



**AUTORITÉ  
DES MARCHÉS  
FINANCIERS**

## **Internet Insurance Offerings in Québec**

Presentation of Consultation  
Findings and Orientations

April 2015

This report was prepared by the *Autorité des marchés financiers*.

It presents the findings of the consultation on Internet insurance offerings and the orientations of the *Autorité des marchés financiers*.

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In this report, where the context permits, the masculine gender includes men and women.

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## INTRODUCTION

The Internet has become an indispensable part of daily life. It can be accessed from a variety of platforms, including tablet computers and smart phones, and can be used almost anywhere. Electronic commerce is booming, and web-based insurance offerings are no exception.

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 fully identify and better understand this activity and its associated issues.

During the course of its work, the AMF noted the existence of **differing viewpoints** on the interpretation to be given to the existing regulatory framework, as regards the distribution of insurance products via the Internet and the on-line transaction process.

While some industry participants see the current framework as restrictive, with the obligation to follow its rules to the letter, others interpret it more liberally, with the possibility to adapt the rules based on the medium’s requirements.

The AMF therefore held a **consultation** on the distribution of insurance products via the Internet.

The consultation was intended to share the results of the AMF’s preliminary work and then **obtain the point of view** of financial sector participants and consumers on the issues pertaining to the distribution of insurance via the Internet.

Further to the consultation, the AMF pursued its discussions with stakeholders in order to better identify and address their concerns, and it noted technological changes and evolving consumer habits. The AMF drew on this additional insight to formulate its opinion on the existing framework and on the means for applying it to Internet insurance offerings, for the ultimate purpose of adequately protecting consumers, regardless of the means they use to purchase an insurance product.

This report presents the findings of the consultation and the AMF’s orientations. The government might decide that regulatory amendments are necessary in order to implement these orientations.

The Canadian Council of Insurance Regulators (CCIR) released a paper dealing with issues similar to those addressed in this consultation, but based on a sometimes different approach that did not directly take into account Québec’s regulatory landscape.

The AMF’s orientations were therefore informed by those of the CCIR, but were adjusted to reflect elements that are specific to Québec’s regulatory system. The CCIR position paper entitled *Electronic Commerce in Insurance Products* is available at [http://www.ccir-ccra.org/en/init/Elec\\_Commerce/ECC\\_finalized\\_position\\_paper\\_EN.pdf](http://www.ccir-ccra.org/en/init/Elec_Commerce/ECC_finalized_position_paper_EN.pdf).

## CONSULTATION

As part of the consultation on the distribution of insurance products via the Internet, a working document entitled *Internet Insurance Offerings in Québec*<sup>1</sup> was made available to interested parties in order to help them prepare their comments and interventions.

The point of view of financial sector participants and consumers was sought, in general, as regards the distribution of insurance products via the Internet, but also, more specifically, as regards the following elements of the proposed framework:

- the identity of the provider;<sup>2</sup>
- the involvement of a certified representative;
- the disclosure of essential information;
- distribution without a representative;
- comparison shopping websites;
- advertising; and
- social media.

The AMF presented proposals for each of these elements and sought opinions from financial sector participants and consumers in order to identify trends regarding certain principles and orientations.

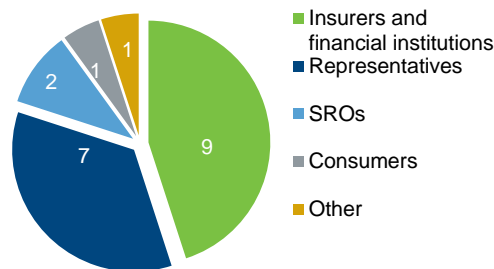
At the end of the consultation period, the AMF had received a total of **20 briefs** from a variety of stakeholders.<sup>3</sup>

Of these, nine briefs were submitted by insurers, financial institutions or associations of insurers or financial institutions, seven by stakeholders from within the distribution network (insurance representatives, firms and associations of representatives or firms), two by self-regulatory organizations (“SROs”),<sup>4</sup> one by an association composed of various

stakeholders from the travel industry<sup>5</sup> and another by an association of consumers.

CHART 1

Breakdown of briefs by respondent profile (in numbers)



<sup>1</sup> Documents available at <http://www.lautorite.qc.ca/files/pdf/consultations/assurance-planification-financiere/2012fev24-distribution-ass-internet-en.pdf>.

<sup>2</sup> The term “provider” is used in this document to refer globally to certified insurance representatives, registered firms and insurers licensed by the AMF.

<sup>3</sup> **Appendix 2** contains a list of all the respondents.

<sup>4</sup> The *Chambre de l’assurance de dommages* and the *Chambre de la sécurité financière*.

<sup>5</sup> Identified under “Other” in Chart 1.

## CONSULTATION FINDINGS AND ORIENTATIONS

### PREAMBLE

In the consultation paper made available to stakeholders, the AMF stated:

*“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 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.”<sup>6</sup>*

This was endorsed by a few respondents who supported the AMF’s approach to adapt the existing regulatory framework rather than oversee on-line distributions specifically.

Moreover, certain respondents agreed with the AMF’s statement that the consumer’s protection must not be contingent on the means used to purchase a product. These respondents were of the opinion that the consumer must be adequately protected, whether the distribution of the insurance product takes place via the Internet, by phone or in person. Nonetheless, several respondents stated that the rules should not

be more stringent because an insurance product is offered via the Internet, rather than by phone or in person.

### 1. IDENTITY OF PROVIDER

On the Internet, consumers have access to information originating from various countries and sources. It is frequently difficult, or even impossible, to verify the validity of this information. Therefore, a consumer may have trouble determining whether the service provider with which he wishes to do business is indeed registered with the AMF.

