

Notice and Request and Comment on Internet Insurance Offerings in Québec

The Internet has become an indispensable part of daily life. Now, it can even be accessed from tablet computers and smart phones. Electronic commerce is booming, and web-based insurance offerings are also posting robust, albeit slightly slower, growth.

Given this rapid pace of development, the *Autorité des marchés financiers* (the “AMF” or the “Authority”) undertook a review of the on-line distribution of insurance products in order to better identify and understand this activity and its associated issues.

The AMF is launching this consultation in order to share its findings and seek input from stakeholders on the issues raised. The AMF hopes that this consultation will lead to improvements to the current regulatory framework so that it adequately protects consumers, regardless of the means they use to purchase an insurance product.

On February 6, 2012, the Canadian Council of Insurance Regulators (CCIR) released a related issues paper entitled *Electronic Commerce in Insurance Products*, prepared by a working committee led by the AMF. Although both documents examine similar issues, the AMF consultation paper approaches some of the issues from the perspective of the Québec regulatory landscape.

Comments

Comments regarding this consultation must be submitted in writing, preferably by e-mail, no later than **May 24, 2012**.

Please note that comments received will be posted on the AMF website, unless otherwise indicated.

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February 24, 2012



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

INTERNET INSURANCE OFFERINGS IN QUÉBEC

February 2012

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INTRODUCTION

The Internet has become an indispensable part of daily life. Now, it can even be accessed from tablet computers and smart phones. Electronic commerce is booming, and web-based insurance offerings are also posting robust, albeit slightly slower, growth.

Given this rapid pace of development, the *Autorité des marchés financiers* (the “AMF” or the “Authority”) undertook a review of the on-line distribution of insurance products in order to better identify and understand this activity and its associated issues. The AMF’s preliminary work spanned several months and consisted in the following:

- Meeting with industry stakeholders;
- Analyzing the mechanics of an on-line transaction and the measures taken by insurers and firms;
- Determining the characteristics of on-line insurance offerings;
- Identifying, based on a sample, the characteristics of on-line insurance offerings by firms;
- Comparing frameworks around the world that oversee on-line insurance offerings;
- Examining the legal implications of on-line insurance offerings.

The AMF is launching this consultation in order to share its findings and seek input from stakeholders on the issues identified. Some industry participants see the current framework as restricting on-line transactions, whereas others view it as more permissive and interpret it liberally. Since this framework was not developed at a time when on-line transactions were common practice, it only seems logical that it be clarified.

Therefore, the AMF hopes that this consultation will lead to improvements to the current regulatory framework so that it adequately protects consumers, regardless of the means they use to purchase an insurance product.

In addition, the AMF is providing financial support, through the Education and Good Governance Fund, to a university-led project studying similar issues related to the on-line distribution of financial products and services. This project is being undertaken concurrently with the AMF’s consultation, and could bring a unique perspective to the issues discussed in this consultation paper.

Furthermore, web-based offerings of securities also raise issues warranting consideration. The Canadian Securities Administrators (CSA) is currently examining different aspects of on-line securities offerings, which may be part of a future consultation.

On February 6, 2012, the Canadian Council of Insurance Regulators (CCIR) released a related issues paper entitled *Electronic Commerce in Insurance Products*, prepared by a working committee led by the AMF. Although both documents examine similar issues, this AMF consultation paper approaches some of the issues from the perspective of the Québec regulatory landscape.

Interested parties wishing to comment on the issues noted in this consultation paper are invited to do so.

1. GROWTH IN ON-LINE DISTRIBUTION OF INSURANCE PRODUCTS

1.1 Canada

In 2010, nearly 22 million Canadians aged 16 and older, or 80%, used the Internet for personal reasons.¹ Of those, 51% purchased a good or service on-line.² The 114 million on-line orders made that year were worth just over \$15 billion. These figures are significantly higher than those recorded in 2007 (a 62% increase in orders and a 20% increase in order value).³

1.2 Québec

Significant growth has also been observed in Québec. The *Indice du commerce électronique au Québec*⁴ (index of e-commerce in Québec) shows that, in August 2011, on-line purchases by Quebecers were up nearly 15% compared with those made in August 2010. More specifically, 28% of adult Quebecers made \$661 million worth of on-line purchases in August 2011. These same purchases totalled \$576 million in August 2010.

E-commerce in financial products and services, and particularly insurance, is not the most dominant segment. Nonetheless, the distribution of insurance products on-line is also growing, and this growth is expected to continue. Although recent figures are not available for Canada, growth observed in this sector in the United States, as shown by the statistics below, supports that trend.

