 percent had been kept informed about timeframes; 32 percent had received an approximate timeframe; and less than half (48 percent) had been assigned a case manager.

Poor communication was among the main problems reported. Many respondents said they found it difficult to get answers from their insurance company. Problems with claims

managers were also reported. One respondent stated: “We have had four claims managers ... essentially we have to run through the same things each time we speak to them.”

Table 1: Results of Christchurch member survey

INSURANCE COMPANIES	
INFORMATION	**%**
Description of the overall process	60
Approximate timeframe	32
Kept informed of timeframes	27
Assigned a case manager	48
SATISFACTION	**46**

Table guide: Shows overall satisfaction and % of respondents who stated they had received a description of the overall process, an approximate timeframe, were kept informed of timeframes, and had been assigned a case manager.

19 Have you ever felt pressured to accept an offer of settlement from an insurance company? If so, please provide specific examples.

We have had complaints from consumers who felt pressured to accept an offer of settlement. In a recent case, a consumer contacted us about a settlement he was offered for a contents insurance claim. He said he felt pressured to accept the offer, which would not cover the significant legal costs he had incurred in fighting to have his claim accepted.

The consumer in this case was also required to sign a confidentiality agreement when he accepted the offer. We believe the use of confidentiality agreements is common in these situations. The agreements effectively prevent consumers from raising issues in a public forum and mean insurers’ decisions are not open to scrutiny.

20 When purchasing (or considering the purchase of) insurance, have you been subject to ‘pressure sales’ tactics?

We are aware of situations where consumers have been subject to pressure sales.

In a recent complaint to our office, a 25-year-old consumer with no dependents was sold a life insurance policy by his bank when he signed up for Kiwisaver. He only purchased the product because he was led to believe it was required as part of joining Kiwisaver.

Evidence from our latest banking satisfaction survey shows 27 percent of bank customers reported getting unsolicited offers from their bank in the past year. Life insurance was among the most commonly offered products. Only 21 percent of consumers offered the product considered it was suitable for them.

21 What evidence is there of insurers or insurance intermediaries mis-selling unsuitable insurance products in New Zealand?

We have received complaints from consumers who have been missold insurance.

Payment protection insurance (PPI) features among these complaints.

In one case, a consumer was told PPI was compulsory when making a purchase on credit from Smiths City. After we contacted the store, it advised the salesperson was "overzealous" and confirmed the insurance wasn't compulsory.

In another case, a consumer was paying for credit card repayment insurance but had very limited ability to make a claim under the policy because they were over 65 and the policy restricted cover for anyone over this age.

Complaints to other organisations provide additional examples of insurance being missold.

In a 2015 case heard by IFSO, a couple complained they'd paid $14,000 over 13 years for credit card repayment insurance they didn't know they had.

In 2011, eFeMCee Finance was fined $55,000 for a variety of charges. One of the charges was for unreasonably requiring borrowers, including beneficiaries, to take out PPI.

We are also concerned about the sale of add-on insurance through car dealers. These insurance products often provide consumers with very little benefit but may be presented as a requirement when vehicles are bought on credit.

22 Are sales incentives causing poor outcomes for purchasers of insurance? Please provide examples if possible.

Recent research by the FMA has highlighted the problems with and risks for consumers from commission-based sales in the life insurance industry.

Comments from our 2016 life insurance survey provide further examples of poor consumer outcomes:

- *"It seems to have been a great way for advisers to boost their income by getting clients to 'upgrade' their policies and I and my husband were victims of this … my adviser told me … I would be best to move my life cover – he would save me quite a lot on premiums. I was busy with life, study, career, kids and did as advised – the initial premiums were of course less but now my life cover is nearly twice the price and my husband's three times! I now just tell those advisers when they call to give me a heads up on 'new improved' policies that I am happy doing my own research and will decide my own cover."*
- *"I have recently discovered that I have been over paying on my insurance for years and was sold two different kinds of life insurance policies. I've been over insured for at least 15 years. Very disappointing."*
- *"I stupidly got conned by a broker and changed [insurers] (being told we would save $100 per month!!) WRONG! We saved $20 per month and then, after the first year, our premiums cost us nearly $40 per month extra!! Wish we hadn't changed provider."*

The extent of problems related to other insurance products has not been investigated by regulators. However, evidence of consumer detriment is apparent from cases that have been prosecuted:

- In 2016, Youi was charged for a variety of misleading practices used to sell policies to people who only contacted it for a quote.[4]
- In 2010, Beneficial Insurance Limited sold credit contract indemnity policies to consumers to cover motor vehicle and personal loan payments in the event of redundancy, sickness or injury. However, consumers only found out the insurer would not repay the full credit contract when their claims were processed. The company agreed to reimburse affected consumers in an out of court settlement with the Commerce Commission.[5]
- In 1999, Nelson car dealer Autoworld Richmond was fined after advertising a three-year guarantee with second hand car purchases. The Commerce Commission found that car buyers didn't get a guarantee but instead received a mechanical breakdown insurance policy with excess fees, claim limits and exclusions.[6]

