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# Journal

FEBRUARY 2004



**A LOOK  
AT THE  
LAW**

बीमा विनियामक और विकास प्राधिकरण



Journal

Volume II, No.3

FEBRUARY 2004

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## *From the Publisher*



The law is a framework on which civil society is run. To be effective it has to keep pace with the changes in the way society operates and aspires to progress. It is in this spirit that the IRDA initiated an exercise to streamline and strengthen the laws relating to the insurance business about a year ago.

While one part of this exercise is to remove anomalies and inconsistencies that exist today as a result of desultory changes made as the need arose over the years, the other side of it is an opportunity – the opportunity to make the legal framework for the insurance industry resilient for the years to come by making it forward looking. Of rewriting it with a vision, a vision of the future.

The Law Commission has come out with a consultation paper following IRDA's request on this and various stakeholders in the insurance industry have given their inputs. What this issue of **IRDA Journal** looks at is the philosophy behind the initiative and what ideally should emerge from it. Writers, both those who have been involved in the exercise and those who are observers, tell us this month what, ideally, such an exercise can achieve. The broad approach as IRDA would like it, would be for the operational aspects of the industry to be

kept in its ambit so that regulatory action can be as quick as the market warrants.

There is the responsibility of 'development' of the industry that the Authority is charged with. Yet undefined, the Authority has been trying to delineate it through its various proactive initiatives, but some clarity and consensus should emerge and be reflected in the rewritten legal framework as well to enable clear functioning in the future. The IRDA is the first regulator to be charged with this duty, but others, clearly will be handed this role too, as the pension regulator's name suggests, and a wider debate on this would go a long way in helping the regulators determine their actions in this direction.

The issue also looks closely at the report of the Experts Committee on intermediaries' remuneration from different points of view. The matter is up for public comment before IRDA takes a view on it. We hope for more reactions on specific recommendations as well as on the concepts underlying it. Please do share your ideas with us so that the final decision would be the appropriate one for the industry's long term well-being.

*C.S. Rao*

C.S.RAO

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# Ring in the New !

The new year has begun and this is the time for working on long term plans. It is a foundation for the future that we look at in this issue of **IRDA Journal**. A ringing in the new, in the place of the well-worn old, which will be robust enough to take on the challenges that time will place on it.

The revamp of insurance laws has been a much looked forward to exercise and, in this issue, we take stock of the proposed changes. These changes were initiated by the IRDA about a year ago and the Law Commission has been entrusted with the responsibility of carrying it out.

Writers like Mr. G. V. Rao, retired CMD of The Oriental Insurance Company and Mr. S. Muralidhar, part-time Member, Law Commission write about the larger vision and of course, Mr. T. K. Viswanathan, now Secretary, Legislative Department, Ministry of Law and Justice who was, when the exercise was initiated, Member-Secretary, Law Commission and also part time member, IRDA, writes about the philosophy behind such a revision.

In that sense we also get a larger view of the legal framework as it should be in order to enable the business of insurance realise its true growth potential. This is a real challenge given the way businesses are growing in general. The insurance business is likely to have an interesting growth path in the next decade given its quasi-Rip Van Winkle status thus far. Consumers are waking to needs they were not alert to earlier and their expectations are changing and becoming more strident. Corporate governance per se and customer satisfaction and protection of their rights will all reside safely only under the shadow of a well drafted law that now requires to be refashioned out of the existing, build-as-you-go patchwork.

After the opening up of the insurance market to private capital the next most talked about event has been the advent of brokers into the market. Currently this channel of intermediation is going through a phase of suspended, not to speak of suspenseful, animation!

Not that this status is new to the brokers! Their remuneration and market access status are being decided right now as the IRDA waits for comments before taking a view on the recommendations of the A. C. Mukherji Committee, but the community is probably in a very 'déjà vu' mood because they have already gone through this tense waiting period from 2000 to 2002 waiting for brokers regulations come about – something that was actually supposed to precede the registration of insurance companies, existing and new, by the just born IRDA!

We bring you comments on the A. C. Mukherji committee report from different points of view.

Our next issue, in early March, will have a look at reinsurance. Please share your thoughts with all our readers!

K. Nitya Kalyani



# Risk Resorts !

*K. Nitya Kalyani*

One of the primary strategies in achieving goals is to set sub-goals and give yourself a realistic time frame in which to achieve them.

Maybe this is even subconscious and perhaps that is why the system has not yet started seriously worrying about the fact that reinsurance as an independent business has not started happening in the Indian market yet.

Regulatory constraints – like compulsory Indian joint venture partner and the requirement of an Indian registered company – have been cited, and the fact that these have been muted thus far shows that the market demand is not yet that high.

Put this down as one of the peculiarities of reinsurance as always having been available as a cross border product. But one of the fond hopes of liberalisation of the Indian insurance market was that reinsurance as a business would pick up and even that India would become a regional market for reinsurance.

The market is developing slowly but surely and the many changes since liberalisation will eventually lead to a focus on reinsurance and the market will respond with the means to supply the demand and cash in on the opportunities. When the opportunities are irresistible enough!

There are interesting changes in the market already though. For one thing the General Insurance Corporation (GIC), on its redesignation from holding company of the public sector general insurers has become the national reinsurer, thus having to reinvent itself as a vendor to its own erstwhile subsidiaries! And its customers are saying they are learning the new walk and talk fast!

There is still the 20 per cent compulsory cession for all Indian insurers and there is as usual a mixed reaction to this, but companies are placing additional reinsurance with GIC though not as much as the latter would wish! The reasons are not far to seek. The direct insurers wish to be free to move in and out of different markets to take advantage of rates.

And rates it all boils down to. For reinsurance rates are not a factor of actual risk rates but of market demand and supply which creates and removes market capacity (capital) rather swiftly.

Following 9/11 many reinsurers collapsed and the rates skyrocketed. But higher rates bring in new hopefuls and the new capital that came in brought enough pressure to bring down the rates within two years.

And what this means to someone who wants to become a reinsurer is that he has to have very deep pockets indeed to

stay through the troughs and peaks of the markets.

As of today, the GIC has it. And New India is another company that could aspire to it. And both can write inward reinsurance business from a position of strength because they don't have to service capital exclusively for this.

Apart from its marketing role domestically now, the GIC has also made a mark in writing inward business from other markets in the last couple of years. It has doubled its volumes aggressively and could position itself as a reinsurer for the SAARC region at least.

As Mr. P. B. Ramanujam, Managing Director, GIC, said in an article (*Paleontology & Palingenesis*, **IRDA Journal**, December 2003 page 33) tracing his company's profile in the last three years, what is needed to make GIC more competitive and energetic is, more competition!

Some activity does seem evident in the horizon with Swiss Re talking about its wishlist before it can enter the Indian market and with Munich Re in long drawn out talks with the Reliance group.

Let us see what the market wants and the providers and intermediaries think about all this in the March issue of **IRDA Journal**. If you want to write about it, just e-mail us quickly!

# Amendments to Investment Regulations

The IRDA has decided to allow insurers to invest in derivatives. The notification of this amendment to the investment regulations has been gazetted on January 1 and come into effect from that date. Investment in collateralised borrowing and lending obligations (CBLO) created by the Clearing Corporation of India (CCI) and recognised by the Reserve Bank of India (RBI) as a money market instrument/investment has also been allowed through the same notification.

Such investments will be in the nature of Other than Approved Investment.

Insurers are allowed to invest in derivatives for the purpose of hedging the assets on their balance sheets. Guidelines to be followed by insurers while investing in derivatives will be released by the IRDA. The margin or unamortised premium on such investments will be treated as Approved or Other than Approved investments as

per the category to which the underlying asset belongs.

The IRDA has also made changes in the formats in which investments are to be reported to it by the insurers and this too forms part of the amendment notified on January 1. The changes have been made to ensure transparency and consistency in the reporting of investments.

(See page 48 for a detailed write up on these changes).

# Retraining Agents

The IRDA has specified some areas in which insurance agents who seek renewal of their licences should be retrained. It has also sought feedback from the agents coming up for retraining on the 100 hour pre-licensing training system.

The agents licencing norms of the IRDA includes an initial training of 100 hours as per IRDA syllabus. For renewal of the licence after the initial three year period, 25 hours of training was prescribed (50 hours in the case of composite agents). The contents of this retraining have now been defined in part. The Authority requires both life and general insurance agents retraining to include the following topics acquaint themselves with the latest developments in the insurance market.

1. New regulations/notifications/circulars issued by IRDA [which affect intermediaries or policyholders]
2. New products introduced by the insurers in the market
3. All tax matters relating to and benefits accruing from such products
4. Advanced Sales Training
5. Services which policyholders expect from agents and provisions of agents' code of conduct
6. Protection of policyholders' interests and grievance redressal mechanism
7. A refresher of some important topics of previous 100-hour training, on request from trainees

## Defining the 'Actuary'

The official definition of an Actuary, for the purposes of Insurance Act, 1938 and IRDA Act, 1999, has been incorporated into the actuarial qualifications regulations of the IRDA and has been notified in the Government of India Gazette on January 1.

According to this amendment, an Actuary, for the purpose of being employed by an Indian insurer, shall be a Fellow of the Actuarial Society of India. There is also the provision that where an application is made by any individual to the IRDA and it is established to the latter's satisfaction that he/she has the sufficient actuarial knowledge to carry out his/her obligations and those of the insurer under the Insurance Act, the IRDA may permit such an individual to take on the responsibility.

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# Exit Clause Needed

K. Ramachandran

## A.C. Mukherji Committee Report

3.20 The institution of brokers which is well established in most insurance markets does not exist in India, except in the area of reinsurance. Brokers are professionals who bring together the insured and insurers, carry out work preparatory to insurance contracts and, where necessary, assist in the administration and performance of such contracts, in particular when claims arise. Brokers have a relatively more important role to play in free markets than in markets regulated partly or fully by tariffs. They are increasingly becoming professional managers. Professional standards of brokers are subject to both their self regulatory bodies and requirements of registration with designated authorities. Unlike agents who are retained on behalf of insurers, the primary responsibilities of brokers is towards the insured. They put across requirements of their clients before insurers and obtain from them appropriate insurance products. Whenever standard products are not adequate, they prepare a 'manuscript policy' and negotiate with the insurer to optimise satisfaction of their clients. As brokers negotiate with many insurance companies, they also act as catalysts of competition in the insurance market. It would be, therefore, advantageous if suitable provisions are made in the Insurance Act permitting the institution of brokers and regulating their operations.

### Malhotra Committee's Recommendation:

3.22 vi In keeping with contemporary trends in insurance marketing, the system of brokers should be introduced by insurance legislation for better professionalisation, improved customer service and competition.

**Malhotra Committee Report, Chapter III - Insurance Intermediaries Part ii: General Insurance**

The Malhotra Committee in its report submitted on January 7, 1994 anticipated the need for brokers for the general insurance business.

The IRDA Bill, 1999, inserted Section 42D to the Insurance Act, 1938 and introduced the intermediary and insurance intermediary through legislation. Section 2f of IRDA Act, 1999 defined "intermediary or insurance intermediary" to include insurance brokers, reinsurance brokers, insurance consultants, surveyors and loss assessors.

The IRDA as regulator took forward the statutory empowerment by circulating draft broker regulations in May 2000. These regulations indicated potential commission to brokers up to 30 per cent. However the draft was withdrawn with no further action for a few months.

The subject of introducing the broker, and therefore regulations, were viewed with uncertainty and concern by stakeholders. This was manifest in a marathon sitting prior to approving the broker regulations which were notified on October 16, 2002. Yet commission continued to be under review.

The commission structure was modified on March 22, 2003 by the IRDA in pursuance of the powers granted to it under the IRDA Act, 1999, in the general interest of consumers and for purposes of

regulating the costs of intermediaries of insurance products in the market to ensure the smooth and proper growth of the market in India. (see Table I for the commission structure, following further clarification).

The IRDA withdrew the five per cent special discount given in lieu of agency commission on May 30, 2003. Chambers of commerce and consumer representatives strongly protested the withdrawal as it added to their administration costs for insurance which

**There is a sharp and  
perceived diminution of  
remuneration  
opportunities to brokers in  
these recommendations.**

this discount compensated for in some measure. The IRDA constituted an expert committee and notified the same on September 1, 2003 to review the issues in detail since the subject in question relates not only to special discount, agency commission, brokers' remuneration and differential rates/scales of procurement of insurance business, rebates, etc. but to a wider range of issues.

The IRDA Committee headed by Mr. A.C. Mukherji and having Mr. G.V. Rao

and Mr. K.N. Bhandari as Members submitted its report to the IRDA and this was published on December 22, 2003. Stakeholders were given 10 days time to respond to the recommendations.

There are two perspectives to view the recommendations from:

1. the current situation which is in transition; and
2. irrespective of practice as at present the change that is required and the management of the same in order to achieve a paradigm shift to a new order.

The committee has captured the current situation very well and the approach has been to recommend corrections that would keep the transition manageable and under control. The recommendations do not enunciate a new order but do anticipate its emergence with effect from April 1, 2006.

The recommendations are in three parts:

1. transition to pure risk rating
2. commission structure
3. basic structure of broking firms

The transition to pure risk rating is apparently to facilitate each insurer to move towards experience rating under supervision of the Tariff Advisory Committee (TAC). It is not clear if the TAC will monitor breach of the individual's stated pure risk rate or a

market pure risk rate that the TAC will prepare for each existing tariff category over the next two years. However, one agrees with the committee that transition to pure risk rating requires initial management and monitoring. TAC will need to be prepared and equipped to meet the interim challenges in this respect.