1.3 United States

In 2009, consumers in the United States alone made nearly 17 million on-line searches on the subject of life insurance, an increase of 15% from the previous year. During the same period, U.S. consumers requested over 2 million on-line quotes from life insurance companies.⁵

However, it is the car insurance sector where Internet use by both U.S. insurers and consumers is most widespread:

- Over 32 million car insurance quotes were obtained on-line in 2008, 15% more than in 2006.
- 2.9 million car insurance policies were purchased over the Internet in 2010, 35% more than in 2007.
- 63% of consumers who shopped around for car insurance in 2009 obtained a quote on-line.⁶

¹ Statistics Canada, *Individual Internet use and E-commerce*, The Daily, October 12, 2011, p.1.

² Id., p.3.

³ Statistics Canada, *E-commerce: Shopping on the Internet*, The Daily, September 27, 2010, p.1.

⁴ Index administered by CEFRIO (*Centre francophone d'informatisation des organisations*) (Francophone centre for computerization of organizations), which each month measures the proportion of Quebecers who make purchases on the Internet and the amounts they spend there.

⁵ *Life Insurance Searches in the U.S. Increase 15 Percent in 2009 to Reach Record Number*, www.comScore.com.

⁶ www.comScore.com.

The car insurance sector should stand to benefit from the leading advancements in technology. For example, some U.S. insurers offer consumers the possibility of completing the entire claim process using a mobile phone: Using a special application incorporating GPS technology, insureds can report an accident immediately after it occurs by sending photos of their vehicle taken with their smart phones. They can then use their phones to check the location of their vehicle and the status of repairs, and also pay the bill.

Canadian insurers, too, are starting to develop and use mobile applications for automobile and other types of insurance.

2. INTERNET INSURANCE OFFERINGS IN QUÉBEC

2.1 Website content

Insurance products were first distributed via the Internet in Québec towards the end of the 1990s. Today, most industry stakeholders use the Internet in one way or another as part of their distribution process. These stakeholders, be they certified insurance representatives, licensed insurers or firms registered with the AMF, are referred to globally as “providers” or “suppliers” in this consultation paper.

As part of its review, the AMF compiled an inventory of websites operated by providers. This exercise revealed four main activities carried out on those websites relating to the distribution of insurance:

- Communicating information to consumers;
- Obtaining a quote;
- Concluding the insurance contract;
- Providing advice.

2.1.1. Communicating information to consumers

The AMF observed that most of the websites consulted as part of its review have an information section in which the provider can give consumers various items of information.

Among other things, this section offers a description of the provider’s products and services: their main features, advantages, drawbacks, risks, coverage and exclusions. Educational information about insurance may also be posted in this section.

This is also the section that usually discloses the terms of use of the website and legal notices governing the relationship between the provider and the website user. In addition, it contains statements regarding security measures and the protection of personal information.

Finally, this section generally provides information about claim and complaint procedures, as well as information on how to contact one of the provider’s representatives.

2.1.2 Obtaining a quote

The AMF review revealed that some providers offer consumers the possibility of obtaining a quote on-line. Consumers generally have to complete several secure forms by answering questions about their identity, eligibility and rates. This service is mainly offered by damage (P&C) insurers. For example, consumers who are looking for car insurance will be asked to indicate the model of their vehicle, how often they intend to use it and whether they have filed a claim in the past. The forms are “interactive,” as the questions asked depend on the answers given: The forms have an underlying “yes or no” tree structure, the path of which is determined by the answers given by the consumer.

Once all the questions have been answered, if the consumer proves to be eligible for the product, a premium that reflects the risk he represents is usually displayed on screen. At this point, various coverages are often proposed. This has the benefit not only of offering choice, but of visually informing consumers about the factors that cause the premium to vary.

In the case of firms that present on-line quotes, it is at this step of the process that they show the premiums of the various insurers with which they deal. Consumers thus have an opportunity to compare the premiums, along with the insurers that offer them, and make their choice.

For most providers, the on-line distribution process ends with the quote. Clients are usually then invited to contact a representative by phone to conclude the contract. The provider's representative will access the database containing the information disclosed by the client and verbally complete the process with him.

2.1.3 Concluding the insurance contract

The AMF findings also showed that a small proportion of providers allow consumers to conclude the insurance contract on-line. In some cases, clients validate a form summarizing the information they have entered and then electronically accept the quote presented to them. In so doing, they determine the date on which the new policy will come into force and, if applicable, provide information about their old policy. The new policy is then sent to the client either electronically or by mail, as preferred by the client. Again, this practice is more common in the damage insurance industry.