To enable consumers to verify the provider’s identity and, if need be, check whether the provider is registered with the AMF, the AMF proposed in the consultation paper that certain key information be accessible on the websites of all providers that offer insurance products on-line. The AMF’s proposal was as follows:

#### 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.*

### Consultation findings

Of the 20 briefs received, 17 specifically addressed this matter.

Four respondents, including the *Union des consommateurs*, were **in full agreement** with the AMF’s proposal as worded. The *Union des consommateurs* further suggested that information regarding the

<sup>6</sup> Document entitled *Internet Insurance Offerings in Québec*, page 15.

provider's AMF registration should be followed by a link to the AMF's public register, so as to facilitate the consumer's verification of this information.

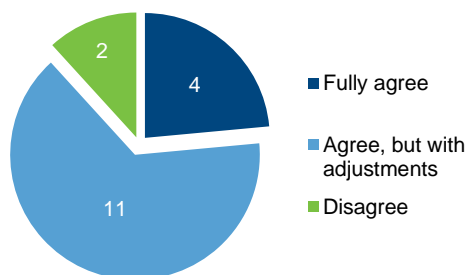
Eleven respondents acknowledged the importance for a consumer to have access to accurate information regarding the provider with whom he intends to do business.

However, they felt that the information need **not necessarily appear on the website home page** of the provider. They believe that the information should be integrated in a coherent manner into the website of each provider and be accessible through links or clearly identified tabs on the home page.

Finally, two respondents were **in total disagreement** with the proposal. They felt that the consumer should not have the burden of verifying the legitimacy of the provider offering him an insurance product.

#### CHART 2

Breakdown of respondents: Identity of the provider  
(in numbers)



#### Conclusion

We can conclude that the vast majority of respondents support the AMF's proposal, subject to certain adjustments regarding the placement of the information on providers' websites.

The AMF emphasizes that this proposal is not intended to place an additional burden on consumers. On the contrary, it is a measure designed to help consumers,

through clear and easily accessible links, to find information regarding the identity of the provider and the provider's status as an entity regulated by the AMF.

Therefore, the AMF orientation is as follows:

#### ORIENTATION 1:

- That the following information be easily, directly and permanently available on providers' websites at the appropriate moment during the transaction:
  - 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 and a link to the AMF's register;
  - Information on where and how consumers can file a complaint, including a link to the AMF website.



## 2. INVOLVEMENT OF CERTIFIED REPRESENTATIVE

In the field of insurance, there is an information imbalance that puts consumers at a disadvantage. *An Act respecting the distribution of financial products and services*<sup>7</sup> (the “Distribution Act”) prescribes various measures intended to correct this imbalance, including the intervention of an insurance representative when insurance products are distributed.

These measures were established in order to protect consumers and satisfy their need for guidance during the process of buying insurance. Thus, representatives must answer their clients’ questions and ensure they understand the product.

The AMF formulated the following proposal in its consultation paper in order to gather the opinions of respondents on the role of insurance representatives during on-line insurance transactions:

### PROPOSAL 2

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

### Consultation findings

Of the 20 briefs received, 18 specifically addressed this matter.

Respondents expressed their viewpoints on how to ensure that consumers receive appropriate information and advice when purchasing insurance via the Internet. Their opinions on this matter were **polarized**.

Nine respondents (50%), predominantly SROs and respondents from within the distribution network, were of the opinion that **the intervention of an insurance representative is crucial** when insurance is purchased via the Internet.

They believe that a consumer who deals with an insurance representative benefits

from appropriate and specific advice and accurate information from an individual who has the obligation to act in his client’s interest.

They further argued that a consumer who deals with an insurance representative has a recourse against the representative if the latter does not properly discharge his duty to advise.

Some even stated that the sale of insurance products without the intervention of a representative would create two classes of insureds: those who benefit from advice and those who do not. Others contended that a consumer who, acting alone, subscribes for insurance via the Internet, cannot make a fully informed decision. According to them, consumers must be protected from themselves.

In short, for these respondents, insurance products are complex and the advice of an insurance representative is essential to ensure the consumer obtains appropriate coverage that meets his needs.

In contrast, nine respondents (50%), primarily insurers and financial institutions, were of the opinion that **the role of an insurance representative is secondary in the on-line process**. They felt that the direct intervention of a representative is not always necessary to ensure consumers are adequately advised.

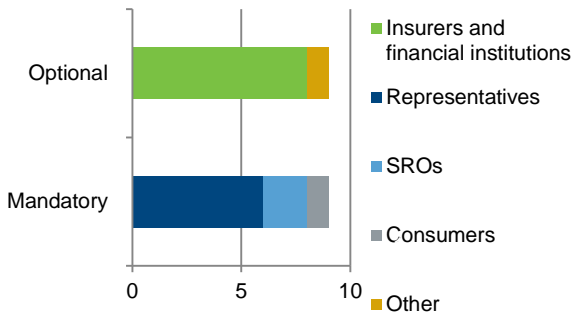
Several expressed the opinion that on-line insurance offerings without the intervention of a representative are possible as long as the on-line process provides access to self-assessment tools allowing the consumer to determine his needs and the suitability of the products offered, information about the products and advice tailored to the needs identified and indicated by the consumer.

In other words, according to them, if advice is provided entirely on-line, the intervention of a representative is not necessary, because the consumer will have obtained appropriate information and advice, in a timely manner, allowing him to make an informed decision. The majority of these respondents were nevertheless open to the possibility of a consumer having access to

<sup>7</sup> CQLR, c. D-9.2.

an insurance representative if the consumer needs additional advice and requests it.