The commission structure is clearly geared in the insurer's favour for all firms [private and government] with paid up capital exceeding Rs. one crore but less than Rs 25 crores and that in respect of fire and engineering insurances to:

1. allow the client five per cent discount if he self administers
2. pay the agent 6.25 per cent with client forfeiting five per cent discount if agent processes insurance [reduces to five per cent when paid up capital exceeds Rs. 25 crores]
3. pay the broker 7.50 per cent with client forfeiting five per cent discount if broker processes insurance [reduces to 6.25 per cent when paid up capital exceeds Rs. 25 crores].

In the client's [both private and government] perspective, for purchase of Fire and Engineering insurances, a choice is made available to avail five per cent discount for self administering purchase or to utilise an agent or broker. The client is not compelled to use the services of an intermediary. If he so chooses to use an intermediary then the insurer will need to oblige by paying the stipulated commission to the agent or broker.

In respect of Fire and Engineering insurances the committee has taken a view that there is no significant difference between the roles of an agent and broker in view of tariff and the ability of most clients to process insurance purchase.

In respect of statutory insurances upto 10 per cent commission is payable to both agent and broker. The committee is of the view that efforts required to process are not different as between the two channels.

In respect of all other tariff lines the committee has recommended a commission of upto 10 per cent to the agent

and upto 12.5 per cent to the broker. In respect of non-tariff lines the committee has recommended a commission of upto 15 per cent to the agent and upto 17.5 per cent to the broker. The special discount is not available to the client.

The committee has taken a view that the differential of 2.50 per cent between an agent and a broker reflects the level of difference in their respective responsibilities in processing insurance purchase. The entry norms for a broker does not reflect this assessment. It is therefore necessary to equally review the entry norms for brokers.

There is a sharp and perceived diminution of remuneration opportunities to brokers in these recommendations.

**The intermediaries are going through regulatory risk as regulations are still being finalised. Those who would now like to withdraw must be fully supported in their decision.**

In view of the regulations yet to be in place and not final, it would assist if brokers who are licensed or have applied for one based on Regulation 19 provisions to exit without a monetary loss.

Most remuneration opportunities arise from these recommendations in the category of less than Rs. one crore paid up capital for Fire and Engineering insurances and in all other classes of insurance. These services will substantially be addressed by banks as corporate agents, individual agents and niche segments within them by brokers. Brokers will be striving to get started over the next two years even while agents – individual and corporate – will move ahead.

As per the recommendations, if a client with more than Rs. one crore but less than Rs. 25 crore paid up capital chooses to use an intermediary, then the insurer will need to oblige by paying the stipulated commission to the agent or broker.

An Ernst & Young study in Mumbai, still relevant after four years, among corporate executives handling their companies' insurance function, discovered that nearly three-fourths were aware of the concept of the insurance broker. However, the extent of awareness varied: transnationals and large private sector Indian companies seemed to have deeper insights. The acceptability of brokers among corporate buyers was high: over 70 per cent of the respondents were willing to work with them.

The study also interviewed industry experts, prospective foreign insurers, and others in the industry who felt that brokers will usher in a sense of professionalism that is lacking today. It was felt that if proper direction was provided by the regulatory authority, brokers could qualitatively impact the general insurance sector. The survey demonstrated that a market definitely exists for insurance brokers. [*The Insurance Intermediary, 'An Ernst & Young study for Business Today, February 2000*].

***Taking the Committee's recommendations with a modification, a suggestion in the above regard would be, in respect of tariff lines of insurances, let the insurer allow a client a discretion of upto 12.5 per cent of premium to determine percentage of commission to be paid to the broker.***

***The insurer would split the 12.5 per cent as determined by the client, allow discount restricted to a maximum five per cent to client and pay the balance to the broker. If no broker were used then the discount allowed to the client would still be restricted to five per cent.***

In this context, as a long-term view of a healthy practice, the loss experience of a client could be best related to premium

net of commission and discount. The discount for loss experience to a client would then be determined on this basis. Further, the payment of commission by the insurer, though determined by client, follows the existing practice in this respect. Commission to an agent would be paid by the insurer and the client has no say in this respect.

Brokers as independent consultants and wholesale insurance service providers need to be targetted for development. This needs to be built into the regulations with commensurate entry norms. Hence, the above is suggested for determination and payment of commission to a broker in respect of tariff lines of business.

In India we have the extraordinary situation of risk carrier as competitor to the broker. This is difficult to address except through control of breach of agreed rate by an insurer with the broker and enforcement of the client's mandate to a broker! Regulatory protection requires to be spelt out.

The Professional Indemnity insurance is a pre-requisite to practice as a broker. Its non-availability according to regulatory norms would retard engagement of brokers. Is an interim arrangement of the regulator as a guarantor be possible? This view follows the due diligence that an applicant goes through with the regulator in obtaining his license.

"In a non-tariff market the composite broker could tie up reinsurance arrangements at lower rates and bring pressure on the primary insurer to front for the business. Such practices in developing markets are quite common. There is a conflict of loyalty as the composite broker works for the insured and the insurer as well. Hence licensing composite broking should be discontinued." The observation is not inconsistent with practice. However the withdrawal is fundamental to the business architecture of licensed composite

#### RECOMMENDATIONS – A CHECK LIST :

Issue	Recommendation
Detariffing	Not later than April 1, 2006.
Special discount	To continue on Fire and Engineering policies. Rs.10 lakhs remuneration paid up capital to increase to Rs. One crore.
Intermediary	15% to agents and 17.5% to brokers for non tariff covers. 10% for statutory covers to both.
Special dispensation to PSUs	All corporate bodies are treated alike and no special treatment is given to PSU's.
Cost of transacting insurance business	Remains at over 30%. Serious measures to be taken to control it.
Brokers	Licensing composite broking to discontinue. Licensing norms for composite brokers to be reviewed.
Agents	Banks as corporate agent need a reappraisal. Monitoring and mentoring agents recommended.
IRDA & regulations	Implementation cell or a standing committee to identify compliance with regulations. Outsourcing may be considered.
Insurers	Insurer to provide full disclosure of promotional, marketing and risk management expenses. Punishment for breach of tariff should be severe.
Policyholders' protection	Proposal and policy document should be sent in one lot.
Referral fees/charges	Availability of database should not qualify for the fee. Fee should not exceed 7.5% of the premium collected.
Rural business	The definition to include an area with a population up to 30,000.

brokers and can seriously affect their business plans.

Another key issue is a broker's capital requirement. This is within regulatory direction and is different from the statutory requirement for insurance companies. The requirement to divest [Section 6AA of Insurance Act, 1938] is a healthy statutory direction in ensuring diligence in ownership and management of insurance companies. This demands continuous attention to increasing the net worth of the company besides involving and sharing with the Indian public the fruits of enterprise. A suggestion is that this requirement of Section 6AA may also be incorporated within broker regulations.

Overall the meticulous and detailed recommendations address the current needs of transition in the Indian insurance market. Clearly the intermediaries are going through regulatory risk as regulations are still being finalised. Those who entered with eager anticipation and would now like to withdraw must be fully supported in their decision. This should be the final call before broker regulations are declared final – final at least until April 1, 2006 when they may need to be reviewed again.

*The author is General Manager, J.B.Boda Insurance Brokers Pvt. Ltd. The views expressed here are his own.*

# Recommendations in Brief

## 1. Detariffing

a. To take immediate and urgent steps to move towards detariffing the entire general insurance market system not later than April 1, 2006. (Para 3 of page 6).

b. It is suggested to encourage, assist and guide individual insurers to build up statistical bases for their own risk acceptances on all businesses. This will enable them to be ready for a Pure Risk rate regime. (Last para of page 6).

c. To avoid or mitigate unhealthy competition in pricing, until the market stabilises, the Pure Risk rates (which will not include any administration and / or procurement costs or profit margins) should be regarded as the minimum benchmark. (Para 2 of page 7).

## 2. Special discount, Intermediary remuneration, Paid-up capital norms

a. To continue with the five per cent special discount in the interim for certain corporate bodies – both in the private and public sector on Fire and Engineering insurances only. (Para 3 of page 8)

b. The eligibility limit for the special discount of five per cent should be raised to a minimum paid-up capital of Rs One crore and above for corporate bodies. (Para 4 of page 8).

c. There should be no special discount of five per cent allowed on any tariff cover either to individuals or corporate bodies whose paid-up capital is below Rs One crore. (Para 6 of page 8).

d. Where special discount five per cent is not applicable, the agency commission for insurances of individuals and corporate bodies with a paid up capital below Rs One crore should be restricted to a maximum of 10 per cent for agents. The brokerage should be a maximum of 12.5 per cent. (Para 7 of page 8).

e. It is recommended that for statutory covers both the agents and brokers should be eligible to a maximum of 10 per cent remuneration only. (Para 8 of page 8).

f. Corporate bodies, whether private limited companies or public limited companies or public sector undertakings or statutory bodies having a paid up capital of Rs One crore and above and up to Rs. 25 crores should be allowed to have a

choice of availing either a five per cent special discount and place Fire and Engineering businesses directly with an insurer or seek the services of a broker/agent when they will become ineligible for the five per cent special discount. The remuneration to brokers in such an event should be limited to a maximum of 7.5 per cent. The agency commission should be restricted to a maximum 6.25 per cent (Para 1 of page 9).

g. In cases where the paid up capital is above Rs.25 crores, the client will have the same option as above and the remuneration to brokers in such an event should be limited to a maximum of 6.25 per cent. The agency commission should be restricted to a maximum of five per cent (Para 2 of page 9).

## 3. Cost of transacting insurance business

a. It is observed that the cost of transacting insurance business in India has

remained high at over 30 per cent of the earned premiums generated for both the public and the private players. Additional costs if imposed suddenly would further burden them. (Last para of page 9).

b. Insurers have neither actively adopted nor taken any serious measures to reduce costs nor have they any strategies in place to do so that will result in lower premiums to consumers at least in future. (Para 1 of page 10).

## 4. Remuneration of agents and brokers

a. Agency commission for tariff covers should be revised to a maximum of 10 per cent to maintain a differential of 2.5 per cent in the remuneration structure between brokers and agents / corporate agents. (Para 5 of page 10).

b. For statutory covers, however, 10 per cent remuneration should be maintained for both of them, as no special

### General Insurance Brokerage / Commission as per IRDA rules

Type of Business	Source	Capital	Agency Commission Fixed	Broker's Commission Not Exceeding	Direct Purchase Discount Fixed
Tariff	GOI / PSU Companies*	X	X	X	5 Discretionary
		< 1 cr	5	12.50	5
		1 to 10 cr	5	7.50	5
		10 to 25 cr	2.50	7.50	5
		25 cr +	X	5	5
	Others	X	5	12.50	5
Tariff -Motor TPL / PLI	GOI / PSU Companies	X	X	X	5
		< 1 cr	5**	10	5
		1 to 10 cr	5**	10	5
		10 to 25 cr	2.50**	10	5
		25 cr +	X	10	5
	Others	X	5**	10	5
Tariff -Others [Hull, WC, Motor OD]	GOI / PSU Companies	X	X	X	5
		< 1 cr	5#	12.50	5
		1 to 10 cr	5#	12.50	5
		10 to 25 cr	2#	12.50	5
		25 cr +	X	12.50	5
	Others	X	5#	12.50	5
Non-tariff	GOI / PSU Companies	X	X	17.50	X
		X	15##	17.50	X
		X	15##	17.50	X

\*Applies to cooperative societies with capital exceeding Rs.5 lacs; where interest of state is denoted; tax exempt public charitable trust

\*\* See within non-tariff for agency commission on motor

# See within non-tariff for agency commission on motor

## Commission not to exceed 15%; where combined with tariff business, agency commission fixed at 5%; motor business not exceeding 15%

expert advice is required in providing or servicing such covers. (Para 6 of page 10).

c. On non-tariff covers, the maximum remuneration for brokers should remain at 17.5 per cent and that of agents at 15 percent. (Para 7 of page 10).

**5. Brokers**

a. The licencing norms of the direct broker should be reconsidered for the future. (Para 4 of page 11).

b. Brokers should open additional offices only after obtaining the prior approval of the Regulator. (Para 5 of page 11).

c. Sub-broking as a proposal was not accepted. (Para 6 of page 11).

d. Brokers should not be permitted to practice after issuance of licence by IRDA, till a copy of the Professional Indemnity (PI) policy covering the requirements of the IRDA regulations is produced. (Para 1 of page 12).

e. The IRDA has nominated one of its Members on the Disciplinary Committee of the Insurance Brokers' Association of India, as a permanent member. The committee is of the view that this is 'neither a healthy nor a desirable convention. (Para 6 of page 12).

f. Licencing composite broking should be discontinued. (Para 3 of page 17)

g. Licencing norms for Composite Brokers should be reviewed and no more licences should be granted under this category. (Para 4 of page 17)

**6. Agents**

a. The duties and functions of a Corporate Agent in the case of banks need a reappraisal in view of the conflict of interest situations. (Para 3 of page 12).

b. Retraining programmes are needed to enhance the technical skills and sales techniques of agency force. (Para 3 of page 12).

c. Monitoring the agency performances and mentoring them should be another area of implementation to improve their effectiveness vis-a vis the insuring public. (Para 3 of page 12).

**7. IRDA & regulations**

a. A separate implementation cell or a standing committee on procedures and performance review of Insurers, brokers

and agents should be set up in the IRDA to identify the regulations that each stakeholder has to observe and assist each in their compliance. (Para 2 of page 13).

b. Outsourcing assistance for implementation of regulations may be considered. (Para 4 of page 13).