Some providers also allow insureds to amend their policy on-line if changes requiring a policy amendment occur mid-term (replacement or storage of vehicle, addition of drivers, etc.).

2.1.4 Providing advice

The AMF's review showed that providers have teams in place behind these electronic platforms to provide technical support and advice.

In fact, insurance representatives certified by the AMF are usually available to assist consumers. They will answer their questions, or complete and close the transactions initiated on-line by clients.

If the contract is concluded on-line, some providers have the quote reviewed by a representative. Generally, the representative checks the answers to the questions relating to rates and eligibility. The representative also verifies the consistency and logic of the information given by the client (e.g., duplication of policies). If necessary, the representative contacts the client to clarify information, or if he notices mistakes or omissions that have a bearing on the calculated premium. This revision process normally means that there is a time lag between the electronic submission of the quote and the entry into force of the new policy.

2.2 Internet use by providers

2.2.1 Insurers

Of the 332 insurers registered with the AMF as at June 30, 2009, 279 (84%) have a website which they use to provide information to their insureds and to consumers in general.

Of this number, 127 insurers (38%) give consumers the opportunity to obtain a quote on-line. These include sites that merely allow consumers to request a quote and where a representative contacts them with a quote, as well as those where the process can be completed, and the quote obtained, on-line. This service is mainly offered by damage insurers (approximately 65% of damage insurers, versus 35% of insurers of persons (life and health insurers)).

Finally, a small proportion of insurers allow their clients to complete the purchase process and conclude the contract on-line. Again, this practice is more widespread among damage insurers than it is among insurers of persons.

2.2.2 Firms

A sample of 44 insurance of persons firms and damage insurance firms registered with the AMF was analyzed. The analysis showed that most of these firms (65%) have their own website or share a website with other firms on which general information about insurance is made available to consumers.

Nearly 49% of these firms allow consumers to obtain a quote from their website. Again, this percentage includes those sites that merely allow consumers to initiate a request and where a representative contacts them with a quote, as well as those where the process can be completed, and the quote obtained, on-line.

Of the websites consulted, none of the firms offer consumers the possibility of completing the purchase process on-line and sending the application form to the insurer directly from the firm's website.

3. ADVANTAGES AND RISKS FOR CONSUMERS

The distribution of insurance products via the Internet offers many advantages for providers. On-line access to insurance products is also advantageous for consumers. These benefits explain the past and expected future growth of this distribution channel.

However, any new way of doing things usually entails risks, both for providers and users, and this holds true for the on-line distribution of insurance products as well.

3.1 Advantages

3.1.1 Accessibility and independence

The Internet provides consumers with a choice of insurance products that is available at any time, wherever they may be. They do not have to book an appointment with an intermediary; they have more control over their schedule, and can save time.

The on-line distribution of insurance products also addresses the needs of new generations, for whom the Internet is a preferred means of communication.

Some consumers who are unfamiliar with the financial services field may find the idea of contacting an insurance representative intimidating. For various reasons, valid or not, they find these one-on-one meetings stressful or feel pressured to make a purchase. On-line distribution allows these consumers to avoid this human contact.

In short, the Internet gives consumers more freedom to organize their time and make their purchasing decisions.

3.1.2 Product comparison

E-commerce has the advantage of bringing a wide range of choices for the consumer together in one place; this holds true for the on-line distribution of insurance products.

Be it through a quote comparison site or by simultaneously opening windows on the sites of several insurers, the Internet provides fast, visual access to quotes from many different insurers. With the relevant information at hand (premiums, coverage, etc.), consumers can switch from one site to another and compare the products that interest them.

Besides being a standalone media, the Internet can also be used as a comparison tool that complements other means of obtaining a quote (by telephone or in person).

3.1.3 Information transparency and comprehensiveness

Internet search tools enable consumers to access a vast quantity of information. Instead of passively receiving the information from an intermediary, consumers can seek out the information on their own, with the degree of detail they desire, and with no filter.

The Internet therefore helps savvy consumers to make informed decisions.

3.2 Risks

3.2.1 Advice that is insufficient – even illegal

There is a substantial information imbalance between the consumer, who often knows little about insurance, and the insurer, who is a specialist in the subject. The intervention of intermediaries in the offer process has traditionally narrowed this gap. The intermediary advises clients, answers their questions and makes sure that they understand the product.