**CHART 3**  
Breakdown of respondents: Intervention of an insurance representative (in numbers)



**Conclusion**

The role of the AMF is to protect the public.

However, it is not up to the AMF to dictate to consumers the manner in which they should purchase insurance.

That being said, the protection of consumers 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 adequately protected.

Therefore, it is **essential that consumers have access to appropriate advice** to purchase products that properly meet their needs.

As regards the distribution of insurance products, **essential obligations** must at the outset be respected in order to protect consumers:

- An analysis must be conducted in order to **properly identify the consumer’s insurance needs**;
- The selected product must **meet the consumer’s needs as identified** (suitability of the product);
- The consumer must be **provided with the information required to make a free and informed choice**;

- Access to advice** must be given to the consumer, and such advice must be tailored to the complexity of the product and to his degree of knowledge about the field of insurance.

These obligations are relevant at all times, regardless of the type of insurance or the vehicle chosen to distribute it. They must therefore apply to the use of the Internet for providing information or buying insurance.

The intervention of an insurance representative ensures that the above-mentioned obligations are fulfilled. Therefore, the consumer should always be **informed of the importance of advice** from an insurance representative, the benefits of such advice and the fact that only an insurance representative can provide such advice.

Nonetheless, personal reasons may lead a consumer to choose not to do business with a representative, despite having been informed of the importance of doing so.

In such a case, it is important to ensure the consumer has all the necessary information and that he is properly guided throughout the insurance buying process.

In other words, Internet insurance offerings without the intervention of an insurance representative can be envisaged, **but only if the on-line service provider is able to offer the consumer the tools** he needs to determine his insurance needs and to determine, from among the various products offered to him, the one that best suits his needs and personal situation.

These tools must also allow the consumer to judge for himself the relevance and appropriateness of purchasing a given insurance product.

Other than the usual questions necessary to provide a quote, this means, in particular, that these tools must:

- Allow the consumer to assess his insurance needs by himself;
- Be sufficiently accurate to inform the consumer about the product that is

appropriate for his needs and indicate whether a product chosen by him does not match those needs;

- Take into account the consumer's existing coverage and inform him of the advantages he risks losing if he replaces that coverage;<sup>8</sup>
- Give sufficient explanations on the elements of the application so that the consumer fully understands the nature of the information sought and is in a position to answer properly (so as to avoid false statements or concealment caused by a lack of information or knowledge);
- Be used personally by the consumer, without the intervention of an uncertified third party.

Moreover, the consumer **must be able to have access to a representative, if he feels the need**, at every step of the insurance purchasing process (from the needs assessment stage to the conclusion of the contract). Thus, the provider's website should clearly and prominently indicate a telephone number, e-mail address or other contact information where the consumer can communicate (verbally or in writing) with a certified insurance representative.

As mentioned above, before the consumer makes an on-line insurance purchase, the provider should inform him of **the importance of obtaining the advice** of a representative.

Furthermore, providers should establish control mechanisms to ensure that an insurance product that has been purchased on-line by a consumer meets the needs identified by the consumer. Providers should also ensure that the procedures instituted by them satisfy the AMF's expectations regarding the fair treatment of consumers.

Lastly, in order to adequately protect consumers who acquire products on-line without the advice of a certified representative, the addition of a right of rescission of reasonable duration should be considered.

<sup>8</sup> For example, in insurance of persons, the loss of the benefits under the suicide and incontestability clauses.

Therefore, the AMF orientation is as follows:

## ORIENTATION 2

- That providers be able to conclude on-line transactions, but only if they are in a position to provide consumers with self-assessment tools allowing a consumer to:
  - Assess his insurance needs;
  - Ensure the product he selects is appropriate;
  - Make an informed decision;
  - Enter into a valid transaction, i.e., a transaction that will provide him with the coverage purchased.
- That providers ensure that information is entered and transmitted personally by the consumer, without the intervention of an uncertified third party.
- That providers ensure that the consumer can have access to a representative, if he feels the need to do so, at any step of the insurance purchasing process.
- That providers inform the consumer, before he makes an on-line insurance purchase, of the importance of obtaining the advice of a certified insurance representative.
- That a right of rescission be available so that a consumer who purchases insurance on-line without the intervention of a certified representative will be able to rescind the contract during a reasonable period following signature of the contract.

## 3. DISCLOSURE OF ESSENTIAL INFORMATION

### 3.1 Information to be disclosed

In order to make informed insurance decisions, consumers must have access to the proper information. Traditionally, that information is conveyed to them proactively by an insurance representative (by telephone or in person) who guides them through the decision-making process.

In the absence of such proactive intervention by an insurance representative,

the AMF proposed, in the consultation paper, that providers of on-line insurance products ensure that certain information is brought to the consumer's attention.

The AMF's proposal was as follows:

### 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.*

### Consultation findings

Of the 20 briefs received, 17 specifically addressed this matter.

Respondents expressed their viewpoints on the type of information providers should furnish and on the timing of that information.

Of the 17 respondents, seven were **in agreement with the AMF's proposal as worded.**

They felt that it is **vital to give the consumer explanations so he can make the right decision** given, in particular, the complex nature of certain products. It is also interesting to note that some of these respondents (primarily insurers) mentioned that this information is already commonly found on providers' websites.

Nine respondents were in favour of properly informing consumers, but **suggested adjustments to the AMF's proposal.**

In general, they agreed on the importance of ensuring that information that will greatly influence the consumer's decision is brought to his attention.

However, several of these respondents were of the opinion that the nature of the information and the means for ensuring that the client has read it **should not be more restrictive for on-line insurance offerings than for other means of distribution.**

A number of them also questioned the requirement that the information be brought to the consumer's attention before he completes an application or gives the provider the information needed to complete it.