**8. Insurers**

a. The annual accounts of each insurer should provide full disclosure of expenses incurred under promotional, marketing, developmental, risk management and similar heads to detect if any undesirable inducements have been made to customers to solicit their business. (Last Para of page 13).

b. Each insurer has to publish quarterly un-audited financial statements from 2004-05, in specified formats, as also the audited annual financial statements in at least two newspapers. (Para 1 of page 14).

c. The Insurance Act, 1938 should be amended to make punishments by the IRDA deterrent enough after identifying the category of breaches of regulations applicable to the insurers and brokers. (Para 4 of page 14).

d. The General Insurance Council of the Insurance Association of India must be activated to perform its designated functions under section 64L of the Insurance Act, 1938. (Para 5 of page 14).

e. Breaches of tariff and regulations by the insurers should be reported to the highest corporate level and punishments

by IRDA/TAC should be severe. (Para 7 of page 17)

**9. Policyholders' protection**

a. The proposal, wherever obtained, and the policy document should form one set and should be sent together. (Para 1 of page 15)

b. The proposal form itself should contain and highlight the broad benefits of cover, major exclusions and cancellation conditions offered to the proposer by the insurers. (Para 4 of page 15).

**10. Referral fees/ charges**

a. Availability of customer database itself to an insurer should not qualify for receipt of any referral fee. (Para 2 of page 16).

b. The referral fee/charge arrangement is to continue to develop mainly rural insurances with certain safeguards. The fee should be paid only on the business realized and booked. Such a fee should not exceed 7.5% of the premium charged and collected. (Para 4 of page 16).

**11. Rural business**

a. The definition of what constitutes a rural area should be based on census and should be revised to an area with a population upto 30,000. (Last para of page 16).

b. All insurers should be asked to devise simple standardised identical rural policies, at affordable premium rates. (Para 1 of page 17).

(Compiled by K. Ramachandran)

**A.C.Mukherji Committee Recommendations**

Type of Business	Source	Capital Not Exceeding	Agency Commission Not Exceeding	Broker's Commission Fixed	Special Discount
Tariff - Fire & Engg.	GOI / PSU / Companies*	< 1 cr	10	12.50	NIL
		1 to 25 cr	6.25	7.50	5
	Others	25 cr + X	5 10	6.25 12.50	5 NIL
Tariff - Motor TPL/PLI	All		10	10.00	NIL
Tariff - Others[Hull#, WC, Motor OD]	All		10	12.50	NIL
Non tariff	All		15	17.50	NIL

\*Applies to cooperative societies with capital exceeding Rs. five lakhs; where interest of state is denoted; tax exempt public charitable trust # Hull tariff requires to be modified

# Out of Syllabus !

P.S. Prabhakar



The other day, when I had a severe headache and a mild flu, I dropped by the polyclinic near my residence to get myself treated. The doctor, to whom I explained my complaints, examined me and

put me through several tests and, with a grim face, gave me his diagnosis.

That I was developing a mild cervical spondylitis, that my sugar levels were bordering tolerance levels, that there was an imminent possibility of my developing glaucoma in my eyes, that sooner or later I would have to undergo a surgery for appendicitis, that my ECG suggested that I might get in to an ischaemic condition in the next couple of years and that I was also likely to contract gastritis if I did not watch my diet etc. Of course, he also gave me a prescription for paracetamol, which was the only thing I went to him for.

I revisited this experience when I had the pleasure of reading the report of the Expert Committee that was constituted to examine the remuneration system for brokers and other insurance intermediaries.

If one goes through the Terms of Reference given by IRDA, it can be seen the intention was to get the committee to examine the remuneration for the distribution and marketing channels in the general insurance industry, in the **existing regime** and to make appropriate recommendations. Thus, it is clear that IRDA did not require the committee to go in to any other issue, definitely not into those larger issues in to which the committee seemed to have stepped into.

Though the committee seemed to have taken refuge under the Term of Reference No. 5 to justify its in-depth analysis of the industry at a holistic level and consequent recommendations, the actual reading of the said Term, would only indicate that the brief there too was in relation to the preceding four Terms and most certainly related to the 'distribution channels'. The said Term actually reads: "*Any other matter as the committee may consider relevant for the market conduct and long term development of the distribution channels by creating an efficient and viable intermediary channel mix in the best*

## A.C. Mukherji Committee Report

*interests of the future growth of the market, the insurers and the insuring public."*

However, the Committee, in its Report has said "*The Committee has been asked to make recommendations under Terms of Reference number five on any other matter considered relevant for the market conduct and its long-term development. Quite a few matters, even indirectly impinging on the terms of reference, have been dealt with under the respective topics.....*", leaving out the reference to 'distribution channels'.

This 'convenient' interpretation, which, by no stretch, can even constitute *ejusdem generis*, has given the committee the opportunity to apply its well-reasoned mind to suggest changes in, say, corporate governance issues, policyholders' protection, grievance redressal mechanism, publication of financials in the media etc.

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**As the 'answer' is indeed excellent, perhaps IRDA could think of re-framing its 'question,' retrospectively! It is over-enthusiasm all right, but a well meant one.**

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Surprisingly, the committee has also gone rather emphatic on its recommendation on detariffing, which is a sweeping subject by itself, one which is engaging the attention of IRDA, TAC, PSU insurers as well as the private sector, with a roadmap being drawn, taking into consideration various issues connected to it. In fact, for detariffing one of the portfolios namely Motor, a separate committee was formed under the chairmanship of Justice Rangarajan, which also had submitted its report to IRDA a few months back.

Not only that, the Expert Committee Report repeatedly has stressed the need for detariffing but has also set a deadline, for it. Amusingly, this aspect was the one highlighted by the media also, when this was clearly outside the scope of the committee.

The detariffing recommendation, according to me, requires a deeper debate. The sellers and the purchasers of insurance will have to be prepared for this and the experience of such detariffing in the past in some specific portfolios should all be factored while making the decision. In any case, a

detariffing recommendation cannot be a by-product of a report of a committee which was constituted to look in to issues far from it.

Similarly, other areas that have been covered by the Committee are "*Reinsurance and the present business practices, the role of Representative and Liaison offices of foreign players, tariff breaches by insurers, statutory cessions of 20 percent to the GIC and IRDA as an adjudicator on claims*".

"Sorry, Out of syllabus!" could be the reaction by IRDA but I hope they are not that curt. After all, the Expert Committee's report is well intended. As the 'answer' is indeed excellent, perhaps IRDA could think of re-framing its 'question', retrospectively! It is over-enthusiasm all right, but a well meant one.

Believe me, some of the recommendations are sparkles of wisdom and experience. For instance, the one on the need for 'local market capacity exhaustion' for facultative placements and the one on scrapping of compulsory cession placements to the national reinsurer, are very good. This is the first time, perhaps, that a serious suggestion on the reinsurance policy of the industry has been articulated, effectively.

The recommendation in the area of dissemination of information on the financials of an insurance company to the insuring / general public through newspapers is in line with best international practices.

Perhaps the best recommendation is on the setting up a performance review committee for monitoring compliance of regulations the outsourcing of such monitoring work to agencies that have the necessary expertise and experience.

It is time for IRDA, the regulatory authority, to put in place a formidable 'audit' mechanism to ensure that the companies are adhering to the various regulations. Like the RBI having its regular inspections on all the banks on compliance aspects, IRDA should have compliance audit mechanism set up and for this purpose, the 'outsourcing' recommendation should come in handy.

IRDA and the Institute of Chartered Accountants of India (ICAI) already have a working arrangement on a few matters and they can put their best minds together and make this proposal a workable one. It will augur very well for the industry.

*The author, who used to work with the nationalised general insurance industry, is a practicing Chartered Accountant.*

# 'Et tu Brute? Then fall Broker'

Vinod Sahgal

Whenever we look to expressing ourselves we fall back to our school days when we had to plod through the tedium of the works of Shakespeare – something that we then studied with much reluctance and an equal measure of tears.

It is only much later as we got older (not necessarily much wiser) that we realised the wisdom of the bard when he wrote something for every occasion and for all forms of emotions. He provided us with a bouquet of descriptions to choose from - "The Tempest, Two (should have been three) Gentlemen of Verona, A Comedy of Errors, Much Ado About Nothing, Love's Labour Lost, As You Like It, All's Well That Ends Well"

All of these fit the subject of my article but the most appropriate in relation to the much hyped and eagerly awaited "A.C. Mukherji Committee" report (which was to be the last opportunity for the salvation of the insurance broking fraternity) is Julius Caesar.

So with apologies to good friend William Shakespeare I intend to plagiarise freely from the much quoted and often hammed up attempts at re-enacting the justification that Mark Antony provided in criticising his very good friend Brutus – who of course "...was an honourable man ..."

So do forgive me if I too make a call on "Friends, Romans and countrymen" to lend me their ears!

Not unlike Julius Caesar the brokers too have been surrounded for many years, and more so of late, by all shades of friends and foes and there are as many who have voiced their 'ayes' to the introduction of insurance brokers as there are those who have lobbied with their 'nays.'

The path of the brokers regulations has been strewn with the debris of the flip-flop drafting, redrafting, chops and changes in the basic concept and understanding of the role of, need of and

indeed the very existence of the transition from a single to a multi channel distribution system - brokers in particular.

It is not my place to stir up controversies, attach motives or challenge the logic of the seniors in our profession, but it baffles me as to why it has been felt necessary to revisit or repeatedly cast doubt as to the value addition by the brokers'.

More so when the entire foundation of insurance reforms is enshrined in the Malhotra Committee report whose advice was to bring back the element of competition. Indeed it was felt that it would be the insurance brokers who could provide once again the freedom to the insurance buyer to choose what product, from whom, through which

It baffles me as to why it has been felt necessary to revisit or repeatedly cast doubt as to the value addition by the brokers.

channel and at what price to buy his insurance.

This fact was recognised by the Government in the passing of the IRDA Act and thereafter also by the IRDA in their issuing the insurance brokers regulations. Hence the role of the broker being a value addition and going beyond that of agents is no longer a subject of debate.

Then again the subject of brokers' remuneration is another example of the wisdom of the management guru, Heathcote Parkinson, in his now famous Parkinson's Law, in that work expands in proportion to the time and manpower available. He also observed in his chapter on Board Meetings that the least important item in the agenda is debated fiercely consuming much of the time and energies of the members present.

## A.C. Mukherji Committee Report

The brokers too seem to have fallen victim to these dictums and somehow the remuneration for brokers seems to have become a proverbial mountain instead of the mole hill that it really is.

It was not without the burning of much midnight oil that IRDA went through several versions drafting and redrafting the brokers regulation and it was an equally well known fact that there was never going to be any single document that would satisfy each and every one of the players in the chain of an insurance transaction.

So with the appointment of the committee headed by Mr. A.C. Mukherji and the support of his able committee colleagues it was anticipated that there would be impartiality and fair play to all concerned. This however does not seem apparent and Julius 'Broker' Caesar seems to be gasping for breath as he bleeds to death

I do not plan to emulate Mark Anthony in crossing swords with Brutus but if we filter the terms of reference of the committee then we see that the main issues are :-

Five per cent special discount in lieu of agency commission:

Whether or not it should be continued in its present form or be suitably modified for certain segment of insureds only or be discontinued or be modified in any other form.

Whether there should (or should not) be any differentiation between the PSU s private sector clients

To plug any channels of rebating that brokers' remuneration may lead to

Recommend means and methods of brokers' remuneration and identify the similarities (or otherwise) between roles / remunerations of agents and brokers.

What has not been touched upon is the legality of the practice of this 'special' discount in its present form which runs counter to the diktat of the Insurance Act which in its section 41

prohibits rebating and paints as a felon both the one that giveth as well as he who receiveth.

In the present context it applies in particular to tariff business where 'discounts' are for specific (risk related / underwriting) reasons. It does not and cannot allow a reduction of premium for any other reasons like " ...in lieu of agency commission..."

The fact that this practice has continued unchallenged for decades does not make it any less ultra vires.

In saying as I have above I do not advocate that the 'pillion rider' that the client has been in this practice be made the scapegoat and be made to suffer the additional cost but imagined that the A.C. Mukherji Committee would have to have advocated a more permanent solution like an across the board reduction in the tariff rates and the total elimination of the special discount. This, if done, would have passed all tests of legality.

This would have had the effect of insurers receiving the same level of net premium as they are receiving today and yet making available a level playing field to all concerned in the insurance transaction, without any undue advantage to any one of the links in the chain - be it the insureds (PSU / non PSU alike), agents / brokers, or to the insurers (PSU or otherwise)..

As to the level of remuneration to agents and brokers this could as well be a lower level for the tariff business (where the flexibility of innovation is restricted) and a higher one for other classes where innovation is the main forte of the intermediary and insurers.

Coming to the other details of whether or not the remuneration should (or not) be linked to the paid up capital, or whether or not it will lead to rebating and other unhealthy practices - I can only suggest that the tariff has always indicated pure rates and in a free and open market it would be the market forces that should and will decide the level of remuneration to intermediaries.

Paid up capital can never be a realistic barometer as this does not take into account the level of inputs / expertise required of the intermediary but instead it is the sum insured and the risk factors that generate the level of premium to insurers - higher the premium lower is the percentage of commission to intermediary

In the ultimate and keeping in mind the interest of their mutual client (the insured) it is also a matter for the insurer and the intermediary to mutually decide on the level of remuneration - the Tariff can specify minimum rates and the Regulator the maximum commission / brokerage.