With the Internet, this direct, preventive and personalized advice is absent, or greatly weakened. If not remedied, this can lead to the following undesirable situations:

- Risk of an invalid contract: The consumer is misled when purchasing a product, and did not really intend to make a contractual commitment.
- Buying insurance that is inappropriate: The consumer has excessive or insufficient coverage for his needs.
- Buying an insurance product that is too expensive: Another, similar product is available on the market, but unknown to the consumer.
- Multiple insurance: The consumer already has insurance coverage for the risk in question.
- Lack of coverage: The consumer should acquire insurance, but does not.
- Biased selection of insurer: The consumer chooses an insurer based solely on the insurer's website, or pricing. The consumer does not benefit from an intermediary's opinion regarding other considerations that might influence the decision-making process, such as that insurer's customer service;
- Wealth of advice available on social media or from family, friends and others who don't have the required certificate.

3.2.2 Transaction reliability

Computer systems are not infallible. A defect in an insurer's computer network could have negative consequences:

- Failed transaction;
- Untransmitted information;
- Unauthorized alteration of a document.

3.2.3 Information security and fraud

Because it is a virtual, intangible and easily accessible media, the Internet is vulnerable. Carrying out insurance transactions on-line puts consumers' personal information at risk, and can result in damages:

- Leaking of personal information;
- Identity theft (of the insured, the intermediary or the insurer).

Moreover, consumers may be lured by enticing web offers that may appear legitimate, but which turn out to be fraudulent. Consumers must be vigilant and prudent and make sure that they check all information and offers before making any decision.

4. REGULATORY OVERSIGHT

4.1 Elsewhere around the world

The regulatory oversight of on-line distribution of insurance varies considerably from one jurisdiction to another. In some jurisdictions, oversight is practically non-existent. Others, such as the European Union, the United States and the United Kingdom, have established regulatory benchmarks to govern this particular practice.

4.1.1 European Union

In 2002, the European Union set up a framework governing e-commerce in financial services by issuing a directive that applies to all member states.⁷ This directive arose from a desire to strengthen consumer protection:

“Because of their intangible nature, financial services are particularly suited to distance selling and the establishment of a legal framework governing the distance marketing of financial services should increase consumer confidence in the use of new techniques for the distance marketing of financial services, such as electronic commerce.”⁸

The directive creates a set of obligations for the supplier and rights for the consumer, including:

- The obligation for the provider to provide specific information to the consumer prior to the conclusion of the contract:

Information about the supplier

- The identity and main business of the supplier;
- The geographical address of the supplier;
- The identity and geographical address of the supplier's representative, if applicable;
- The trade register in which the supplier is registered and his registration number;
- The particulars of the relevant supervisory authority.

Information about the financial service

- A description of the main characteristics of the financial service;
- The total price to be paid by the consumer, or the basis for the calculation of the price if the exact price cannot be indicated;
- Where relevant, notice indicating that the financial service is related to instruments involving special risks and that historical performances are no indicators for future performances;
- Any limitations of the period for which the information provided is valid;
- The arrangements for payment and for performance;
- Any specific additional cost for the consumer of using the means of distance communication.

⁷ Directive [2002/65/EC](#) of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directives [90/619/EEC](#), [97/7/EC](#) and [98/27/EC](#).

⁸ *Id.*, considering No. 5.

Information about the contract

- The existence or absence of a right of withdrawal and, where the right of withdrawal exists, its duration and the conditions for exercising it;
- The minimum duration of the contract;
- Information on any rights the parties may have to terminate the contract early or unilaterally, including any penalties imposed in such cases;
- Any contractual clause on law applicable to the distance contract and/or on competent court.

Information about redress

- Whether or not there is an out-of-court complaint and redress mechanism for the consumer and, if so, the methods for having access to it;
 - The existence of guarantee funds or other compensation arrangements.
-
- The obligation to communicate this information, as well as all the contractual terms and conditions, in good time, on paper or on another durable medium, as well as the obligation at any time during the contractual relationship, to communicate the contractual terms and conditions on paper, at the consumer's request.
 - The consumer's right, at any time during the contractual relationship, to change the means of distance communication used.
 - The consumer's right to withdraw from the contract within 14 days (or 30 days for certain life insurance products), subject to certain terms and conditions.