They explained that **the appropriate time to provide all of the information is not the same in every case.** While there may be a justification for providing certain information before the application process begins, some information only becomes relevant and useful while the application is being completed or at the very end of the application process.

They gave as examples limitations and exclusions as well as the right of cancellation, which should only be broached towards the end of the insurance purchasing process. They also mentioned that information about the premium generally cannot be provided to the consumer before he has completed the application and declared the risk.

Some of the respondents were of the view that the list of information to be provided should be **tailored to the type of insurance**

**product offered** and the regulatory requirements applicable to the product.

A few respondents specifically **questioned the relevance of the requirement to inform the consumer about the existence on the market of any insurance products that may offer similar coverage**. They felt that this requirement would force them to promote their competitors' products. They therefore strongly objected to this proposal.

Lastly, one respondent argued that, although the information suggested by the AMF is relevant, it would not be sufficient to properly protect consumers during the on-line sale of insurance products.

## Conclusion

**Consumers must have information** allowing them, at all times, to be properly informed and make informed decisions regarding insurance products offered to them via the Internet.

This information, however, may vary depending on the product and its complexity. There may even be circumstances in which such information need not be given to the consumer before he completes an application or gives the provider the information needed to complete it: The information may be communicated at various stages of the transaction.

Nonetheless, the relevant information **must be brought to the consumer's attention in a timely manner during the purchasing process, before the contract is entered into**.

In June 2013, the AMF published its *Sound Commercial Practices Guideline*.<sup>9</sup> In it, the AMF communicated to financial institutions its expectations regarding, in particular, the fair treatment of consumers of insurance products. One section of the guideline deals specifically with the AMF's expectations regarding the disclosure of information to consumers.

<sup>9</sup> Available at: [http://www.lautorite.qc.ca/files/pdf/reglementation/li-gnes-directrices-assurance/g\\_scp\\_2013.pdf](http://www.lautorite.qc.ca/files/pdf/reglementation/li-gnes-directrices-assurance/g_scp_2013.pdf)

The guideline applies to the commercial practices of financial institutions, **regardless of the means chosen by them to distribute their products**.

In light of the foregoing and in keeping with the expectations set out in its *Sound Commercial Practices Guideline*, the AMF orientation is as follows:

### ORIENTATION 3

- That the following information be brought to the consumer's attention in a timely manner during the purchasing process, before the contract is entered into:
  - The type of consumer for whom the product is intended;
  - The main product features;
  - The product options and coverage, as applicable;
  - The product exclusions and limitations;
  - A pre-existing condition clause, if applicable;
  - 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 registrant, 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 duration of validity of the information provided;
  - A warning to consumers about the consequences of making false statements.

### 3.2 "Step-by-step" disclosure of information

Given how important this information is to the process of making an informed decision, the AMF proposed in the consultation paper that consumers should confirm that they have read each individual item of information. The AMF suggested that a step-by-step approach would be preferable to simply disclosing all the information in its

entirety and following this with an option to confirm that the information has been read. Its proposal was as follows:

#### PROPOSAL 4

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

#### Consultation findings

Of the 20 briefs received, 14 specifically addressed this proposal.

Of the 14 respondents, seven were **in agreement** with the AMF's proposal. They felt that **it is important to guide the consumer throughout the purchasing process** and to give him all the information he needs to make his decision. Some pointed out that technology makes it possible to control the transmission and presentation of information. The *Union des consommateurs* expressed the opinion that it is essential to favour a step-by-step approach and that the consumer must be asked to confirm that he has read each item of information.

In contrast, seven respondents **disagreed** with the AMF's proposal as worded.

While the majority of them agreed with the principle of a "step-by-step" approach, they questioned the need to ask the consumer to confirm that he had read the information for each individual item of information.

They felt that this type of approach could become **unnecessarily burdensome for the consumer**. They were also concerned that such an approach, rather than having the intended outcome, could result in the consumer giving automatic responses, without reading the information provided to him.

#### Conclusion

The majority of respondents acknowledged the benefits of providing sufficient information to consumers about products offered on-line and on the importance of

providing such information in a timely manner.

The majority of respondents also acknowledged that a step-by-step approach could be beneficial for ensuring that consumers have actually read the information provided to them.

Nonetheless, based on the comments received, the AMF concludes that a step-by-step approach should be used with caution. Several respondents pointed out the pitfalls of making too many requests to the consumer to confirm that he has read the information.

However, simply disclosing all relevant information in its entirety and following this with a single request for the consumer to confirm that he has read all the information is not acceptable to the AMF.

Consequently, the AMF favours an approach that falls somewhere in the middle, one in which information is grouped by subject. For example, information on exclusions and limitations could be presented to the consumer grouped together, but separate from other types of information. The same could be done with information about the product's features, information about the right of cancellation or rescission, and so on.

The consumer would not be asked to confirm that he has read each individual item of information. Instead, he would be asked to confirm that he has read and understood the elements that are essential for a valid consent and, by extension, for the formation of a valid contract. These elements could consist of exclusions and limitations, the consequences of a false statement, and so on.

Therefore, the AMF orientation is as follows:

#### ORIENTATION 4

- That providers use a "step-by-step" approach for the disclosure of individual items of information (instead of providing information in its entirety) so as to ensure the consumer has read the essential items of information regarding the

insurance transaction he is about to conclude.

- That providers ask the consumer to confirm that he has read and fully understood the elements that are essential for the validity of his consent.