Why then should we expect the buck to be passed on to the committee who are being put on the block by having to

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**I only can hope for the  
incubative broking  
activity to survive this  
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and be enabled to get  
on with it.**

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divide the proverbial baby between two mothers?

Having come this far in the process we must appreciate the enthusiasm and the considerable level of expertise of the committee and also cast a Nelson's eye on their possibly having gone beyond the 'LOC' of the terms of their reference when they recommend the scrapping of composite brokers, opening of branches, sub-brokers and the debarring of brokers without Professional Indemnity - all of which were included in the brokers regulation with much deliberation.

Likewise it is not for me to comment on the Committee's observations / comments on the subject of insurers - as to whether 'any other business' in the terms of reference was meant to extend too much beyond the concept of the "Expert Committee to examine



remuneration system for insurance brokers, agents etc. in General Insurance business."

So back to my misquoting Shri Shakespeare, his Ceasar (the brokers) and Brutus (the honourable senator with malice towards none). As was said by Mark Anthony "..... They that have done this report are more knowledgeable than I and no doubt have reasons and the accompanying logic for having recommended as they have done.

I come, not to sway your hearts, nor to stir you to any form of mutiny (a simple open debate will do!). I also am no orator as Brutus was, but after waiting over eight years to witness the brokers' regulation see the light of the day it saddens me to also be witness to a potential infanticide.

I only can hope for the incubative broking activity to survive this initial game of ping pong and be enabled to get on with it.

Once the applause dies down and the final curtain comes down on this tragedy, the bard will only say that these comments are the writer's own and may not necessarily be shared by JLT India.

*The author is Managing Director, Jardine Lloyd Thompson Insurance Consultants Ltd.*

# ‘Just a Prelude’

## Interview with Mr. T.K. Viswanathan on the Revamp of Insurance Laws

Mr. T. K. Viswanathan, Secretary, Legislative Department, Ministry of Law and Justice still carries his old assignment with him – the responsibility of the revamp of insurance laws and their consolidation into one omnibus legislation initiated by the IRDA about a year ago. At that time, Mr. Viswanathan was Member-Secretary, Law Commission and part-time Member, IRDA.

In this interview to K. Nitya Kalyani of **IRDA Journal** he outlines the nature and scope of the revamp exercise and touches upon its objectives and the larger philosophy behind it.

**IRDA Journal:** What was the wide canvas that the Law Commission set out with initially as far as the revamp of the laws pertaining to insurance are concerned. You have pared it down to only a few issues relating to nomination, the Tariff Advisory Committee, Ombudsman, setting up a Grievances Redressal Authority and an appellate tribunal for the IRDA and also only to amendments of the Insurance Act, 1938 rather than a consolidation of all the insurance related legislations. What priorities and practical considerations did you go by to arrive at this focus?

**Mr. T. K. Viswanathan:** The Law Commission of India had taken up the project of the revision of the Insurance Act, 1938 broadly in view of the policy of economic liberalisation and later developments taking place in this sector. For example, the recommendations of the Malhotra Committee led to the enactment of the Insurance Regulatory and Development Authority Act (IRDA), 1999, establishing the IRDA, abolishing the monopoly of the Life Insurance Corporation (LIC) and General Insurance Corporation (GIC) in their respective areas, opening the insurance sector to private players, and also the amendments made in 2002 in the Act enabling cooperative societies to do insurance business.

Further the considerations that led the Law Commission to revise the principal Act are stated in para no.6.3 of the Paper titled as “Some tentative grounds of revision” which, inter-alia, are

- redundancy and transitional character of some of the provisions of the principal Act requiring omission, necessity of reclassification of insurance business in view of expansion of the insurance sector, absence of specific statutory enumerations in the Act required for protecting the interests of policyholders and the absence of full-fledged mechanism for redressal of grievances in the new regulatory regime, introduction of cooperative societies as insurers, need to amend provisions regarding investment, loans and management, inadequacy of penalties for violations of the provisions of the Act and the regulations, and the need to harmonise the provisions of the Act with those of the regulations.

**Q:** What was the kind of inputs you got from stakeholders following the release of your consultation paper in June 2003 and how did they shape or change the view of the Commission on various matters?

**A:** The responses after the release of the consultation paper of the Law

Commission are with the Law Commission. However, before its release, the National Academy of Insurance (NIA), Pune, forwarded to the Law Commission a detailed note in respect of the revision of the provisions of the principal Act.

A couple of insurers also pointed out some practical difficulties in respect of some of the provisions of the principal Act, especially regarding absolute prohibition of investment of insurance funds outside India. The inputs received so far are from the insurance industry.

There is insufficient response from the other stake holders like the policyholder-consumers. Conscious of the fact that the policyholders’ interest should be safeguarded we have suggested an elaborate grievance redressal mechanism to deal with complaints. Based on the inputs the Commission indicated in the Consultation Paper the merger of the relevant provisions of the IRDA Act, 1999 into the principal Act (see paras 6.2.1, 6.2.3 and 8.1 of the Paper).

**Q:** Has such an exercise been done before for any other sector in India? If so what has been the experience and what have been the guiding principles?

**A:** Of course there have been many instances. There have been exercises in other sectors as well, in view of the new economic policy. For example with the liberalisation of economy the regulation of foreign exchange also underwent fundamental change. The Foreign Exchange Regulation Act, 1973 was replaced with the Foreign Exchange

There is insufficient response from other stake holders like the policyholder-consumers.

## The revised legislation is intended to present a simplified and streamlined legal framework to strengthen the Authority.

Management Act, 1999. Similarly the Monopolies and Restrictive Practices Act, 1971 has been replaced by a new Competition Act, 2002 .

**Q: Procedurally, are the Statement of objects and reasons (SOR) for any Act consulted / expected to be consulted when amendments are to be taken up? What indications has the Commission got from the SOR relating to various insurance legislations during its exercise in proposing these amendments?**

**A:** Statement of objects and reasons is appended to every Bill, whether a fresh or an amendment Bill, tabled in the Houses of Parliament. The Statement of objects and reasons states broadly the reasons and objectives as to the necessities of the concerned law or its amendments and objects to be achieved by it. It is prepared by the ministry sponsoring the legislation and the Law Commission does not attach such statement of reasons to the bills prepared by the Commission which is annexed to the report submitted by it .It is for the Finance Ministry to prepare such a statement in the light of the bill which they may bring in the Parliament.

**Q: What is the intended effect and utility of the revamped legislation? Is it to present a simplified, streamlined framework for the industry, or will it be dynamic and accommodative of future developments in the industry? Are there any new provisions proposed, if so what is the significance of the changes you are proposing and the philosophy behind them?**

**A:**The revised legislation is intended to present a simplified and streamlined legal framework to strengthen the Authority, to promote insurance business and to protect interest of the policyholders. Some of the significant features of the revised legislations would include omission of inconsistent and irrelevant, provisions and amendment of the existing provisions of the principle Act, application of the provisions relating to amalgamation and transfer of insurance business to the general insurance business, life insurance policies not be called in question after three years, partial assignment of the policies for collateral securities for loans and a full-fledged redressal grievance mechanism.

**Q:At what stage is the work of the Law Commission with respect to the work on insurance related laws?What are the next steps that are being put in motion after the responses to the consultation paper have been received, and is there a timeframe to get the amendments done?**

**A:** The report of the Law Commission on the Revision of the Insurance Act, 1938

and the IRDA Act, 1999 is under preparation and as informed by the Law Commission it would shortly be finalised. The responses to the Consultation Paper are generally analysed and tabulated and thereafter considered by the Law Commission for the purpose of revising the principal Act. There is no time-frame to get the amendments done but the Law Commission is serious about the submission of the report on the subject.

**Q: Please share with our readers any other insights and observations on the exercise and the industry and its legislative framework.**

**A:** As the State is slowly withdrawing from the trading and other areas into which it had spread its protective umbrella the need for covering the newer risks arising from withdrawal is assuming importance. It is here the insurance sector steps in.

In addition, the Third Millennium has ushered in the Knowledge Economy and in a Knowledge Economy services sectors like the insurance sector generate a lot of employment opportunities. The insurance sector is the second largest service sector, the first being the banking sector. It has tremendous significance in both insuring social security benefits to the people and development of the country. Viewed against this backdrop, the review of the insurance laws is a prelude to a comprehensive legislation regulating the financial services sector which is likely to emerge later.

## The review of the insurance laws is a prelude to a comprehensive legislation regulating the financial services sector which is likely to emerge later.

# Write it Afresh !

G.V. Rao

## - Laws, Regulations and Market Development

### Need for fresh legislation

The Law Commission of India is now seized with the exercise of unifying the various laws applicable to the conduct and practice of insurance into one legal framework, consistent with the various developments that have taken place in the evolution of the market, the new legislative developments after 1999 and the changing economic scenario.

The basic Insurance Act enacted in 1938 carries usage of words that are redundant and inapplicable. It was also enacted in an era that was a part of the colonial legacy and needs revision to be in tune with the aspirations of a new generation that has greater choice of products and services, is more knowledgeable about what is happening around the globe, is more conscious of availability of conveniences and is time conscious.

At a national level, insurance is now considered a vital instrument to promote economic growth and provide a safety / welfare net to individuals, corporations and groups for risk taking activities and for personal financial protection. Insurance is also an important source for mobilising premium savings as cash flows of long-term funds for development of infrastructure and to be used as an integral part of a secondary debt market and trading in securities,

The regulatory regime that has come into force since 1999 has been entrusted with the responsibility not only of supervising and monitoring the conduct of all the product providers to ensure their financial stability but equally of ensuring fairness in their contractual dealings in acceptance of business and in claims payment to the consumers.

The regulator has, in addition, been charged with a new developmental role to promote the economic growth of the country through the medium of insurance, acting as an enabler for the mobilisation of funds for development of infrastructure in the social sector and for promoting public awareness about

the essential need for insurance in the society, displacing the Government as the sole repository of a public safety net through its welfare provisions. The regulator has to build suitable mechanisms under which individuals, corporations and groups manage risks themselves to a very large extent by insuring their lives, property, earnings and liabilities, lessening the burden on the society as a whole.

### Immediate concerns

The immediate concerns of the Law Commission seem to be aspects of innocent non-disclosure, misrepresentation of information by consumers vitiating insurance contracts as void or voidable; about valuation of investments; enhancement of the present insignificant amounts of penalties for

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### Mere enactment of provisions without a stated public policy in the Act robs the legislature of its fundamental obligations and rights

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breaches, fixing a threshold limit for control of solvency for regulatory intervention in addition to the minimum solvency margin, strengthening the provisions of the Act by transferring a few regulations as a part of enactment; strengthening corporate governance norms of insurers by making a few important provisions of the Companies Act 1956, as a part of the new Insurance Act, defining important insurance terms for clarity and creation of a new statutory Grievance Redressal Authority to exclusively deal with insurance disputes and excluding insurance disputes out of the purview of Consumer Protection Act etc to speed up decisions of the public redressal mechanisms on the overall.

### Legislative aims

While the intentions of the Law Commission are laudable, an

explanation has to be found why some of these ideas were not earlier considered for implementation when the Insurance Act, 1938 was amended some time ago. Further it is desirable that any new legislative programme should also lay down basic objectives as part of the Act itself, a broad framework of values and concerns of the citizens of the country to serve their economic needs, which the judiciary can interpret on any legislation brought out thereunder.

The proposed revised Act should also contain an enunciation of a statement of public policy and the basic regulatory standards and guidance for the regulatory mechanism to interpret and administer as a charter given to it. The legislation must also identify the fundamental regulatory issues and set appropriate standards for their implementation.

Mere enactment of provisions as laws to control and administer institutions and levying of penalties for aberrations without a stated public policy in the Act robs the legislature of its fundamental obligations and rights of setting the future path of economic progress in this sector. This is the only means available to the legislature by which it can have a say in and control over issues of public concern and policy that affect the future of all stakeholders. It is the legislature instead of the government of the day that would set broad overall policy guidelines in shaping the future developments under the sector. The judiciary will otherwise interpret the provisions as they are without the benefit of the stated philosophy behind it.

The regulator's responsibilities and his accountability, without such directions, will then be more administrative than developmental, restraining him from speeding up national economic growth based on the enunciated values, principles and standards set out to guide him. The regulator needs guidance and direction for shaping future developments as much as any other developmental functionary without his seeking them and without frequent issuance of policy directions

from the Government. The basic aim of any legislation is to move the society in a stated direction. While provisions of laws are administrative, it is the philosophy behind it that sets the pace for future developments by subordinate regulations to be enacted.

The Law Commission, the IRDA and the Ministry of Finance need firstly to devise the architectural framework of the new enactment by incorporating the stated principles, standards and values under which the specific provisions of laws have to be enacted. In the US, legislatures are redefining their relevance to the enactment of new laws by setting forth broader objectives that need to be served as ultimate desirable goals of such legislation for the benefit of its citizenry.

This should remain a desirable goal to be pursued it is not likely that such an insight will form a part of our vision yet in respect of any legislation, it has to be admitted that laws in the country are still made to control, regulate, guide, administer and command societies rather than to ensure building a society based on stated values and principles that serve the needs of future developments.

This article seeks to discuss a few basic issues of importance to the overall future development of the market rather than comment on the proposed suggestions of the Law Commission. It is not revision and consolidation but the future shape of things that the public is concerned about. What market inconsistencies and inequalities have been experienced since its enactment? Stakeholders should speak out of how the existing legislation has affected them. The public should know them from the Law Commission.