4.1.2 United Kingdom

The regulatory authority of the United Kingdom, the Financial Services Authority, oversees e-commerce and distance contracts by means of rules and guidance that apply to certain insurance intermediaries. The *Key Rules for General Insurance Brokers* includes the following requirements for distance contracts:

- The intermediary must provide the following information (in addition to that required for contracts that are not distance contracts) to the consumer, in good time (prior to the conclusion of the contract):
 - The proposed policy;
 - The complaint handling procedures;
 - Information about cancellation rights, if applicable;
 - Information about the benefits payable, if applicable.
- Immediately after the conclusion of the insurance contract, the intermediary must provide the consumer with the information described above in a durable medium that allows him to store and reproduce it. At any time during the contractual relationship, the terms and conditions of a distance contract must be provided to the consumer on paper, if the customer so requests it.
- During the contractual relationship, the consumer has the right to change the means of distance communication used.
- The intermediary must render easily, directly and permanently accessible to a customer the following information:

- The name of the intermediary, his geographic address and other information concerning his identity;
 - A statement that the firm is entered in the FSA Register and its FSA Register number;
 - The different technical steps to follow in order to conclude the contract;
 - The technical means for identifying and correcting input errors prior to the placing of the order.
- Prices must be clearly indicated and specify whether or not they include taxes.

4.1.3 United States

Although some states have examined the issue of e-commerce in a general way, to date, the U.S. regulatory authorities have not drawn up a specific oversight framework for the on-line distribution of insurance products.

For example, in 2000, the State of New York ruled that the selling of insurance via the Internet was no different from other insurance transactions.⁹ This provides assurance that the regulatory oversight that applies to conventional insurance transactions applies equally to transactions carried out via the Internet.

4.2 In Québec

4.2.1 General regime

The general provisions of the *Civil Code of Québec*, in particular those relating to the exchange of consents, the formation of insurance contracts, territorial and jurisdictional authorities and the general rules of evidence, apply to the distribution of insurance products on the Internet. The duties and obligations of the parties remain the same, whether the contract was entered into via the Internet or not.

Moreover, the legal value of a contract concluded on-line, in particular the fact that it may have legal effects and be admissible as evidence, is confirmed by *An Act to establish a legal framework for information technology*,¹⁰ provided that the integrity of the document is ensured.¹¹

4.2.2 *An Act respecting the distribution of financial products and services*

Some of the key provisions of *An Act respecting the distribution of financial products and services*¹² (the "Act") and its regulations clearly show that the presence of a certified representative lies at the heart of the selling of insurance products:

- 27. "Insurance representatives must **personally gather** the information that is necessary to assess a client's needs, in order to propose the insurance product that best meets those needs."
- 28. "Insurance representatives must, **before making an insurance contract**, describe the proposed product to the client in relation to the needs identified and specify the nature of the coverage offered.

⁹ *Insurance Transactions Over The Internet*, March 6, 2000; State of New York Insurance Department website.

¹⁰ R.S.Q., chapter C-1.1.

¹¹ Sections 5, 6 and 7 of *An Act to establish a legal framework for information technology*.

¹² R.S.Q., c. D-9.2.

Insurance representatives must also **indicate clearly to the client any particular exclusion of coverage, if any, having regard to the needs identified** and provide the client with the required explanations regarding such exclusions.”

- 39. “Damage insurance agents and brokers must, when renewing an insurance policy, take the **necessary steps to ensure that the coverage provided corresponds to the client’s needs.**”
- 6. Regulation 2¹³ “A representative in insurance of persons must, **before completing an insurance proposal, analyse the insurance needs with the purchaser or the insured**, the existing policies or contracts held by such purchaser or the insured, the features thereof, the name of the issuing insurers, and all other necessary elements such as the income, financial situation, number of dependents, and personal and family obligations of the purchaser or the insured. **The representative must record all such information in writing.**”
- 10. Regulation 2 “**Upon first meeting a client**, a representative must give the client a written document, such as a business card, which indicates the following ... ”
- 12. Regulation 2 “Where a representative does not meet a client personally, **he must verbally disclose** the items set out in paragraphs 1, and 3 to 5 of section 10.”

Based on these provisions, it appears that the current framework would not allow insurers or registered firms to offer transactional components (quote and conclusion of a contract) on a website. Only information could be disseminated on an insurer’s website as permitted under section 12 of the Act:

“Subject to the provisions of Title VIII, no person may act as or purport to be a representative without holding the appropriate certificate issued by the Authority.

However, a financial institution may, by giving out brochures or flyers or using direct mail or any other form of publicity, invite the public to purchase insurance products.”

As mentioned, some stakeholders interpret the current framework as restrictive with respect to on-line transactions, whereas others view it as being more permissive and open.

The selling of insurance via the Internet was still in its infancy when the Act was passed in 1998. That being the case, and given the evolution in technologies, rather than debate the uncertainty the existing framework creates, we should improve the framework and adapt it to new realities, while preserving a uniform level of consumer protection regardless of the platform used.