### 3.3 Information written in clear and simple language

As previously mentioned, the consumer must receive appropriate information regarding the product he wishes to purchase on-line. Moreover, the information must be presented to the consumer in a manner that allows him to understand it.

Since consumers are generally not insurance specialists, the language used must be clear to ensure the consumer has understood it and is therefore able to give an informed consent. In the consultation paper, the AMF made the following proposal:

#### PROPOSAL 5

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

#### Consultation findings

Of the 20 briefs received, 13 addressed this specific proposal.

Of the 13 respondents, 12 were **in favour of the proposal**. They agreed with the need to use clear and simple language to provide information to the consumer.

Only one respondent **opposed the proposal**. This respondent argued that the ideas being communicated must not be distorted and one must not fall into the trap of infantilizing the consumer and removing his sense of accountability.

#### Conclusion

It can be said that the AMF's proposal was accepted almost unanimously.

The AMF wishes to specify that the obligation to use clear and simple language is not limited to the information made available to the consumer before he completes the application himself. Clear and simple language must be used at every step of the transaction and throughout the duration of the business relationship between the provider and the consumer.

Therefore, the AMF orientation is as follows:

#### ORIENTATION 5

- That the information made available to the consumer before, during and after the on-line purchase of an insurance product be written in clear and simple language, so as not to mislead the consumer.

### 3.4 Summary and validation

When an on-line insurance transaction takes place, it is the consumer himself who completes the insurance application and the forms used to prepare it. This can lead to errors during the process.

In order to prevent and avoid these errors and their possible consequences, the AMF proposed, in the consultation paper, that the information from the application be summarized on-screen. This summary would allow the consumer to validate his answers before the contract is concluded.

The AMF's proposal was as follows:

#### 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.*

#### Consultation findings

Of the 20 briefs received, 14 addressed this proposal.

The 14 respondents were **in favour of the proposal**.

They generally expressed the following belief: It is essential that the consumer have access to a very clear summary and be able to review and validate each summary item (and correct those items if necessary) before concluding a transaction. The AMF is of the opinion that the summary must be provided directly to the consumer.

### Conclusion

Given the unanimous response to this proposal, the AMF orientation is as follows:

#### ORIENTATION 6

- Before a contract is issued, that providers give directly to 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.

### 3.5 Delivery of contract documents

Once the transaction is complete, the consumer must receive a copy of his contract. In its consultation paper, the AMF proposed that once the subscription is completed, the provider send the contract documents to the consumer on a durable medium via the Internet or by regular mail, at the consumer's choice.

The AMF's proposal was as follows:

#### 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.*

### Consultation findings

Of the 20 briefs received, 14 addressed this proposal.

Of the 14 respondents, 10 were **in favour of the proposal**. These respondents were of

the opinion that the consumer always has the right to request copies of his contract **in the format he chooses** and providers have the obligation to comply with this request.

On the other hand, while four respondents agreed with the idea that the consumer must receive a copy of his contract, they did not believe that a consumer should have the option to require a paper copy of the documents when the transaction has taken place electronically.

They felt that, insofar as *An Act to establish a legal framework for information technology*<sup>10</sup> gives the same legal value to a contractual document — whether it is a paper document or a technology-based document — **a provider should have the choice to only send the contract documents electronically**.

### Conclusion

The majority of respondents expressed the opinion that the consumer must receive his contract documents on a medium that allows him to store and reproduce it, but also on the medium of his choosing. According to them, even if the transaction takes place electronically, the consumer should have the possibility of receiving his documents on paper.

The other respondents felt that the fully electronic nature of the transaction justifies having the contract documents available to the consumer only on an electronic medium.

Certain consumers may prefer to consult a paper document, even though they concluded their transaction electronically. Moreover, one should not assume that a consumer who has entered into an insurance contract on-line is necessarily equipped to transfer onto paper the document sent to him electronically by the provider.

Furthermore, although documents transmitted electronically have the same legal value as documents transmitted on paper, the law requires that the consumer

<sup>10</sup> CQLR, c. C-1.1.



have the possibility of receiving his contract documents on paper.<sup>11</sup>

Therefore, the AMF orientation is as follows:

#### ORIENTATION 7

- When an on-line transaction takes place, that the provider 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, that the consumer be entitled to request to receive a paper copy of contract documents.

#### 4. RELIABILITY OF TRANSACTIONS AND PROTECTION OF PERSONAL INFORMATION

Even the most powerful computer systems are not error-free. A malfunction in the provider's computer network could adversely affect an on-line insurance transaction. For example, it could prevent the transaction from being completed. It could also block the transmission of certain information or result in unauthorized modifications to a document.

Since consumers have no control over the quality or reliability of the systems used, it is up to the providers to use reliable systems.

In addition to issues of reliability, computer systems can introduce security risks, including risks regarding the security of personal information disclosed by consumers during insurance transactions. For example, the security of personal information may be compromised through information leaks, identity theft and the like.

Providers have an obligation to ensure the security of consumers' personal information at all times.

#### Conclusion

Within the scope of its consultation on Internet insurance offerings, the AMF did not consult stakeholders or formulate specific proposals on the reliability or security of computer systems. However, as with the CCIR, the AMF orientation is as follows:

#### ORIENTATION 8

- That providers ensure, in accordance with applicable regulations, that consumers' personal information is secure at all times.
- That providers adopt policies and procedures allowing them to use reliable and secure systems at all times.

#### 5. DISTRIBUTION OTHER THAN THROUGH A REPRESENTATIVE

In Québec, the regime governing distribution other than through a representative authorizes the distribution of certain insurance products without the intervention of an insurance representative.