23	Does the insurance industry appropriately manage the conflicts of interest and possible flow on consequences that can be associated with sales incentives?
	The insurance industry does not appropriately manage the conflicts of interest and flow on consequences that can be associated with sales incentives. The FMA's recent investigation found life and health insurance companies spent $34 million over two years on overseas trips and other soft-dollar commissions for sales representatives.[7] These soft dollar commissions directly influence adviser behaviour, the investigation concluded.

Regarding exceptions from the Fair Trading Act's unfair contract terms provisions

24	Are you aware of instances where the current exceptions for insurance contracts from the unfair contract terms provisions under the Fair Trading Act are causing problems for consumers? If so, please give examples.
	Insurance policies that contain unfair terms are causing problems for consumers. One of our main concerns is with "junk" insurance or insurance that is expensive to buy but offers little or no real benefits to consumers. In any other industry, the types of terms used in these policies would be open to challenge as unfair. Mechanical breakdown insurance is one example of "junk" insurance. Most mechanical breakdown policies contain long lists of exclusions, stringent service requirements and often fail to provide more protection than a consumer has under the Consumer Guarantees Act. The policy terms can signficantly privilege the supplier over the consumer and are not reasonably necessary to protect the insurer's legitimate interests. For example, the insurer may decline a claim if the consumer has not complied with the policy's service requirements, regardless of whether these requirements are reasonable.

[4] http://www.comcom.govt.nz/the-commission/media-centre/media-releases/2016/youi-insurance-fined-320000-for-misleading-sales-techniques
[5] http://www.comcom.govt.nz/the-commission/media-centre/media-releases/detail/2010/insurance-company-to-refund-consumers-over-partial-payments
[6] ***http://www.comcom.govt.nz/the-commission/media-centre/media-releases/1999/firstfairtradingcas***
[7] ***https://fma.govt.nz/assets/Reports/Conflicted-remuneration-in-the-life-and-health-insurance-industry.pdf***

Section 46L of the Fair Trading Act prevents any challenge to these terms. This exemption effectively incentivises insurers to sell junk products because they have no obligation to ensure the policies contain fair terms.

Credit card repayment insurance and funeral insurance are other examples of what we consider to be junk insurance.

Credit card repayment insurance is promoted as "peace of mind" card debt will be repaid in the event of sickness or redundancy. However, there are significant limitations with the cover. For example, payouts for redundancy or temporary disability can be capped at 10 to 15 percent of the card debt.

Policies also limit cover if the consumer is in part-time or casual work, or self-employed. There can also be limits on cover once the insured reaches age 65. Given the significant limitations of card repayment insurance, these policies are unlikely to be a good choice for most consumers.

In regard to funeral insurance, the provisions of these policies mean the consumer can pay more in premiums than the policy is worth. Our 2016 review of funeral insurance found five policies that required premiums to be paid until the insured died. In one case, this meant a 64 year old man taking out a $10,000 policy could end up paying $20,000 in premiums by age 84.[8]

There is no legitimate reason for this as insurers have already capped their liabilty under the policy. Requiring the consumer to continue to pay premiums in excess of this cap is not only unfair but tantamount to unconscionable behaviour, which exploits vulnerable, elderly consumers.

25 More generally, are there terms in insurance contracts that you consider to be unfair? If so, why do you consider them to be unfair?

There are terms in insurance contracts that we consider to be unfair. We have provided examples below. These terms create a significant imbalance in rights, are not reasonably necessary to protect the interests of the insurance company and would cause detriment to the insured if the insurance company relied on them.

- Under some insurance policies, the insurer reserves the right to cancel the policy at any time by providing notice to the insured. There is no requirement for the insurer to justify why it has cancelled the policy. The use of these terms could make it difficult for a consumer to arrange a new policy. Similar clauses have been found to be potentially unfair in the UK.[9] A 2013 investigation by the UK's Financial Conduct Authority resulted in an insurer changing terms allowing it to cancel a consumer's home or car insurance policy at any time, with seven days' notice. The insurer agreed to change the term to restrict its discretion to cancel policies for valid reasons only.
- Insurance policies may also contain terms that prevent the insured from cancelling a policy and receiving a refund of their premium (unless it is within seven days of taking out the policy). We have found these terms in travel and motor vehicle insurance policies. We do not consider there is a legitimate reason for the insurer to retain the full premium when it is no longer providing cover.
- Clauses in insurance policies may require the insured to follow the defence recommendations of the insurer's solicitor in the event of a claim against the insured

[8] ***https://www.consumer.org.nz/articles/funeral-insurance***
[9] ***https://www.fca.org.uk/publication/undertakings/esure.pdf***

by another person. This clause doesn't appear to leave room for the customer to raise concerns in the event they're unhappy with the lawyer's conduct or disagree with their recommendations. A European Court of Justice ruling has held that any provisions of a contract that detract from, or qualify in any way, the freedom to choose a lawyer, cannot be upheld. [10] We consider these terms unfair.