¹³ Regulation respecting the pursuit of activities as a representative, R.R.Q., c. D-9.2, r. 10.

5. PROPOSED FRAMEWORK

Given that the on-line selling of insurance is a relatively recent phenomenon and that the industry is undergoing a major transformation, the AMF concludes that it would not be advisable at this time to designate the Internet as a new mode of distribution that it would specifically oversee.

The AMF is of the view is that it would be preferable to adapt its regulations to allow the development of on-line insurance offerings, while ensuring that the public is protected.

That said, the AMF has identified some risks and areas of vulnerability for consumers who wish to use the Internet in order to obtain information or to purchase insurance on-line.

The consumer's protection must not be contingent on the means used to purchase a product. Whether the distribution of insurance takes place via the Internet, by phone or in person, the consumer must be protected in the same way. Consequently, the risks associated with using the Internet as a means of obtaining information about insurance, or buying it, need to be controlled.

5.1 Identity of provider

On the Internet, consumers have access to information originating from all countries and various sources. It is frequently difficult, or even impossible, to verify the validity of this information. Therefore, a consumer might have trouble determining whether the provider with which he wishes to do business is indeed registered with the AMF. In these circumstances, the consumer runs the risk of entering into a contract with a provider that is not registered with the AMF, or with a party that is simply not a provider.

To enable consumers to verify the provider's identity and, if need be, check whether the provider is registered with the AMF, the AMF proposes that certain key information be made easily, directly and permanently accessible on the websites of all providers that offer insurance products on-line.

Proposal 1:

- Providers must indicate the following information on their website home pages:
 - Legal name;
 - Geographic address;
 - Telephone and electronic contact information, so that consumers can reach them directly and easily;
 - A statement that they are registered with the AMF, including registration number and type;
 - Information on where and how consumers can file a complaint, including a link to the AMF website.

5.2 Involvement of a certified representative

This paper has mentioned the information imbalance that puts consumers at a disadvantage in the field of insurance. The Act prescribes various measures intended to remedy that imbalance. One of those measures is to require the intervention of an insurance representative when

insurance products are distributed. The only exception to that rule is the *distribution other than through a representative*, a distribution mode that applies only to a limited number of products.

The protection of consumers and their need to be guided through the process of buying insurance justify the intervention by a certified representative. As mentioned, the representative can advise clients, answer their questions and ensure that they understand the product.

However, the intervention by a certified representative may not be essential at every step of the buying process when it is carried out via the Internet (for example, it is probably not necessary that a representative personally collect information about the consumer). Still, the AMF believes that the representative should be involved when the time comes to give advice to clients and ensure that the products they have chosen suit their needs.

Advice lies at the heart of the Act. Insurance representatives are trained to advise clients adequately. They are also subject to specific oversight by the *Chambre de l'assurance de dommages* or the *Chambre de la sécurité financière*, as applicable. Therefore, if a provider is offering insurance products on the Internet, consumers should be able to contact a certified representative at any time. Whether it be to counter the imbalance in information described above, or to analyze the suitability of a product, the consumer may benefit from the representative's advice when contemplating Internet insurance offerings.

In light of the foregoing, the AMF submits the following proposals:

Proposal 2:

- Stakeholders should have input in determining the role of certified representatives in on-line insurance offerings.

5.3 Disclosure of essential information

In order to make informed insurance decisions, consumers must have access to a minimum of information. Traditionally, that information was conveyed to them proactively by an insurance representative (by telephone or in person) who guided them through their decision.

The Internet does not allow consumers to benefit from such advice in such a direct, preventive manner. To remedy this weakness, the AMF proposes that providers of on-line insurance products ensure that certain information is brought to the consumer's attention.

Proposal 3:

- The following information must be brought to the consumer's attention before he completes an application or gives the provider the information needed to complete it:
 - The type of consumer for whom the product is intended;
 - Main product features;
 - Product options and coverage, as applicable;
 - Product exclusions and limitations;
 - The total premium and other fees and expenses that the consumer will have to pay (including all applicable taxes) or, if an exact amount cannot be indicated, the basis for the calculation of the amount so that the consumer can verify it;

- In the case of a firm, the name of any insurer with which it does business and its business relationship with that insurer;
- The consumer's right of rescission or cancellation, if applicable, its duration and the procedures for exercising it;
- The existence on the market of any insurance products that may offer similar coverage;
- Any time limit on the validity of the information provided;
- A warning to consumers about the consequences of making false statements, and a warning that they may already have similar coverage under another policy.

