
The Tort Reform debate continues

31 August 2006: Still raging is the debate surrounding tort reform and its impact on public liability pricing. Signs in the market have shown that insurers may be returning to times of premium cost cutting, or quoting risks at below the technical rate in order to win or retain market share.

Since reforms to tort law in 2002, there have been opposing views within the legal profession, insurance industry and government on the issue. Recently, the debate has been around public liability pricing.

A recent article in the Australian Financial Review (AFR) stated that over the insurance renewals period 'pricing for public liability insurance fell about 20 percent – and in some cases more than 30 per cent – as the impact of reforms to tort law continued to work through the market.'

Paul Muir, Head of Portfolio and Risk Management, Vero Insurance Limited (Vero) believes rate cutting and quoting below technical prices can exceed the benefits that tort reform brings.

"However, there are a number of cases in respect of the new reforms still going through the court process. It's still too early to determine the full benefits of tort reform.

Insurers need to take a longer term view of pricing rather than a cyclical approach. A longer term view benefits the customer while helping them with consistent pricing, service and therefore value," Mr Muir said.

"It is not sustainable for insurers to continue to engage in cost-cutting then inflating rates when adverse liability events occur. A liability portfolio by its

inherent nature is subject to latent events such as silicosis and other emerging risks.”

Since the 2002 tort reforms, payouts on public liability insurance have fallen to the lowest level in over a decade with average claim payouts falling by more than 60 percent in NSW and 80 per cent in Victoria (AFR). However, this reduction in claims payouts does not justify the level of rate cuts occurring.

The rates debate goes even further than tort reform. Insurers must also account for emerging risks such as pandemics. In a recent edition of an industry magazine, Promina Chief Executive Michael Wilkins commented that an outbreak of avian flu would impact the insurance industry in terms of operational risk and claims exposure risk.

He continued by stating that operational risk is a challenge that all businesses, insurance and non-insurance will face in the event of a pandemic, with claims exposure for insurers depending on the scale of the event. Mr Wilkins said customers could potentially claim on life insurance, business interruption, travel, transport, cargo insurance and even on general products and liability lines.

“There is a need to find a pricing balance between the impacts of tort reform and emerging risks. Insurers should focus on providing a fair pricing approach for the customer, which is sustainable in the longer term,” Mr Muir said.

Editor’s note

Vero Insurance Limited (“Vero”) is a subsidiary of the Promina Group Limited, which is one of the top 50 companies listed on the Australian Stock Exchange. Vero, formerly Royal & Sun Alliance Insurance Australia Limited, has for many years been offering highly specialised solutions to its large range of customers.



Vero is one of Australia's largest intermediated general insurance companies and has 19 branches across Australia, providing a suite of quality specialised risk management products and services through brokers, corporate partners and risk managers.

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