- Under house and contents policies, insurers retain the right to charge multiple excesses for one related event. In some situations, the cost of multiple excesses can exceed the cost of the claim. In our 2016 insurance satisfaction survey, several comments were made about the practice of charging multiple excesses, including:

  "Son had a party at our house unknown to us. Multiple damages but each item had an excess rather than an event excess."

  "Claim for wet carpet due to water leak. AMI wanted to split this minor claim into house and contents – 2 excesses would have applied … Eventually they saw things my way and one claim but [meant] I was left having to do the repair work."

- Unilateral changes by insurers to policies also raise issues of fairness. Not only can these changes be made at any time, they may not be made sufficiently clear to consumers. For example, respondents in our 2016 survey commented on the introduction of limitations on cover for carpet under house and contents insurance policies:

  "The sudden appearance of a new carpet clause is very miserable, that they won't replace all but just the affected area."

  "Very disappointed with a claim involving stains to a carpet in the living room that is open to a dining and other living area via double pocket doors – it is currently carpeted as one big room with flow through carpet, yet they were only prepared to replace carpet up to the pocket doors, so we would end up with a join and most likely different carpet in each of the rooms."

- The exclusions in section 46L of the Fair Trading Act also mean insurers can deny claims for reasons that are unfair. In a recent complaint we received, a consumer was unable to claim under his car insurance policy for an accident, which was not his fault, because the insurance company was unable to contact the person who caused the accident. The insured had obtained the contact details of the person who caused the accident but the person did not answer their phone when contacted by the insurer so the company would not pay out.

26	Why are each of the specific exceptions outlined in the Fair Trading Act needed in order to protect the "legitimate interests of the insurer"?
	In our view, the exceptions are not needed to protect the legitimate interests of the insurer. We do not think there is a valid reason for exempting insurance companies from the provisions of the Fair Trading Act when no other industry is exempt. We are strongly in favour of the exceptions being removed.
27	What would the effect be if there were no exceptions? Please support your answer with evidence.

[10] ***https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62008CJ0199***

The effect would be that insurers would be required to provide fair terms, benefitting consumers and the market. If a term is genuinely required to protect the insurer's legitimate interests, then it could still be included in the policy.

Fairer terms would result in a decrease in complaints, improve customer satisfaction and the relationships between consumers and insurance companies. It would also result in greater trust and confidence in the market.

Requiring insurance companies to comply with the unfair terms provisions would also address inconsistencies in the level of protection provided across standard form contracts.

Australia is already moving to amend its laws to make general insurance contracts subject to the unfair terms provisions.[11] Legislation here needs to keep pace.

Regarding difficulties comparing and changing providers and policies

28 Is it difficult for consumers to find, understand and compare information about insurance policies and premiums? If so, why?

It is difficult for consumers to find, understand and compare information about insurance policies and premiums.

Comments from our 2016 insurance satisfaction survey highlight the problems consumer experience:

- *"I'm with AMI as it's too hard to compare prices with other insurers. I suspect I'm paying too much but don't know how to find out prices for alternatives. None of them publish them on the website. Also too difficult to compare the cover."*
- *"It really is quite impossible to compare any insurance product with constantly changing market offerings, ultimately measured only by response to honest claims."*
- *"Hate the fine print. Too hard to understand especially when trying to compare one with another."*
- *"…the effort of changing, checking prices etc, seem too difficult."*
- *"I hate the way insurance companies often make it difficult to compare premiums by not adding GST until the end or mainly showing you the per month price."*
- *"Am completely uncertain and have no immediate way of making comparative assessment!"*
- *"[My insurer] rolls over our policy every year, premiums are increased and yet we have never been contacted as to whether we have enough cover etc. Also there has not been a hard copy of insurance policy provided therefore if there are adjustments to coverage or an adjustment to excess who would know."*
- *"Often many 'amendments' to the existing policy at the anniversary of renewal. Too many bits of paper at renewal. One has to search hard to find sum insured, or to find*