Given how important these items are to the process of making an informed decision, consumers should confirm that they have indeed read each one. Simply disclosing all the information in its entirety and following this with an option whereby consumers confirm having read it is not enough. A step-by-step approach should be adopted.

Proposal 4:

- Providers must ensure that consumers have read each individual item of essential information.

The AMF proposes that this information be written in clear, simple language. Reproducing the insurance contract in full, at the information disclosure step, is not appropriate.

Proposal 5:

- The information made available to consumers before they complete an application must be written in clear, simple language.

On the Internet, it is the consumers themselves who complete the insurance application, or the forms used to prepare it. That process is subject to error. To prevent the consequences of such errors, the AMF proposes that the information from the application be summarized on-screen. This summary should be presented to consumers before the contract is drawn up, giving them an opportunity to validate their answers.

Proposal 6:

- Before a contract is drawn up, providers must give the consumer a summary of the information used to prepare the quote, as well as the essential information concerning the insurance product the consumer wishes to purchase.

It is essential that consumers have a copy of the contract they have concluded, for future reference, in particular. Therefore, the AMF proposes that once the on-line subscription is completed, the provider send the contract documents to the consumer on a durable medium via the Internet or by mail, at the consumer's choice. As regards technological documents, a durable medium means any medium that allows for the reproduction and storage of the document.

Furthermore, at any time after the contract is concluded, the consumer may request to receive a hard copy of the contract documents.

Proposal 7:

- For all insurance applications completed on-line, the provider must send the contract documents to the consumer on a durable medium via the Internet or by mail, at the consumer's choice. At any time thereafter, the consumer may request to receive a paper copy of these documents.

Finally, all providers must comply with the obligations contained in the Act and the regulations, regardless of the means they use to offer products and services. Consequently, any provider that offers insurance products on its website should disclose, on that site, all the information required by the Act and the regulations, such as its business relationships.

5.4 Distribution other than through a representative

Under the Act, only insurance representatives and authorized distributors may offer insurance products to the public. In the case of authorized distributors, the regime governing distribution other than through a representative authorizes only a limited number of products to be distributed.

Under this regime, a person who pursues activities in a field other than insurance may offer or sell, as an accessory, in partnership with an insurer, an insurance product which relates to the good being sold or offered. In these circumstances, the Act sets out specific obligations for both insurers and distributors.

Therefore, if a distributor offers its products via the Internet, the AMF believes that the distributor could also offer or sell the insurance that relates to that good via the Internet, provided that it complies with all the requirements set out in Title VIII of the Act.

Proposal 8:

- The distributor's website must contain the disclosures and information required under Title VIII of the Act.

Proposal 9:

- The distributor must make the distribution guide available on its website.

Proposal 10:

- The distributor must ensure that consumers have read the distribution guide before they purchase or subscribe for the insurance product.

5.5 Comparison shopping websites

The advent of the Internet has given rise to new business models and the emergence of new players, including sites where consumers can compare premiums. The consumer can submit a single application and receive quotes from several insurers, all on the same website. Currently, there are few such sites in Canada, and those that do exist deal mainly with damage insurance. However, comparison shopping sites are prevalent in the United States and in Europe, and they are gaining popularity.

The main function of these websites, namely, comparing various available coverage options, is similar to the advisory role normally played by insurance representatives. However, the manner in which these entities are remunerated, and their ownership or business relationships with insurers,

raise questions about their independence and, therefore, disclosure issues. In order to adequately protect consumers who might wish to rely on the results provided by comparison shopping sites, it is important to review the oversight of these sites.

Proposal 11:

- This consultation seeks the views of stakeholders regarding the suitability of the existing framework to comparison shopping websites.

5.6 Advertising

The Internet contains a wealth of information and advertising designed to attract consumers. The AMF is, however, of the view that a provider's website pages relating to an insurance application are not an appropriate environment for guiding consumers' choices. As such, the AMF proposes that providers be prohibited from posting advertising on the pages of their websites that relate to an insurance application.

Proposal 12:

- Providers may not place any advertising on website pages where the consumer completes an on-line insurance application.

5.7 Social media

Social media are very much in vogue. As a rule, they facilitate social interconnection. They offer users a platform where they can interact, post content and share their views, thereby creating virtual communities and a sense of belonging.

There is also a commercial purpose to social media. Consumers visit sites to express an opinion about a company or product, or to read customer reviews prior to making a purchasing decision. Consumers' opinions about a company or product are now largely influenced by peer opinions.