#### **Protection of policyholders & GRAs**

Statutory Grievance Redressal Authorities (GRA) to adjudicate insurance customer disputes has been proposed, that would cover disputes between IRDA and insurers/agents on registration and licencing. Pending disputes under Consumer Protection Act, 1986 are proposed to be brought under

this regime by a transfer. The jurisdiction of civil courts in matters arising as disputes under the Insurance Act, 1938 will be excluded.

The establishment of GRAs is a welcome feature if eventually implemented. Who will bear the cost of setting them up and running them? Should it be the insurers themselves or the public exchequer? The merits of the issue are arguable. The writer had argued in an article more than 12 years ago that insurance claim disputes should be compulsorily taken out of the purview of CPA, 1986 as insurance is essentially bought by affluent sections of the society, whereas the CPA, 1986 is basically meant for weaker sections of the society that could not afford to fight injustice. Consumer protection forums have

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become clogged with insurance disputes delaying justice to the needy, weaker sections.

The GRAs should also deal with all disputes under the insurance regulations and relevant statutes and that should include brokers and others as well. The disputes between insureds and insurers mostly arise under the Contract Act and would civil court jurisdiction be ruled out for them in addition to disputes under the Insurance Act 1938? This needs clarification.

#### **IRDA and adjudicatory powers**

Under section 14 (m) of the IRDA Act, 1999 the IRDA is empowered to adjudicate only disputes between insurers and intermediaries or insurance intermediaries. Yet, he is vested with authority under section 64 U M H of the

Insurance Act, 1938 to direct payment of claims against insurers without specifically entrusted adjudicating authority. Why did the IRDA Act, 1999 restrict adjudicating authority only to a specific category of disputes?

Reference of an insurance claim to another surveyor, a licensee of the IRDA, could be regarded as influencing the eventual decision unfairly, bringing IRDA into an unenviable situation. This situation needs to be looked at afresh. IRDA should be given defined powers and a mechanism created to deal with how such adjudicatory powers should be used. Outsourcing powers through expert panels should be one of the options.

#### **Tariff Advisory Committee**

Section 64 U of the Insurance Act, 1938 deals with the constitution of the TAC as a statutory corporate body. It directs that the Chairman of the TAC should be the Chairperson of the IRDA. There is no change proposed to modify it. It is unfortunate and should be reconsidered. More harm than good will result if this is not changed.

It is wrong in principle to expect the IRDA Chairperson to be an active market player in constructing and fixing rates and terms that have a financial outcome for insurers. In most developed countries, the regulator has the power to approve rating schedules proposed by insurers but not the responsibility for constructing and fixing them.

It is a situation where two critical responsibilities are rolled into one. It is patently unfair. The self-regulatory mechanism of insurers should come into play. Insurers should not be allowed to divest their basic responsibility for rate construction and fixation to the IRDA. Prior to nationalisation of the insurance business it was the insurers that took responsibility for preparing tariffs.

In a liberalised market like ours where there is a General Insurance Council in office, such issues should be left to it. Since the Malhotra Committee made an 'error' of judgment on this issue by suggesting IRDA Chairperson as the

TAC Chief - and it was a stage of transition - it should not be perpetuated.

TAC has the same status as a corporate body as the Executive Committee of the General Insurance Council. The active association of IRDA with the TAC should be reviewed to avoid future market complications, particularly in respect of rating Motor TP structures and eventual detariffing of the market in the next couple of years. It should be the insurers themselves that should deal with these marketing and business issues, very much their domain, of course, with the aid and assistance of the IRDA. Responsibility cannot be thrust on the IRDA to run the business for the insurers on underwriting aspects with insurers sitting on the sidelines.

#### Surveyors and licencing

Surveyors came into prominence in the nationalised setup as independent assessors as the officers were afraid of the Government's vigilance and audit systems and requirements (namely CVC and CAG oversight) and complaints from the public. The policy contract has no place for a surveyor as a necessary intermediary. Licencing them by the IRDA is superfluous and unnecessary. They are professionals like architects, engineers and accountants. They should have their own institute and examinations to be accredited practitioners of their professions. They could earn their professional spurs after equipping themselves with professional indemnity covers and seek assignments on their own with insurers based on their professional expertise and experience. The Law Commission should deal with their issue as independent professionals regulated by a professional body like the Chartered Accountants Institute of India (ICAI).

#### Remuneration to agents and brokers

The maximum brokerage and agency commission fixed under the Insurance Act, 1938 is unsuitable in a liberalised set up. It presumes the continuation of a tariff regime and administered pricing. The extent of payment should be between the contracting parties. When the Act is up for redrawing provisions, this is the

time to review them and waive the maximum percentages. Let the regulator deal with this issue in the interim.

#### Corporate governance norms

The Law Commission feels that the Companies Act, 1956 has taken care of it. This is insufficient. Insurance business is complex, full of technicalities and global in nature with numerous parties involved in transactions. Unless the external directors of an insurance company are aware of the various aspect of the business of accepting risks and reinsuring them with utmost good faith as a principle, they will not be able to lend direction or guidance to the management.

The RBI has detailed corporate governance norms for banks. Insurance companies need a new set of corporate

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### The Malhotra Committee made an 'error' of judgment on this issue by suggesting the IRDA Chairperson as the TAC chief - and it was a stage of transition - it should not be perpetuated.

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governance norms as liquidation of insurers around the globe is a common phenomenon despite regulatory supervision. The IRDA with its experience of the last few years must rewrite the corporate governance norms for insurers and have them included under the revised Act provisions.

#### Developmental role of IRDA

Though section 20 of IRDA Act, 1999 deals with 'promotion and development of industry' what it means is not clear. The duties and functions as laid down under section 14 do not include 'development' as one of the functions, whatever it may mean. Section 18 stipulates that IRDA has to be guided by policy directions of the Government

except in regard to technical and administrative matters. Where does 'development' come in? Is it a policy issue? The D in the IRDA needs more clarity and public has a right to know how the market will develop in the future under the benign eye of the IRDA.

#### Conclusion

This article has not dealt with other major issues of investment, publication of accounts, reinsurance and others that are all important. It seeks to highlight only a few fundamental issues of principles that if not reviewed will weaken the authority, burden the IRDA needlessly and retard market conduct progress.

While the objective of the Law Commission is to combine various legislative pieces into one, an opportunity to overhaul the legislation with a purposeful vision to bring about a more responsive and responsible market with insurers taking initiative to become globally competitive is being missed out. To move into the next stage as a mature market, insurers, IRDA, TAC and the General Insurance Council must get together to have a ten-year programme of market development and seek the legislative support needed for it.

It would appear the initiative to have one Act instead of several is that of the IRDA and the response is that of the Law Commission. Where does leadership for the market lie? Whose responsibility is it to craft a vision for the future? Who will strategise the vision in to a reality? The insurers? The customers?

The future is full of possibilities for those that dare to achieve the near impossible. The stakeholders should speak out on these issues with greater clarity and not just respond to the suggestions of the Law Commission. Much more is at stake for the future destiny of insurers and the customers they want to serve.

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*The author is retired CMD, The Oriental Insurance Company Ltd.*

# Need for Change

Sandeep Batra

It's now over three years since the gates for venturing into the Indian insurance market were opened to private sector insurance players. With the emergence of private sector insurers, the country has witnessed eventful changes in the life insurance scenario with transformation of the layman's traditional approach towards life insurance as a concept into a multi-dimensional one and has added more meaningful feathers to the insurance cover.

## The need for change

The existing legislations on insurance were framed in the colonial era (1938) and with the liberalisation of the insurance sector, there is an urgent need for changing the insurance regulations from just supervisory to developmental in order to ensure that the insurance business promotes economic growth. This is also necessary to safeguard the interest of policyholders and shareholders and to ensure accountability of the insurers.

The liberalised industry has now led to the availability of more innovative products, competitive pricing, improved services and greater levels of specialised penetration into the insurance business. In this changing scenario the existing regulations would require review and revision.

At the time of liberalisation, when the IRDA Act was being prepared, the task of comprehensive revision of the Insurance Act, 1938 was felt necessary but was not undertaken due to paucity of time. It is therefore necessary that these provisions may now undergo a comprehensive review and revision.

The Law Commission of India implemented the process for amending the prevailing insurance laws to cater the developing trends in the insurance sector. The insurance players were invited to express their views on various issues pertaining to existing insurance regulations that may call for incorporating necessary amendments / deletions therein suitable to the present insurance environment, to explain their

business concerns as well as perceptions of the market and its various complexities.

## Proposed amendments

The Law Commission has prepared an approach paper after discussions with officials of the Authority and other key personnel after the industry. As a result of these discussions, the following revision to the insurance laws have been proposed:

- a) Merger of the provision of the IRDA Act with the Insurance Act as there is no justification for continuing to have a separate legislation concerning the constitution and functions of the Authority.
- b) Changes in definition, deletions and other amendments

## A clear definition of "financial year" for an insurance company may be required

- c) Powers of the IRDA
- d) Obligations of the insurers under the Act
- e) Interest of the policyholders
- f) Tariff Advisory Committee - composition and powers
- g) Redressal of grievance / claims and the machinery for the same
- h) Penal provisions
- i) Other miscellaneous provisions

Amongst various amendments that the Law Commission has proposed, following are the key amendments that have been welcomed by the industry:

- i) Insertion of a proviso to Section 49 of the Act to allow an amount not exceeding the aggregate amount, which was transferred from the shareholders' funds, in the previous years, to be transferred back to the

shareholders' funds, in case of surplus, prior to the declaration of bonus to the policyholders.

- ii) Amendment to Section 29 to allow the insurers to grant loans and advances to employees under a scheme of the insurer approved by its board.
- iii) Deletion of a large chunk of provisions in the Insurance Act, 1938 that are no longer relevant. These include provisions under section 52H to 52N on acquisition of undertaking of insurers, Section 62 to 64 relating to external companies, Part III pertaining to provident societies and Part IV pertaining to mutual insurance companies and co-operative life insurance societies.
- iv) Deletion of Section 48 pertaining to the provisions on election of directors of insurers by policyholders.
- v) Allowing insurers to maintain certain records and registers in electronic form.
- vi) Amendment to the provisions of the Act pertaining to fines and penalties be reviewed, as the amount of fine and penalty provided is not adequate.

The industry appreciates the positive spirit initiated by the Law Commission to look at the business concerns faced by the insurers in light of some outdated provisions of the insurance laws and places the following suggestions for consideration:

A clear definition of "financial year" for an insurance company may be required – Currently, "financial year" is defined in Section 2(17) of the Companies Act, 1956. It provides that "financial year" for an insurance company shall mean the calendar year referred to in Section 11(1) of the Insurance Act, 1938. In section 11(1) of the Insurance Act, 1938 "calendar year" was substituted by "financial year" by the Insurance Regulatory & Development Authority Act, 1999. In the view of the above, currently, there is no clear definition of the "financial year" for an insurance company.

The Law Commission report recommends that the provisions regarding investments under section 27A to be provided in the regulations. It is suggested that the basic provisions regarding investments should find place in the Act and the time, manner and other conditions of investment may find place in the regulations, as is the existing provision, which may continue.

The Law Commission recommendation further proposes inclusion of investments in mutual fund, floating rate debt instruments and financial derivatives for hedging financial risk in the list of approved investments for general insurance business (Section 27B). It is suggested that the above amendment be made to Section 27A as well for life insurance companies.

The consultation paper proposes amendment to Section 45 providing that a policy not be called in question on the ground of misstatement after three years from the date on which the policy is effected or revived. However, within three years the policy may be called in question on the ground that any statement being a statement material to the expectancy of the life of the insured was incorrectly made in the proposal or other document on the basis of which the policy was issued or revived.

From the moral hazard perspective it is necessary that a life insurer has the right to call in question a policy of life insurance if the life insurer is able to prove that the incorrect information given was on a material matter or suppressed facts which it was material to disclose and that it was fraudulently made by the policyholder and that the policyholder knew at the time of making it that the statement was false or that it

**The basic provisions regarding investments should find place in the Act and the time, manner and other conditions of investment may find place in the regulations.**

suppressed facts which it was material to disclose.

In the view of above it is proposed that the existing provisions of Section 45 may be retained.

It is proposed that in view of an elaborate Grievance Redressal Authority (GRA) suggested by the Law

Commission including abolition of the office of ombudsman and substitution of the same by GRA and taking out insurance disputes from the purview of Consumer Protection Act, it is suggested that this Section 47A (Powers of IRDA to decide claims on small insurance policies) may be deleted.

As the GRA will be required to be established at least at centres where at present the consumer forum is working, it may lead to heavy expenses.

It is, therefore, suggested that a mechanism may be evolved whereby 50 per cent expenses are shared by the Central /state government and 25 per cent by IRDA as the burden on consumer forum will be considerably reduced by taking out the insurance disputes from their purview and it will also reduce IRDA's burden as deletion of Section 47A has been suggested above.

Insurance Rules, 1939 may also be amended in consonance with the amended provisions of the Insurance Act, 1938.