Under this regime, certain persons who pursue activities in a field other than insurance may offer or sell, as an accessory, on behalf of an insurer, an insurance product which relates to a good they sell or secure a client's adhesion in respect of an insurance product.

In its consultation paper, the AMF expressed the opinion that a distributor could offer or sell via the Internet the insurance product that relates to a good it sells, provided it complies with all the requirements set out in Title VIII of the Distribution Act that deal specifically with distributions other than through a representative.

The AMF's proposals in this regard were as follows:

#### PROPOSAL 8

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

<sup>11</sup> An Act to establish a legal framework for information technology, section 29.

**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.*

**Consultation findings**

Proposals 8 to 10 **gave rise to few responses** from the entities who participated in the consultation.

Of the 20 briefs received, 10 addressed proposal 8. All of these respondents were **in agreement with the proposal** that the distributor's website must contain the disclosures and information required under Title VIII of the Distribution Act.

As regards proposal 9, out of all the respondents, 10 addressed it specifically. Here, too, the respondents **were in agreement with the proposal** that the distributor must make the distribution guide available on its website.

Lastly, nine respondents addressed proposal 10. They were **in favour** of the proposal, which stated that the distributor must ensure that consumers have read the distribution guide before an insurance transaction takes place. Some of them qualified their response by mentioning that it is impossible to ensure that a consumer has properly read the guide. Others suggested that a step-by-step approach, using check boxes, would be preferable.

It should be noted that some of the respondents who did not specifically address the AMF's proposals regarding distribution other than through a representative expressed their disagreement with the very idea that the distribution of insurance could take place via the Internet through this regime. They were of the opinion that, since the Internet is an important source of information for consumers, its use to distribute insurance should be limited to regulated entities and certified

representatives, regardless of the existence of a distribution guide.

In contrast, one respondent stated that the possibility for a distributor to offer insurance via the Internet should not be limited to situations where the distributor offers the good (to which the insurance relates) via the Internet. The respondent was of the view that this possibility should extend to every distributor authorized by the Distribution Act to offer insurance related to a good it offers.

**Conclusion**

Distribution other than through a representative is a distribution method authorized under the Distribution Act. The advent of the Internet is likely to affect this distribution method and it is therefore important to properly regulate its use.

There is no reason to believe that distributors' use of the Internet involves more risks for consumers than the so-called "traditional" means of distribution other than through a representative, i.e., distribution "in person."

However, this form of distribution must be carried out in compliance with the requirements applicable to distributions other than through a representative as set out in Title VIII of the Distribution Act.

Moreover, in order to ensure that the information disclosed in the distribution guide is accurate and always up to date, the guide should be available on the distributor's website, but via a link to the website of the insurer whose insurance product is being offered through the distributor. Once the transaction has been completed, the distribution guide should form part of the contract documents to be provided on a durable medium, via the Internet or by mail, at the consumer's choice.

Therefore, the AMF orientation is as follows:

**ORIENTATION 9**

- That a distributor's website contain the disclosures and information required

under Title VIII of the Distribution Act.

- That the distributor make the distribution guide available on its website via a link to the website of the insurer whose insurance product is being offered.
- That the distributor use a “step-by-step” approach to ensure that the consumer has read the distribution guide before he purchases or subscribes for the insurance product.

**6. COMPARISON SHOPPING WEBSITES**

As mentioned in the consultation paper, the advent of the Internet has given rise to new business models and the emergence of new players, including price-comparison websites. Among other things, consumers can receive quotes from several insurers.

In the consultation paper, the AMF raised several concerns regarding these websites.

First, the main function of these websites, i.e., comparing various available coverage options, is similar to insurance advice, an activity reserved exclusively for insurance representatives.

Second, the manner in which these entities are remunerated, and their ownership or business relationships with insurers, raise questions about their independence as well as disclosure issues.

Third, the AMF pointed out the importance of protecting consumers who rely on the results provided by comparison shopping websites.

The AMF’s proposal regarding comparison shopping websites was as follows:

**PROPOSAL 11**

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

**Consultation findings**

Of the 20 briefs received, 13 addressed this proposal.

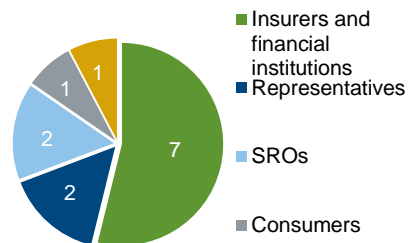
These 13 respondents were of the view that operators of comparison shopping websites should be **subject to the same obligations and oversight** as insurance representatives and the other entities registered with the AMF (insurers, firms).

They were of the opinion that providing insurance information and advice are activities that should be reserved for regulated entities. They also felt that the operators of comparison shopping websites should be subject to the same rules as insurance representatives and other registrants with respect to the disclosure of business relationships and conflicts of interest.

In other words, the respondents were of the opinion that product comparisons include an “advisory” component which requires that the consumer be protected in the same manner as if he had visited a provider’s website (insurer, firm, representative) to obtain the same type of information.

Moreover, having regard to the protection of personal information, other respondents indicated the importance of having operators of comparison shopping websites clearly disclose to the consumer the identity of the persons (insurers and other providers) to whom nominative information will be transmitted.

**CHART 4**  
Breakdown of respondents: Necessary oversight of comparison shopping websites (In numbers)



**Conclusion**

The prevailing view is that no additional rules appear to be necessary at this time.

However, the respondents, who have varying profiles, were unanimously of the opinion that comparison shopping websites should be subject to the same regulatory oversight as certified representatives and other registered entities.

Gathering personal information in order to identify a consumer's needs and comparing products in order to offer an insurance product are insurance advisory activities that require the intervention of a certified representative.