The insurance industry is no exception: It is increasingly leveraging social media. Insurers are using social media sites to build and maintain customer relations, as a customer service tool and for marketing purposes.

Social media can benefit both providers of insurance products and consumers. However, risks are an inherent part of this communications channel: In the realm of social media, the barrier between consumers and professionals is thin and the "social" component clouds the issue by establishing a relationship of trust. Some professionals could take advantage of the consumer's vulnerability, and often that leads to issues of conflict of interest and disclosure, in particular.

Social media are a form of communication like any other. The AMF is therefore of the view that the current legislative and regulatory framework should apply. Consequently, rules pertaining to, in particular, ethics, advertising, suitability and file record-keeping, are applicable to social media use.

Proposal 13:

- Insurers and firms should adopt social media policies and procedures to be able to monitor the content that they or their representatives post on-line and to ensure compliance with current regulations.

CONCLUSION

The proposals set out in this consultation paper, with the exception of those pertaining to premium comparison websites, are intended to ensure compliance with the existing regulatory framework, even where the insurance is offered via the Internet. As mentioned, consumers should benefit from the same protection, regardless of the means of communication chosen.

These proposals should mitigate the risks identified earlier. They should help consumers make informed decisions and obtain the advice that they are entitled to receive.

Providers would also benefit from these new measures, most of which are already in place for many providers. Applying industry-wide standards would enable the industry to scale up and would maintain its credibility, without those standards being overly constraining or onerous. At the same time, such measures would help underpin the validity of insurance contracts concluded on-line by fostering informed consent by the purchaser and thus a common will between the parties.

Finally, in the event that these proposals are implemented, given the speed with which e-commerce is evolving, regular reviews of the proposed oversight regime would be needed to ensure that it remains relevant and up to date.

All interested parties are invited to comment on the proposals presented in this consultation paper and to make any additional comments that could help achieve the goal of protecting consumers while allowing Internet insurance offerings to evolve.

APPENDIX 1 - PROPOSALS

Proposal 1:

- Providers must indicate the following information on their website home pages:
 - Legal name;
 - Geographic address;
 - Telephone and electronic contact information, so that consumers can reach them directly and easily;
 - A statement that they are registered with the AMF, including registration number and type;
 - Information on where and how consumers can file a complaint, including a link to the AMF website.

Proposal 2:

- Stakeholders should have input in determining the role of certified representatives in on-line insurance offerings.

Proposal 3:

- The following information must be brought to the consumer's attention before he completes an application or gives the provider the information needed to complete it:
 - The type of consumer for whom the product is intended;
 - Main product features;
 - Product options and coverage, as applicable;
 - Product exclusions and limitations;
 - The total premium and other fees and expenses that the consumer will have to pay (including all applicable taxes) or, if an exact amount cannot be indicated, the basis for the calculation of the amount so that the consumer can verify it;
 - In the case of a firm, the name of any insurer with which it does business and its business relationship with that insurer;
 - The consumer's right of rescission or cancellation, if applicable, its duration and the procedures for exercising it;
 - The existence on the market of any insurance products that may offer similar coverage;
 - Any time limit on the validity of the information provided;
 - A warning to consumers about the consequences of making false statements, and a warning that they may already have similar coverage under another policy.

Proposal 4:

- Providers must ensure that consumers have read each individual item of essential information.

Proposal 5:

- The information made available to consumers before they complete an application must be written in clear, simple language.

Proposal 6:

- Before a contract is drawn up, providers must give the consumer a summary of the information used to prepare the quote, as well as the essential information concerning the insurance product the consumer wishes to purchase.

Proposal 7:

- For all insurance applications completed on-line, the provider must send the contract documents to the consumer on a durable medium via the Internet or by mail, at the consumer's choice. At any time thereafter, the consumer may request to receive a paper copy of these documents.

Proposal 8:

- The distributor's website must contain the disclosures and information required under Title VIII of the Act.

Proposal 9:

- The distributor must make the distribution guide available on its website.

Proposal 10:

- The distributor must ensure that consumers have read the distribution guide before they purchase or subscribe for the insurance product.

Proposal 11:

- This consultation seeks the views of stakeholders regarding the suitability of the existing framework to comparison shopping websites.

Proposal 12:

- Providers may not place any advertising on website pages where the consumer completes an on-line insurance application.

Proposal 13:

- Insurers and firms should adopt social media policies and procedures to enable them to monitor the content that they or their representatives post on-line and to ensure compliance with current regulations.