*The author is Chief Financial Officer and Company Secretary, ICICI Prudential Life Insurance Co. Ltd.*

**Life premiums – quarterly progress**

Premium					Growth over the first quarter		% growth over the first quarter	
Insurer	April-June	June-Sept.	Sept.-Dec.	April-Dec.	September	December	September	December
Private	22,504.56	37,028.76	54,993.38	1,14,526.70	14,524.20	32,488.82	64.54	144.37
LIC	2,00,479.47	2,83,583.08	3,72,731.78	8,56,794.33	83,103.61	1,72,252.31	41.45	85.92
Total	2,22,984.03	3,20,611.84	4,27,725.16	9,71,321.03	97,627.81	2,04,741.13	43.78	91.82
% of premium	22.96	33.01	44.04	100.00				

Policy					Growth over the first quarter		% growth over the first quarter	
Insurer	April-June	June-Sept.	Sept.-Dec.	April-Dec.	September	December	September	December
Private	2,05,199	2,91,049	4,20,975	9,17,223	85,850	2,15,776	41.84	105.15
LIC	30,03,096	52,38,680	61,02,436	1,43,44,212	22,35,584	30,99,340	74.44	103.20
Total	32,08,295	55,29,729	65,23,411	1,52,61,435	23,21,434	33,15,116	72.36	103.33
% of No. of policies	21.02	36.23	42.74	100.00				

# Nuts and Bolts

*Rupkamal Brahma*

The insurance industry has gone through a number of changes in the last few years. All these changes were the result of the changing socio-economic and political scenario of the country. The worldwide trend towards convergence and globalisation had its impact on the insurance industry as well. Fast changing technology, new and expanding patterns of distribution and the changing profile of the customer's needs were powerful drivers of change.

It has been the general feeling that a revision of the Insurance Act, 1938 has to be carried out in such a manner that it not only promotes insurance business but also protects policyholders and strengthens the Authority to ensure financial stability. While revising the Act, the other related laws also needed to be kept in mind and the relevant provisions of the Insurance Regulatory and Development Authority (IRDA), Act, 1999 are required to be merged into the Insurance Act after necessary modifications.

The necessity for merging the provisions of the IRDA Act with the Insurance Act, 1938 is to bring about an comprehensive approach to the task of formulating a legislative system that can ensure the protection of the policy holders interest and while on the other hand strengthening the IRDA in achieving its objects and goals. With the IRDA exercising many of the functions envisaged under the Insurance Act, 1938, it is imperative that both the IRDA Act and the Insurance Act are amalgamated.

Now, with the experience of the functioning of the IRDA and the Insurance Act, a comprehensive revision of the Insurance Act, 1938 appears to be the need of the hour. Accordingly a reference has been made to the Law Commission of India by the IRDA to make recommendations for revision of the Insurance Act, 1938 and for consequential amendments thereto.

In the light of the above an attempt has been made to highlight a few areas that needs to be kept in mind while

carrying out the required process of amendments.

## Suggested grounds for revision

**Section 42(2)** of the Insurance Act reads; "A license issued under this section shall entitle the holder to act as an insurance agent for any insurer".

This may lead to an agent giving preferential treatment to a particular insurer. It is felt that this section should be amended and restricted to provide that an agent can act for only one insurer at a time.

## Section 64 UM(2)

The self-survey limit under this section has been fixed at Rs. 20,000. It may not be viable to utilise the services

## Provisions should be made for alternate dispute resolution in the form of mediation and conciliation, before a consumer goes to court.



of a surveyor for just this claim amount. Thus it is felt that the same may be enhanced to a minimum of Rs. 1,00,000.

Secondly wherever an opinion is required pertaining to a specific technical area there should be a provision for the possible intervention of experts. This would go a long way in ensuring the claimants' rightful due. The insurers may also be vested with the right to choose his surveyors with specific expertise as the situation demands.

**Section 64 VB(4)** mentions that an insurance agent who collects the premium on behalf of the insurer should deposit or dispatch the premium to the insurer within 24 hours of the collection.

The author is of the opinion that since the agent is licensed by the regulator, receipt of premium by the agent under

an official acknowledgement given on behalf of, and under the authority given to the agent by the insurer, should be taken as compliance of section 64 VB for commencement of cover. Any remittance of premium collection by the agent to the insurer can be governed by terms to be agreed upon mutually between insurer and agent. This is suggested because the agent, who is supposed to market a large number of retail products with low premium, may not find it cost effective to send each remittance within 24 hours of respective collection. Amendment as above would help expand the general insurance retail market both in terms of spread of insurance buying and also in increasing the number of agents.

In respect of retail policies, granting of instalment facility subject to certain guidelines and limits may be thought of in order to ensure a wide spread of retail insurance business.

Complaints pour in from discontented policyholders under the Consumer Protection Act, 1986 alleging deficiency of service for numerous reasons, from a claim being rejected or a claim being partially settled which does not meet the expectations of the claimant.

The number of cases under this subject is growing by the day and an analysis of the decisions rendered by various consumer forums would reveal that the forums are continuously put to test as they are frequently called upon to interpret the provisions of the Insurance Act.

However, on account of the numerous other cases that are still awaiting a verdict before the consumer forum, this remedy no longer appears to be a speedy or efficient one. Thus provisions should be made for alternate dispute resolution in the form of mediation and conciliation, before a consumer goes to court.

The author is Legal Manager, ICICI Lombard General Insurance Company. The views expressed here are his own.

# Legal vs. Commercial Liability

S. Muralidhar

Motor insurance business is said to account for more than one-third of the total general insurance business in the country.<sup>1</sup> Yet, it is a loss-making portfolio owing to high outgo on account of own-damage and third-party liability claims. The demand of the insurers is to increase the premium and impose a statutory cap on the upper limit of compensation in respect of third-parties which, at present, is unlimited. The non-viability argument finds forceful expression in the words of a former Member (non-life) of the IRDA: "It is wrong to expect an insurer to perpetually bleed and yet underwrite third-party business in the country."<sup>2</sup>

This demand has to be understood in the context of liberalisation of the industry and increased competition posed by the entry of private players into the market for over three years. However, the report card on liberalisation has not been very encouraging thus far. The actual beneficiaries are "the big sized corporate customers who are now flooded with offers of service and advice by number of buyers."<sup>3</sup> As regards the individual customers who do not contribute substantial premiums it appears that "the rising number of grievances, the heightened apathy... and the going number of outstanding claims testify to the fact that nothing has changed for them."<sup>4</sup>

The demand for a change in order to make the Motor insurance business viable has to be also examined against the

## - Motor Insurance and the Law

existing legal obligations of the industry, of which there has not been any serious public debate. Every facet of the insurance business in the country is governed by a plethora of statutes.<sup>5</sup> Therefore any change in the form of limitation on the liability of an insurer towards third-parties will necessitate re-working the statutory framework that governs it.

There is a need to understand the legal obligations of non-life insurers arising under the laws relating to motor vehicles. The role of the public sector general insurance has not been viewed as partaking of a purely commercial nature

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**The demand for a change in order to make the Motor insurance business viable has to be also examined against the existing legal obligations of the industry.**

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but as another instance of furthering the goals of social justice. Do the present circumstances, in a liberalised scenario, prompt us to adopt a different stance is really the question.

### A brief flashback

The law relating to insurance is believed to have been preceded by the

practice adopted by Italian merchants in the 14<sup>th</sup> century in insuring the risk of losing ships and cargoes at sea. Although the merchants initially managed to keep disputes arising out of insurance out of the reach of the law courts, this position changed in England the mid-18<sup>th</sup> century when courts began applying common law principles to decide disputes arising out of insurance contracts.<sup>6</sup>

The history of tort law in India more or less followed its counterpart in its colonising country, England.<sup>7</sup> Departing from the two long standing common law rules which prevented claims in tort being maintained upon the death of a person in an accident,<sup>8</sup> the Legal Representatives Suits Act and the Fatal Accidents Act were enacted in 1855 to enable compensation to be provided "for loss occasioned by the death of a person caused by actionable wrong."<sup>9</sup>

With the introduction of the automobile, a new challenge arose with a large number of people being exposed to the risk of accidents. The Motor Vehicles Act, 1939 (MVA 1939) replaced an earlier Act of 1914 and was intended to make provisions for the "safety and convenience of the public and ... the development of a coordinated system of transport."<sup>10</sup> This Act witnessed a large number of changes through amendments made in 1956, 1969 and 1982 before it was replaced by the Motor Vehicles Act, 1988 (MVA 1988).

It was under the MVA, 1939 that the concept of compulsory insurance against

### References:

<sup>1</sup> H.Ansari, "Road Tolls", Volume II, No.1 IRDA Journal 45 at 46. As of March 31, 2003 the Motor premium of the industry was Rs.5,000 crores.

<sup>2</sup> Ibid.

<sup>3</sup> G.V. Rao, "Advantage, Large Customers", Volume II, No.1 IRDA Journal 42 at 44

<sup>4</sup> Ibid. The aggregate outstanding claims as at March 31, 2003 against the four non-life public sector insurance companies stood at Rs.11,916 crores as compared to Rs.10,995 crores in the previous year.

<sup>5</sup> The principal legislation is the Insurance Act, 1938, which is currently being re-examined by the Law Commission of India. Some of the other statutes, which are not covered by the Commission's exercise are the Motor Vehicles Act 1988, The Marine Insurance Act, 1963 and The

Public Liability Insurance Act 1991.

<sup>6</sup> See generally John Birds, Modern Insurance Law, Universal Law Publishing Co. Pvt. Ltd. 4<sup>th</sup> edn., (Indian Reprint 2003)

<sup>7</sup> See generally M.R. Sreenath and Lalitha Sreenath, Law Relating to Compensation under the Motor Vehicles Act, Eastern Book Company (1998)

<sup>8</sup> These two rules are exemplified by the Latin maxim *actio personalis moritur cum persona* meaning that the right to bring forth a legal claim dies with the person and the decision in Baker v. Bolton (1808) 1 Camp 493 which precluded a claim in tort being brought forth for the killing of a human being since this was not viewed as an injury.

<sup>9</sup> The long title to the Fatal Accidents Act, 1855.

<sup>10</sup> Statement of objects and reasons to the MVA, 1939.

<sup>11</sup> Statement of objects and reasons to Motor Vehicles (Amendment) Act, 1956. The provision for compulsory insurance of motor vehicles against damages to property of third parties was introduced by 1969 Amendment.

<sup>12</sup> 51st report on Compensation for injuries caused by Automobiles in Hit-and-Run Cases

<sup>13</sup> 85th report on Claims for Compensation under Chapter VIII of the Motor Vehicles Act.

<sup>14</sup> (1966) 3 SCR 527 at 530

<sup>15</sup> Manjushri Raha v. B.L. Gupta (1977) 2 SCC 174 at 175. This was reiterated in State of Haryana v. Darshana Devi (1979) 2 SCC 236; Bishan Devi v. Sirbaksh Singh (1980) 1 SCC 273; N.K.V. Brothers Pvt. Ltd. v. M. Karumai Ammal (1980) 3 SCC 457

<sup>16</sup> (1981) 4 SCC 660 at 675

<sup>17</sup> The statement of objects and reasons to the 1982 Amendment Act acknowledged that:

third party risks was introduced. The 1956 Amendment tribunalised the system of adjudication of claims in order to “remove the existing difficulty experienced by persons of limited needs in preferring claims on account of injury or death caused by motor vehicles.”<sup>11</sup>

### Courts as instigators of changes in the Law

The changes in the statutory law that broadened the liability net and acknowledged the reality of the alarming rise in the number of road accidents, was owed principally to the efforts of the Law Commission of India as well as the pronouncements of the High Courts and the Supreme Court. In its 51<sup>st</sup> report the Law Commission had made recommendations with regard to payment of compensation in hit-and-run cases.<sup>12</sup> This was reiterated and many further suggestions were made in its 85<sup>th</sup> report.<sup>13</sup>

Meanwhile, the Supreme Court was looking upon insurance as a tool for providing social justice. In *S.M. Kalal v. S.J. Bhatt*, the court said: “The doctrine of constructive liability is in a process of evolution. It is a principle of social justice. A court no longer need be overweighed with the old decisions on the subject given under radically different circumstances, for now the owner of a car in India is not burdened with an unpredictable liability and there is a statutory compulsion on him to insure his car against third party liability and his burden within the framework of the

MVA 1939 is now transferred to the insurer”.<sup>14</sup>

In the same vein, the court gave impetus to the change in the law through a series of pronouncements in which it insisted that “the time is ripe for serious consideration of creating no fault liability. Having regard to the Directive Principles of State Policy, the poverty of the ordinary run of victims of automobile accidents, the compulsory nature of insurance of motor vehicles, the nationalisation of general insurance companies and the expanding

‘Compulsory insurance of a motor vehicle is not for the purpose of promoting the business of the insurance company but to protect the members of the community.’

– Supreme Court

trend towards nationalisation of bus transport, the law of torts based on no fault needs reform”.<sup>15</sup> In *Motor Owners Insurance Company Ltd. v. Jadavji Keshavji Modi*, the court said “with the emergence of the General Insurance Corporation which has taken over general insurance business of all kinds, including motor vehicles insurance, it should be easy

to give statutory recognition to the state’s obligations to compensate victims of road accidents promptly, adequately and without contest.”<sup>16</sup>

The changes in 1982 to the MVA 1939 introduced no fault liability and compensation for hit-and-run accidents.<sup>17</sup> The amounts fixed were Rs.15,000 in respect of death and Rs.7,500 in case of permanent disablement under the no fault principle.<sup>18</sup> The amounts for hit-and-run were fixed at Rs.5,000 for death and Rs.1,000 for grievous hurt.<sup>19</sup> These principles and heads of compensation have been continued under the MVA 1988. This could also be traced to the suggestions made by the Supreme Court in *M.K. Kunhimohammed v. P.A. Ahmedkutty*<sup>20</sup> that the no fault and hit-and-run liability amounts be increased and that distinction between the insurer’s liability to passengers and third parties be removed.<sup>21</sup>

### Victim bias in the law

The courts have persisted with the demand that claims of victims have to invariably be honoured by the insurers and the avoidance of such liability permitted only in exceptional circumstances. In *Skandia Insurance Co. Ltd. v. Kokilaben Chandravadan*,<sup>22</sup> the Supreme Court explained that compulsory insurance of a motor vehicle use for public transport was “not for the purpose of promoting the business of the insurance company but to protect the

“During the last three years, the number of road accidents per year on the average has been around 1.45 lakhs and of these the number of fatal accidents has been around 20,000 per year. The victims of these accidents are generally pedestrians belonging to the less affluent sections of society.”