Websites that carry out these activities must therefore be duly registered with the AMF as firms and be governed by applicable regulations.

## 7. ADVERTISING

The Internet abounds with information and advertising intended for consumers. In its consultation paper, the AMF stated that it is of the view that a provider's website pages relating to an insurance application are not an appropriate environment for carrying advertising and trying to guide consumers' choices. The AMF therefore formulated the following proposal:

### PROPOSAL 12

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

### Consultation findings

This proposal gave rise to rather clear-cut feedback from the various respondents. Of the 20 briefs received, 15 addressed the issue of advertising.

Of these 15 respondents, six were in favour of the AMF's proposal as worded, while nine disagreed with it.

According to the respondents who were **in favour of the prohibition**, advertising does not belong on the pages relating to the insurance application.

Several of the respondents who **disagreed** with the proposal expressed the opinion that

it could be in the consumer's interest to be informed of promotions liable to benefit him and help him make an informed decision.

They believe that certain information which is similar to advertising may be relevant to a consumer and to his benefit. Therefore, they were of the view that prudence should be used before prohibiting the communication of this information/advertising on providers' websites. According to them, it could be entirely beneficial and appropriate to inform a consumer about the existence of other coverage or insurance products based on his profile and the information provided by him when completing his application.

Others mentioned that there is currently no restriction on the possibility for a provider to promote or cross-sell other financial products or services during an "in person" insurance transaction. They were therefore of the opinion that the same rules should apply to advertising, regardless of the means by which the transaction is concluded (in person, on-line or over the phone). According to them, the contrary would result in unfair situations to the detriment of the consumer.

### Conclusion

This proposal gave rise to mixed responses. Respondents who disagreed with the AMF's proposal to ban advertising on the web pages relating to an insurance application were opposed because they are of the opinion that it may be in the interests of the consumer to be informed of certain promotions or the existence of other products.

They see the communication of information to be similar to advertising as part of the process leading the consumer to make an informed decision.

Although communicating promotions and information about other products may be useful to the consumer and help him make an informed decision, it does not justify presenting such promotions or information when the consumer is completing an insurance application.

The insurance application is the document through which the consumer applies to purchase insurance. At this stage of the purchasing process, the consumer's choice has already been made. Consequently, the provider is not justified in intervening again to influence the consumer's choice.

Information about the various promotions and products available to the consumer should be presented to him at the stage preceding the application, i.e., during the needs analysis.

Under item 2 (*Involvement of certified representative*) of the present document, the AMF indicated that it expects providers to provide consumers with self-assessment tools.

These self-assessment tools must enable the consumer to assess his insurance needs, ensure the product he has selected is appropriate, make an informed decision and conclude a valid transaction.

Thus, at this stage of the process, it is entirely legitimate for the provider to present the consumer with information similar to advertising that will allow him to make a decision based on all the options available to him.

The information provided by the consumer during the self-assessment of his needs will allow the provider to identify the information and/or promotions that are relevant to the consumer.

However, the pages devoted to the insurance application are not the appropriate place to do this.

Therefore, the AMF orientation is as follows:

#### ORIENTATION 10

- That providers not place any advertising on website pages where the consumer completes an on-line insurance application. Such advertising can take place when the consumer is doing a self-assessment of his needs or after the contract has been concluded.

## 8. SOCIAL MEDIA

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

In its consultation paper, the AMF mentioned that social media can benefit both providers of insurance and consumers. It pointed out, however, that this means of communication has risks and can lead to issues of conflict of interest and disclosure.

The AMF views social media as a means of communication like any other and is of the opinion that the current regulatory framework should apply (including the rules pertaining to ethics, advertising, suitability and file record-keeping).

With this in mind, the AMF formulated the following proposal:

#### 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.*

#### Consultation findings

Of the 20 briefs submitted to the AMF, 14 addressed this proposal.

Of the 14 respondents, eight were **in agreement with the AMF's** proposal as worded. They were of the opinion that it is important for providers to adopt social media policies and procedures so that representatives are properly overseen when using this method of communication.

While they were generally of the view that the current regulations are appropriate and sufficient, some respondents indicated their belief that the requirements should be the same, whether or not the provider offers insurance on-line.

The six other respondents, while not in complete disagreement with the AMF's proposal, **suggested adjustments**. None of them stated that the use of social media should not be monitored. However, several suggested that insurance representatives should be responsible for their own compliance. According to them, it is difficult, if not impossible, to require insurers and firms to monitor representatives who use social media as part of their professional activities. They were of the view that representatives are sufficiently regulated, in particular, by the Distribution Act and the codes of ethics, and it is not necessary to add any requirements.

### Conclusion

In its consultation paper, the AMF stated that it considers social media to be a means of communication like any other. Consequently, it was of the opinion that the current regulatory framework should apply and that anyone who uses social media as part of the process of offering insurance must comply with the rules pertaining to, in particular, ethics, advertising, suitability and file record-keeping.

The AMF proposed that insurers and firms adopt social media policies and procedures to be able to monitor the content disseminated through this means of communication.

While the majority of respondents were in agreement with the proposal, some mentioned that it would not be possible for insurers and firms to monitor their representatives in this regard.

