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5 November 2004

Secretariat
Ministerial Council on Consumer Affairs
Department of the Treasury
Langton Crescent
CANBERRA ACT 2600
productsafety@treasury.gov.au

Dear Sir/Madam

Review of the Australian Consumer Product Safety System

The Insurance Council of Australia (ICA) welcomes the Ministerial Council on Consumer Affairs' (MCCA) Review of Australian Consumer Product Safety System.

ICA supports the Review's stated objectives for Australia's product liability system and believes that all the options for reform have merit. While we do not intend to make a formal submission at this time, we believe it is important to highlight certain particular issues related to general insurance and we look forward to participating in future discussions.

ICA is concerned that the MCCA should give consideration to the impact of any changes to the product liability system, and specifically the Review's options for reform, on the availability and affordability of product liability insurance in Australia. Many of ICA's members sell product liability insurance, either as a stand-alone product, or together with another product, such as Public Liability Insurance, or as part of a combined business liability package.

At the heart of the insurance industry's interests is the need for certainty in the regulatory environment across jurisdictions. For insurance to be effective in its risk taking role and for insurers to provide confidence that consumers will be compensated for their loss, they must be able to accurately assess and price potential risks. As such the ideal regulatory environment is one that is stable, predictable and consistent across jurisdictions. This allows insurers to forecast and price risk accordingly and minimises the destabilising effects that can come from forum shopping.

Product liability insurance is fundamental to the achievability of Objective 4 – "Consumer redress and compensation" as stated in the Discussion Paper. Product liability insurance covers injury and property damage to third parties caused by products manufactured or sold by the insured. ICA strongly supports a regulatory environment that enables insurers to offer product liability cover to businesses that manage their risks appropriately, at an affordable price. Factors that insurers take into account when writing and pricing product liability insurance include past performance (an experience rating); that is, the claims history and/or safety record of the manufacturer, current safety standards and expected future claims.

Insurance against claims made by consumers for compensation is fundamental to the success of the current consumer product safety system because it allows businesses to manage their risks and provides a mechanism for businesses to avoid financial collapse in the event that they are found liable. In achieving such a regulatory environment, regard should be had to the compensation culture that has been developing in Australia in recent years. High profile cases demonstrate that consumers are very willing to claim for damage caused by a faulty or defective product.

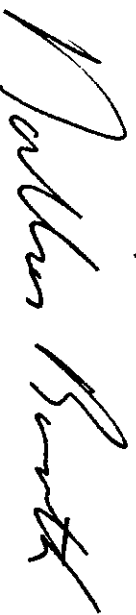
Product liability insurance is also extremely important in helping the current system achieve Objective 3 – "Removing Unsafe Products from the market". Special policies extend to product guarantee, recall or tampering, and even to insure net profit against malicious tampering of a product. This product is usually offered to businesses that have an appropriate level of risk management. It assists such businesses in meeting the community's product safety standards, whilst protecting such businesses from severe or disastrous long-term financial impacts on the business.

ICA believes that the interests of individuals in safety and in having any loss compensated must also be weighed against the interests of insureds and their insurers in a regulatory environment that assists them in managing those risks.

As it is difficult to estimate the potential costs and benefits of the options for reform in the absence of more detailed information on how the options would be implemented, ICA would appreciate the opportunity to comment on the proposed reforms once the method of their implementation is developed.

Please do not hesitate to contact us should you wish to discuss any aspect of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read "Dallas Booth", written in a cursive style.

Dallas Booth
Deputy Chief Executive