<sup>18</sup> Chapter VII-A, MVA 1939. These amounts have been revised to Rs.50,000 for death and Rs.25,000 for permanent disablement under the 1994 Amendment to MVA, 1988. The principle of no fault is simply that the claimant does not have to establish negligence on the part of the person who cause the injury or death and further that the compensation will become payable by the insurer on the occurrence of the injury or death.

<sup>19</sup> These amounts were revised to Rs.25,000 and Rs.12,500 respectively under the 1994 Amendment to the MVA, 1988.

<sup>20</sup> (1987) 4 SCC 284

<sup>21</sup> In *Gujarat SRTC v. Ramanbhai Prabhatbhai* (1987) 3 SCC 234, the court reminded that “hit and run’ cases where the drivers of the motor vehicles who have caused the accidents are not known are increasing in number. Where a pedestrian without negligence on his part is injured or killed by a motorist whether negligently or not, he or his legal representatives as the case may be should be entitled to recover damages if the principle of social justice should have any meaning at all. In order to meet to some extent the responsibility of the society to the deaths and injuries caused in road accidents there has been a continuous agitation throughout the world to make the liability for damages arising out of motor vehicles accidents as a liability without fault.

<sup>22</sup> (1987) 2 SCC 654.

<sup>23</sup> (2000) 4 SCC 130 at 135.

<sup>24</sup> More recently in *Rikhi Ram v. Sukhrania*

(2003) 3 SCC 97 the Supreme Court was inclined to enforce the third party liability of the insurer notwithstanding the fact that there was no intimation by the purchaser of a vehicle to the insurer as required by the Act. See also *United India Insurance Company v. Lehu* (2003) 3 SCC 338 where it was held that the insurer was liable to the innocent third party even if the licence of the driver was fake unless the insurer proved that the insured was aware of that fact and had still permitted that person to drive.

<sup>25</sup> In *U.P. State Road Transport Corpn., v. Trilok Chandra* (1996) 4 SCC 362 at 371, the court said that “the calculation of compensation of the amount worked out in the schedule suffer from several defects ... Neither the tribunals nor the courts can go by the ready reckoner. It can only be used as a guide.” See also *Oriental*

members of the community who become sufferers on account of accidents arising from the use of motor vehicles”.

Thus, while negating the attempt by the insurer to avoid its liability, the Supreme Court in *Chinmamma George v. N.K. Raju*,<sup>23</sup> reminded that “we have to give effect to the real purpose of the provision of law relating to the award of compensation ... (and) any other interpretation will produce unjust results and open the gates for the insurer to challenge any award”.<sup>24</sup> There has been a further demand by the Supreme Court for changes in the MV/A 1988, this time around for rectification of the Second Schedule which provides for payment of compensation in the event of death or injury or damage of property on a ‘structured formula’ basis. It has been pointed out that the figures in the table for the lumpsum compensation amounts do not tally with the multiplier and multiplicand.<sup>25</sup> Nevertheless the court has been using it as a guide for reworking the compensation awarded to victims in individual cases.

The absence of a social security net, as is available in the United Kingdom, offers an explanation why the law has inevitably turned to the insurer to compensate the victim of an accident. The rationale behind this scheme built into the statute is that the insurer is brought in essentially for spreading the loss in a limited way while ensuring that resources are provided to meet the losses borne by the victim.<sup>26</sup> This approach is similar to the one adopted by the courts in the United States.<sup>27</sup> Another reason is the much acknowledged endemic

delays that plague our judicial system which is unable to cope with the mounting arrears and workload.<sup>28</sup> It would be unreasonable to expect the victim to be able to effectively pursue a claim for compensation within the formal legal system as presently ordered.

### The future

The development of the statutory law relating to Motor insurance in general and third party liability in particular has been influenced by the socio-economic realities of our country. The facts present us with a rather grim picture. There appears to be no signs of abatement in the rate of

**It would be legitimate for the insurance industry to demand it should be permitted to re-transmit the claims costs to the vehicle manufacturer.**



accidents on roads in the country. In 1998, the total number of deaths arising out of traffic accidents was 93,996 of which 76,732 were in road accidents.<sup>29</sup> The figure has now risen to 3.5 lakh accidents and 85,000 victims.<sup>30</sup>

It gives cause for concern that even where the cause for an accident is not due to the fault of the driver, but due to a mechanical failure, the cost of such accident has not been allowed to be borne by the manufacturer of the vehicle. The

latter continues to remain outside the legal regime relating to compensation.<sup>31</sup> It would be legitimate for the insurance industry to demand that, instead of seeking to minimise its obligation to meet its liability to third-parties arising out of such accidents, it should be permitted to re-transmit the costs to the manufacturer. Alongside it could demand that there be a statutory obligation on a manufacturer to improve the technology to prevent accidents and reduce the risk to which a person on Indian roads is exposed.<sup>32</sup> This should be more possible now than ever before with foreign manufacturers flooding the market with their products and having the capacity to carry these costs which they anyway do in their countries of origin.

The socio-economic profile of the Indian victim has to be juxtaposed with the economic viability of a non-life insurer undertaking unlimited third party liability. The evolution of the statute and decisions of the courts serve to remind us that the law relating to motor insurance in this country was not intended to remain a law relating to a ‘contract of insurance’. It concerns as much the victim of an accident as it does the insurer and the insured. The changes that are sought will have to be worked out within this legal framework.

The author is a Supreme Court Advocate and part-time Member, Law Commission of India. The views expressed here are his own.

<sup>23</sup> *Insurance Co. Ltd. v. Hansrajbhai Kodala* (2001) 5 SCC 175. For a view that the present Second Schedule does not require to be changed and can be rationally explained see Ramesh Vaghela, “Compensation under s. 163-A of the Motor Vehicles Act- Need for Review of the Supreme Court Judgment”, (2001) 6 SCC (Journal) 9.

<sup>26</sup> A law researcher points out: “The insurer indemnifies the insured, and is therefore only permitted to raise defences connected with the rights of the insured. There is no relationship between the insurer and the accident; it is with the liability to pay compensation that it is concerned”; Usha Ramanathan, A Critical Analysis of the Laws relating to Compensation for Personal Injury, Thesis submitted for the Degree of Doctor of Philosophy, University of Delhi (2001) 142.

<sup>27</sup> John Birds points out that “in the United States, where such a system (of social security insurance) is of a more recent origin and much less extensive, and where therefore private insurance was and is much more important in providing basic protection, the courts have been very active in intervening to protect the position of the insured.” See supra note at 3.

<sup>28</sup> As pointed out by the Law Commission of India in its 120th Report on Manpower Planning in the Judiciary: A Blueprint (1988), the ratio of 10.5 Judges per million of the Indian population had to be increased to at least 50 per million. Sadly, as has been pointed out in the First National Judicial Pay Commission Report (1999), the strength as of today remains at 12 to 13 per million.

<sup>29</sup> Accidental Deaths and Suicides in India, 1998, National Crime Records Bureau (2000) 20. This was an increase by 3.4 percent over the figure for 1997: 74,204.

<sup>30</sup> H.Ansari, supra note 1 at 46. He points out: “Our accident per thousand vehicles is the highest in the world i.e. 3.80 per cent and is more than twice that of U.K. and 2.5 times that of the U.S.

<sup>31</sup> The attempts at suing motor vehicle manufacturers for supply of defective goods under the Consumer Protection Act, 1986 has been too sporadic and with far too inconsistent results to be termed successful.

<sup>32</sup> The data available with insurers should help locate the precise nature of defects, the particular manufacturer and many other details which can feed into the research for developing safer products.

# Broker's View

V. Sithapathi

In a transition from the comments on the A. C. Mukerji Committee report and our Issue Focus topic, the revamp of Indian insurance laws, The author argues that much of what the committee says should be implemented through legislation to ensure proper acceptance and implementation.

The Insurance Act, 1938 came into effect from July 1939 and the object of the Act was to consolidate and amend the law relating to the business of insurance including life, general and reinsurance business. Since then this statute has undergone amendments the last of which was in the year 2002. The Insurance Regulatory and Development Authority Act, 1999 (IRDA Act) was enacted with a view to provide for the establishment of an Authority to protect the interests of holders of insurance policies, to regulate, promote and ensure orderly growth of the insurance and for matters connected therewith.

Since the establishment of the IRDA, it is seen that the Authority has been exercising the functions assigned to it under the provisions of the Insurance Act, 1938 diligently and therefore it is felt that the two Acts, namely the Insurance and the IRDA Acts should be merged, albeit the existence of a school of thought that IRDA being an independent Authority like the SEBI or for that matter TRAI, should maintain itself as an independent body to regulate matters related to insurance. Further various other statutes like the Marine Insurance Act, The Personal Injuries Compensation Act, The Public Liability Insurance Act, The Motor Vehicles Act, should all be merged with one single enactment.

While bringing about the new legislation, it should be ensured that certain redundant and outdated provisions are deleted. The consolidated legislation should provide for a mechanism of an appellate authority to take care of appeals against the decisions of the IRDA.

Rebating in the insurance industry has remained a bone of contention right from the colonial era and we continue to be slaves of that era. If this menace has to be curbed it could be done only through stringent legislative measures. The

present section 41 of the Insurance Act, 1938 suffers from inherent flaws. Apart from the fact that the word "Person" has not been defined, it also offers a choice to the insurer in a subtle way to offer rebates through published prospectuses or tables.

If the system of intermediaries, as envisaged under the Malhotra Committee report, has to have a meaningful presence for the orderly growth of the market, this section needs to be revisited. While there are logits being extended for continuance of a direct rebate by the insurer till a detariffed regime comes into play, we must not lose sight of the fact that its existence is the root cause of all ills at the market place and the advocates of its continuance pending detariffed regime or otherwise, though not differing, are only deferring the decision.

Doing away with tariffs, an uphill but not impossible task daunting the powers

**The Indian insurance market owes its reputation internationally to section 64 VB as it exists today and any tinkering with it could result in the operational problems for the insurers.**



that be, is the only answer for realistic growth of the insurance market. This would bring out real competition in the market and weed out the cost of inefficiencies. Consumers will stand to gain in the detariffed regime akin to our current experiences in the telecommunication industry.

During discussions at the Law Commission meet in New Delhi in August 2003 it was stated that there should be relaxation for certain classes of insureds in the matter of compliance under section 64 VB of the Insurance Act, 1938. It is felt that 64VB in its present form should be retained in the new legislation without any exemption whatsoever. The reference to agent in the section should also include

other intermediaries recently introduced in the Indian market. The Indian insurance market owes its reputation internationally to section 64 VB as it exists today and any tinkering with it could result in the operational problems for the insurers.

Amongst the wish list an intermediary in the insurance market would like to have is also the provision for a proper and healthy self-regulatory mechanism. Self-regulatory mechanism does exist for various professionals like the Chartered Accountants, Chartered Secretaries and so on in India but all the same the bodies administratively controlling these professionals derive strength from the respective legislative enactments. The new enactment may have an enabling provision to imbibe a self-regulatory mechanism for the various intermediaries like brokers, agents, TPAs and actuaries amongst others.

It is seen in the present compensation structure for intermediaries there is no credit being given for the infrastructure and capital, expertise and wherewithal, experience and professionalism which the broking firms are known to possess. Brokers in the international market have played a major role in various markets abroad and there is no reason they should not succeed in developing the Indian markets. Though compensation is not the only factor, a clear legislative intent recognising the capabilities of brokers would be a welcome change rather than creating artificial barriers like linking the compensation to paid up capital, an insignificant step up over agents, etc.

In an era of disinvestments it would be apt not to create any segments in the Indian insurance market like business emanating from public and private sectors. Services of the intermediaries like brokers would certainly bring in a sea change in the outlook of risk management perspectives.

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# Update it

Sam Ghosh

The insurance industry has traversed a great distance since the entry of several new players. At the same time technological advances have drastically changed the way an insurance policy is sold and processed.

If the insurance sector has to mature into a robust system, then some of the archaic insurance laws have to be changed, modified and adapted to global and contemporary standards. It is a paradox and, at times, ridiculous that we are still governed by the Insurance Act framed in 1938.

There is an urgent need for incorporating in it some of the insurance laws to be modified, in order to provide the much needed impetus to the emerging insurance industry.

Some of the provisions that states to maintain hard copies of Agency Register etc., are difficult, if not impossible, given space constraints. This also hampers the move to a paperless office that some insurers would like to opt for. With the development of computers with huge capacity, storage of records can be organised in an improved and efficient manner.

It is a happy augury that IRDA has taken steps in this direction. As a first step a consultation paper on this was prepared and convinced the Law Commission in taking up the issue of the amendments to the above acts, particularly the principal act, which has been pending for a long time.