It is important to remember that firms and insurers are responsible for their distribution network and, as such, they are responsible for ensuring, among other things, that representatives comply with the rules in effect when using social media. The Distribution Act already clearly states that firms must oversee the discipline of their representatives and ensure that they comply with the Distribution Act and its regulations.<sup>12</sup>

They have the same obligation as regards their executive officers and employees.<sup>13</sup>

Moreover, in June 2013, the AMF indicated, in its *Sound Commercial Practices Guideline*, that it expects insurers to establish means for ensuring the conformity of their distribution process. The AMF's expectations were stated as follows:

*“Accordingly, the institution should ensure compliance process control upon the supply of products and services (choice of intermediaries, contractual agreements, monitoring service delivery, etc.).”*

Therefore, the AMF orientation is as follows:

### ORIENTATION 11

- That insurers and firms adopt social media policies and procedures to be able to monitor the content that they or their representatives post on-line as part of the process of offering insurance and ensure compliance with current regulations.

<sup>12</sup> Distribution Act, section 85.

<sup>13</sup> Distribution Act, section 86.

## APPENDIX 1

### LIST OF ORIENTATIONS

#### ORIENTATION 1

- That the following information be easily, directly and permanently available on providers' websites at the appropriate moment during the transaction:
  - 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 and a link to the AMF's register;
  - Information on where and how consumers can file a complaint, including a link to the AMF website.

#### ORIENTATION 2

- That providers be able to conclude on-line transactions, but only if they are in a position to provide consumers with self-assessment tools allowing a consumer to:
  - Assess his insurance needs;
  - Ensure the product he selects is appropriate;
  - Make an informed decision;
  - Enter into a valid transaction, i.e., a transaction that will provide him with the coverage purchased.
- That providers ensure that information is entered and transmitted personally by the consumer, without the intervention of an uncertified third party.
- That providers ensure that the consumer can have access to a representative, if he feels the need to do so, at any step of the insurance purchasing process.
- That providers inform the consumer, before he makes an on-line insurance purchase, of the importance of obtaining the advice of a certified insurance representative.
- That a right of rescission be available so that a consumer who purchases insurance on-line without the intervention of a certified representative will be able to rescind the contract during a reasonable period following signature of the contract.

#### ORIENTATION 3

- That the following information be brought to the consumer's attention in a timely manner during the purchasing process, before the contract is entered into:
  - The type of consumer for whom the product is intended;
  - The main product features;
  - The product options and coverage, as applicable;
  - The product exclusions and limitations;

- A pre-existing condition clause, if applicable;
- 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 registrant, 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 duration of validity of the information provided;
- A warning to consumers about the consequences of making false statements.

### ORIENTATION 4

- That providers use a “step-by-step” approach for the disclosure of individual items of information (instead of providing information in its entirety) so as to ensure the consumer has read the essential items of information regarding the insurance transaction he is about to conclude.
- That providers ask the consumer to confirm that he has read and fully understood the elements that are essential for the validity of his consent.

### ORIENTATION 5

- That the information made available to the consumer before, during and after the on-line purchase of an insurance product be written in clear and simple language, so as not to mislead the consumer.

### ORIENTATION 6

- Before a contract is issued, that providers give directly to 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.

### ORIENTATION 7

- When an on-line transaction takes place, that the provider 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, that the consumer be entitled to request to receive a paper copy of contract documents.



**ORIENTATION 8**

- That providers ensure, in accordance with applicable regulations, that consumers' personal information is secure at all times.
- That providers adopt policies and procedures allowing them to use reliable and secure systems at all times.

**ORIENTATION 9**

- That a distributor's website contain the disclosures and information required under Title VIII of the Distribution Act.
- That the distributor make the distribution guide available on its website via a link to the website of the insurer whose insurance product is being offered.
- That the distributor use a "step-by-step" approach to ensure that the consumer has read the distribution guide before he purchases or subscribes for the insurance product.

**ORIENTATION 10**

- That providers not place any advertising on website pages where the consumer completes an on-line insurance application. Such advertising can take place when the consumer is doing a self-assessment of his needs or after the contract has been concluded.

**ORIENTATION 11**

- That insurers and firms adopt social media policies and procedures to be able to monitor the content that they or their representatives post on-line as part of the process of offering insurance and ensure compliance with current regulations.

## APPENDIX 2

## LIST OF RESPONDENTS

|    | Respondent's name  | Profile                         |
|----|--|---------------------------------|
| 1  | Canadian Life and Health Insurance Association (CLHIA)                     | Insurer / Financial institution |
| 2  | Canadian Bankers Association   | Insurer / Financial institution |
| 3  | Title Insurance Industry Association of Canada (TIIAC)                     | Insurer / Financial institution |
| 4  | Canadian Association of Financial Institutions in Insurance (CAFII)        | Insurer / Financial institution |
| 5  | Advocis  | Representatives / Firm          |
| 6  | BFL Canada   | Representatives / Firm          |
| 7  | Insurance Bureau of Canada   | Insurer / Financial institution |
| 8  | Canadian Association of Direct Relationship Insurers (CADRI)               | Insurer / Financial institution |
| 9  | <i>Chambre de l'assurance de dommages (ChAD)</i>                           | SRO                             |
| 10 | <i>Chambre de la sécurité financière (CSF)</i>                             | SRO                             |
| 11 | <i>Corporation des assureurs directs de dommages du Québec (CADD)</i>      | Insurer / Financial institution |
| 12 | Dale Parizeau Morris Mackenzie   | Representatives / Firm          |
| 13 | Investors Group  | Representatives / Firm          |
| 14 | Mica Services Financiers   | Representatives / Firm          |
| 15 | Desjardins Group   | Insurer / Financial institution |
| 16 | PPHAvantages   | Representatives / Firm          |
| 17 | <i>Regroupement des cabinets de courtage d'assurance du Québec (RCCAQ)</i> | Representatives / Firm          |
| 18 | <i>Union des consommateurs</i>   | Consumers                       |
| 19 | Travel health Insurance association of Canada (THIA)                       | Other                           |
| 20 | Intact   | Insurer / Financial institution |