[11] ***https://treasury.gov.au/consultation/c2018-t284394/***

	if the premium is Direct Debited or requires an online bank transfer. Pain in the neck!"
29	Does the level of information about insurance policies and premiums that consumers are able to access and assess differ depending on the type of insurance? E.g. life, health, house and contents, car insurance etc.
	Our survey research has found differences in consumers' ratings of the clarity of insurance cover. Just 57 percent of respondents in our 2016 survey were very satisfied with clarity of their car insurance cover. However, satisfaction dropped to 39 percent for life insurance. Figures for other insurances were: • House: 49 percent very satisfied • Contents: 51 percent very satisfied • Health: 52 percent very satisfied.
30	What barriers exist that make it difficult for consumers to switch between providers?
	There are several barriers that make it difficult for consumers to switch between providers: • Complex, lengthy and sometimes incomprehensible policy documents. • Lack of an independent comparison website meaning consumers need to invest considerable time and effort in comparing providers. • Insurers declining to take on new customers. Following the Canterbury earthquakes, some consumers have been unable to switch because insurance companies have not been providing new policies. A respondent to our 2016 survey stated: *"Because we live in Christchurch, I feel as though I cannot shop around to other insurers for our home and contents insurance. I feel as though I'm stuck with State, and that they could charge almost anything they like, and I would have no option but to pay it."* • For some types of insurance, such as health insurance, consumers may have limited options to switch as they get older. As a respondent to our 2016 survey stated: *"My major beef is that as you get older and your income declines the premiums rise every year. When we were younger we did not claim for years but now it is getting almost beyond our means. We cannot change companies as they will not accept existing conditions … So we are stuck."*
31	Do these barriers to switching differ depending on the type of insurance? E.g. life, health, house and contents, car insurance etc.
	See comments on previous question.
32	What, if anything, should the government do to make it easier for consumers to access information on insurance policies, compare policies, make informed decisions and switch between providers?
	As mentioned above, we would like insurers to be required to provide a simple one-page policy summary in enable consumers to compare core features. We also support the development of an independent comparison site to make it easier for

	consumers to compare policies. In addition, it is important that complaints are published by disputes schemes to help consumers make informed decisions about insurers.

Regarding third party access to liability insurance monies

33	Do you agree that the operation of section 9 of the Law Reform Act 1936 (LRA) has caused problems in New Zealand?
	We agree with Law Commission's analysis of the problem and broadly support its recommendations.
34	What are the most significant problems with the operation of section 9 of the LRA that any reform should address?
35	What has been the consequence of the problems with section 9 of the LRA?
36	If you agree that there are problems with section 9 of the LRA, what options should be considered to address them?

Regarding failure to notify claims within time limits

37	Do you agree that the operation of section 9 of the Insurance Law Reform Act 1977 (ILRA) has caused problems for "claims made" policies in New Zealand?
38	What has been the consequence of the problems with section 9 of the ILRA?
39	If you agree that there are problems with section 9 of the ILRA, what options should be considered to address them?

Regarding exclusions that have no causal link to loss

40	Do you consider the operation of section 11 of the Insurance Law Reform Act 1977 (ILRA) to be problematic? If so, why and what has been the consequence of this?

41	The Law Commission proposed reform in relation to exclusions relating to the characteristics of the operator of a vehicle, aircraft or chattel; the geographic area in which the loss must occur; and whether a vehicle, aircraft or chattel was used for a commercial purpose. Do you agree that these are the areas where the operation of section 11 of the ILRA is problematic? Do you consider it to be problematic in any other areas?
42	If you agree that there are problems with section 11 of the ILRA, what options should be considered to address them?

Regarding registration of assignments of life insurance policies

43	Do you agree that the registration system for assignment of life insurance policies still requires reform?
44	If you agree that there are problems with the registration system for assignment of life insurance policies, what options should be considered to address them?

Regarding responsibility for intermediaries' actions

45	Do you consider there to be problems with the current position in relation to whether an insurer or consumer bears the responsibility for an intermediary's failures? If possible, please give examples of situations where this has caused problems.
46	If you consider there to be problems, are they related to who the intermediary is deemed to be an agent of? Or the lack of a requirement for the intermediary to disclose their agency status to the consumer? Or both?
47	If you consider there to be problems, what options should be considered to address them?

Regarding insurance intermediaries – Deferral of payments / investment of money

48	Do you agree that the current position in relation to the deferral of payments of premiums by intermediaries has caused problems?
49	If you agree that there are problems, what options should be considered to address them?

Other miscellaneous questions

50	Are there any provisions in the six Acts under consideration that are redundant and should be repealed outright? If so, please explain why.
51	Are there elements of the common law that would be useful to codify? If so, what are these and what are the pros and cons of codifying them?
52	Are there other areas of law where the interface with insurance contract law needs to be considered? If so, please outline what these are and what the issues are.
53	Is there anything further the government should consider when seeking to consolidate the six Acts into one?

Other comments

	We welcome any other comments that you may have.
	We are conducting a further satisfaction survey of insurance providers later this year. We would be happy to share key results of our survey with the ministry.