While we agree to the recommendations of the Law Commission, by and large, we would like to suggest the following points for the consideration of the Commission:

1. Sec 6A(4) - The requirement to maintain the register of shares in addition to the register of members under the Companies Act may be reviewed for present relevance. If not removed, the format for the register of shares may be prescribed.
2. The registers to be maintained under Sec.14 and the agency register should be allowed to be maintained in soft

copy instead of hard copies (This is already provided for in the suggested amendments). However, the requirements prescribed under rule 39 of the Insurance Rules may be reviewed and also the period for maintenance of various registers, policies, claims and other records may be prescribed in the said rule to suit the current requirement in the industry.

3. The provisions related to investments in the principal act may be reviewed and provisions included in the investment regulations of IRDA may be removed from the principal act to avoid duplications and contradictions / different interpretations.
4. The provisions relating to Assignment and Nomination under Sec.38 and Sec.39 respectively should be made

## Outsourcing of back office operations is a largely prevalent phenomenon and sometimes the services rendered by agents may overlap the servicing of business that are outsourced by companies.

applicable to personal lines insurance policies of general insurance business in the same way as they apply to life insurance policies.

5. Sec.40 – a provision may be included in the said section to clarify / differentiate between ‘a person appointed specifically for soliciting/procuring insurance business’ from ‘a person appointed for servicing of the business’. This is essential since the concept of outsourcing of back office operations is a largely prevalent phenomenon and sometimes the services rendered by agents may overlap the servicing of business that are outsourced by companies. The

outsourcing of servicing of business should be excluded from the provisions of this section as well as Sec.40A and Sec.42D.

6. Sec.40C – the provision regarding the limitation of expenses of management may be reviewed and the limits, if any, have to be prescribed under the Act or rules or may be allowed to be determined by the authority from time to time. At present there is no clear method of determining these limits and review of the same. The limits prescribed under the Insurance Rules need immediate review.
7. Sec.64VB(3) to be reviewed to provide for payment of refunds to agent/broker where it is established that the refund has been made by the agent/broker to the insured and a receipt has been obtained from the insured for this purpose or where the insured has issued a ‘no-objection’ for such refund to be made to the agent/broker.
8. Sec.64VC – form to be prescribed for application to the authority for opening of branches.
9. The suggested amendment to the Sec.64 UM(1A) regarding publishing a list of appointed surveyors in notice board/web sites regularly indicating fees paid etc. should be dropped since it is restrictive of the choice that a private enterprise may exercise in this regard.
10. Sec.10 – the provision that general insurers may be required to maintain separate accounts and funds in respect of subclasses of general insurance business may not be practical since the books of accounts are not maintained subclass wise and funds are not invested subclass wise. Any provision in this regard should be framed keeping in mind the industry practice and the general insurance business as a whole.

We feel that these suggestions if implemented can revitalise the insurance industry and provide the much needed momentum for growth.

*The author is Country Manager & CEO, Allianz Bajaj Life Insurance Company.*

# Au Revoir, Rebating!

H. Narayanan

While sharing the interesting views of Ms. Rashmi Abichandani (New Life for the Law, **IRDA Journal**, January 2004) on the need to revamp, redefine and axe certain provisions of the Insurance Act, 1938, naturally a few passing thoughts crop up in the mind.

One of the provisions that appear to be anachronistic is the one on rebating by insurance agents. In the contemporary commercial world 'rebate' has ceased to be a word of sinister connotation as it used to be in India when Britannia was ruling the waves. In the present business clime rebate has become a synonym for incentive or discount. Though sales incentive, discount, freebies et al are accepted as marketing jargon in the insurance industry, the word rebating has become anathema.

Interestingly the ivory tower insurance bureaucracy that takes a vituperative platform position on rebating, is unable to recall even a single instance since the time the Act was enacted in 1938, to cite that a rule-violating agent was caught by the collar for greasing the palm of a client. One wonders why the insurance circles still on paper defend a provision incorporated in the Act, the reasons for which continue to be amorphous and vague. Maybe some of the characteristics special to insurance marketing weighed with the architects of the Act.

Still in this age of information explosion the society respects statues that are valid in equity. It appears the section of the Insurance Act prohibiting the insurance agents from offering rebates out of their commission earnings seems to be iniquitous for it does not take into consideration similar practices prevailing with the authority of law in other walks of business including the financial services.

For example no law breathes hot air on the necks of Post Office Small Savings Schemes agents offering incentives to their clients. On the other hand the Government itself has recognised such incentives. Obviously when a customer receives incentives from a postal agent (s)he starts looking for the same from the insurance agents also.

In a business world that is dominated by Juno Moneta, the Goddess of money, transacting business without offering incentives is like achieving the crown of The Magi. Nowadays offering sales promotional incentives is viewed more as marketing savvy and not bribing.

In the year 1523 when the usage salesman appeared in the English language, salesmen were viewed as crafty pests. And slowly the outlook changed particularly from 1704 when for the first time the word 'saleswoman' appeared in the London Gazette. The irony is that in insurance circles, those who are long in the tooth still seem to attribute the same qualities to salespersons as people did centuries ago.

What defies logical comprehension is that a person who gives a fraction of his or

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**Rebates on high sum assured and long term policies are recognised as legally valid goodwill gestures towards the customers of the insurance companies.**

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her earning to his or her client is frowned upon by the law, whereas rebates on high sum assured and long term policies are recognised as legally valid goodwill gestures towards the customers of the insurance companies.

No one is oblivious to the marketing reality that the corporates that offer freebies and discounts covertly cover the cost of incentives by restructuring prices. Insurance companies load the cost as management expenses while structuring the premium. In making such attractive offers the facts of hidden costs are suppressed. This was the reason why the Reserve bank of India (RBI) had to come down heavily on advertisements offering zero interest loans for purchasing consumer durables.

If parting with a part of an agent's own commission earnings to retain customer loyalty and expand the business portfolio is viewed as a violation of law, one tends to question the *raison d'être* behind the business houses, including insurance companies, floating many competitions to motivate the agents and the sales personnel for better performance. For the winners in such competition expensive gifts including cost of travel to exotic destinations are offered as prizes. The cost of such shenanigans are not borne by the companies, they are loaded on to the price and equitably distributed to all the customers. This means the unsuspecting customers are charged more than the prime or actual cost for the product and services on offer.

As the law exists today it is almost impossible to establish that a payment by an agent to his or her customer is a contravention of the Insurance Act. From the helmsmen at the apex of the insurance corporate pyramid to the propping stones of the lower tiers everyone knows that rebating continues as an other side of the blanket activity and the industry gives a Nelson's eye. It will be beyond the prowess and powers of an official to establish that a financial transaction between an agent and the client falls within the compass of rebating as defined by the Indian Insurance Act.

The statement of David Hume that money is the lubricant that smoothen the movement of the wheels of trade, applies to insurance services also. With far reaching changes taking place in the insurance industry, including the moves to set the business free from the clutches of tariff, the peculiarities of insurance sales should be taken care of through different measures and not by enactments that are impossible to enforce.

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## प्रकाशक का संदेश

कानून एक ढाँचा है जिस पर समाज चलता है। प्रभावशाली होने के लिये इसे उन परिवर्तनों के साथ कदम से कदम मिलाने चाहिये जिस पर समाज संचालित होता है तथा प्रगति के लिये आंकक्षित होता है। यह इस भावना के अनुकूल ही होगी कि आईआरडीए पहल करे उस अभ्यास की जो एक साल पहले के बीमा व्यवसाय के कानूनों को सशक्त तथा सुग्रवाही बनाये।

इस अभ्यास का एक भाग विषमताओं तथा असंगतियों को दूर करना है जो आज विद्यमान है। उस अनिर्यमतता के परिणामस्वरूप जो कई वर्षों की जरूरत के कारण उत्पन्न हुई है, दूसरी तरफ अवसर है - ऐसा अवसर जो कानूनी ढाँचा बनाता है। बीमा उद्योग के लिये जो चुप्पी साधे हुये है आने वाले वर्षों तक जिससे वह आगे देख सके। इसको पुनः लेखन किया जाये इस दृष्टि से की वह भविष्य की दूरदृष्टि हो।

आईआरडीए के निवेदन के कारण विधि आयोग एक सलाहकार पेर के साथ सामने आया है जिसके ऊपर बीमा उद्योग में संलग्न कई व्यवसायियों ने अपनी निविष्टियाँ दी है।

प्राधिकरण का यह अंक क्या देखता है? अपने दर्शन को लेकर इस पहल से तथा आदर्श रूप में इससे क्या निष्कर्ष निकलना चाहिये। लेखक, दोनों जो इस अभ्यास में सम्मिलित हुये तथा वह भी जो प्रेक्षक थे इस माह कह सकते हैं। आदर्श रूप में ऐसा अभ्यास क्या प्राप्त कर

सकता है। एक बड़ा दृष्टिकोण जिसे आईआरडीए पसंद करेगा, उद्योग के परिचालन पक्ष पर होगी इसे उल्लेखनीय रखना होगा जिससे विनियामक क्रिया इतनी शीघ्र हो जितना बाजार माँगता है।

प्राधिकरण से माँग है कि वह उद्योग के विकास का उत्तरदायित्व अपनाये जो कि परिभाषित नहीं है, प्राधिकरण यह प्रयास कर रहा है अपनी विभिन्न व्यवहार्य पूर्ण पहल के द्वारा लेकिन कुछ स्पष्टता तथा सहमति उभरनी चाहिये तथा उसे कानूनी ढाँचे में पुनः लिखना चाहिये तथा भविष्य के कार्य में स्पष्ट रूप से दिखना चाहिये। आईआरडीए पहला विनियामक है जिससे इस कर्तव्य से नवाजा गया है लेकिन अन्य स्पष्ट रूप से इस भूमिका को निभाना पसंद करेंगे। जैसा की नाम से स्पष्ट है पेंशन विनियामक तथा इस पर बड़ी परिचर्चा आगे ले जायेगी कि वह मदद कर सके विनियामक को जिससे उसके कार्यों को निश्चित किया जा सके की वह किस दिशा में है।

यह अंक निकटता से मध्यस्थों की विशेषज्ञ समिति की रिपोर्ट पर भी दृष्टिपात करेगा। मेहनतान अलग - अलग दृष्टिकोणों से। मामला सार्वजनिक टिप्पणी के लिये इससे पहले की आईआरडीए इस पर कोई दृष्टिकोण अपनाये। हम उम्मीद करते हैं कि अधिक प्रतिक्रियाएँ विशेष अनुशंसाओं पर होगी तथा उन परिकल्पनाओं पर भी जो इसका आधार है। कृपया अपने विचार हमारे साथ बाँटे जिससे की अंतिम निर्णय उपयुक्त हो उद्योग की लंबे समय की अच्छाई के लिये।

सी. एस. राव  
सी. एस. राव

# मोटर उदासीनता

पी. एस. प्रभाकर

यह धुन बहुत जानी पहचानी हो चुकी है तथा यह दिल से निकलती है। गीत भी बड़ा उदासीन है। यह वह गाना है जो सभी सार्वजनिक उपक्रम इकाइयों भारत के (पीएसयू) बीमाकर्ताओं ने गाना सीख लिया है।

ओह तुम जालिम तथा दानव मोटर हमेशा हमें रक्तपात करती हो - तुम्हारा प्रभाव हम संभालने में अक्षम हैं।

हमारी आधारशिला जो अन्यथा मिली होती भगवान, हम यह कैसे कामना करें हम तुम्हारे बिना चल सकते।

आखिरी पंक्ति गर्भवति के अर्थ के साथ जिसका नाटकीय आधार है, जबकि सच में यदि मोटर न होती तो बीमाकर्ता अपनी अक्षमता का बहाना न ढूँढपाते केवल मोटर के लिये वह अपना मूल खाना जिसे 'तरलता' कहते हैं भूल जाते। इसलिये वे इसे चाहते हैं या इसे नहीं चाहते हैं।

हाँ यह विवरण शोकाकुल नकारात्मकता मोटर होने के संबंध में होगी लेकिन यह हमेशा खरीदना एक मजबूरी भी है, न केवल तब जब कंपनियाँ किसी प्रकार के आँकड़े उपलब्ध करवाने के लिये आगे नहीं आती है तथा वर्तमान में बिना अन्य मसलों का विश्लेषण किये जिन पर इस लेख में चर्चा की जायेगी।

उद्योग का सकल प्रीमियम वर्ष 2002-03 में 13,520 करोड़ तथा उसका 40 प्रतिशत से अधिक मोटर पोर्टफोलियो से आता था (अग्नि का योगदान 21 प्रतिशत व मरिन 9 प्रतिशत था) फिर ये अकेला सबसे बड़ा पोर्टफोलियो (मोटर) अलग से राजस्व लेखा नहीं रखता तथा यह विविध पोर्टफोलियो में सम्मिलित रहता है जो अपने आप में संस्तुति करते हुये सभी पृथक अधिकार इंजीनियरिंग बीमा से संबंध जो तकनीकी बीमा है जैसे प्रोजेक्ट, सर्व जोखिम कर आदि। कुछ राजनैतिक रूप से महत्वपूर्ण बीमा (ग्रामीण) जैसे पशु, मुर्गीपालन इत्यादि भी हैं।

तीन प्रकार की विशेषताएँ अग्नि मरिन तथा विविध अपने उदय के लिये बीमा अधिनियम से पूर्व

निजी बीमा कंपनियों की परंपरा रखते हैं तथा बीमा अधिनियम से भली प्रकार प्रतिस्पर्धा किये गये।

पश्चिम के बाजारों में साधारण विशेषताएँ संपत्ति तथा आपात स्थिति है। ऑटोमोबाइल तथा देयता तथा रहा बीमा योग हित को इन भागों में शामिल करने का प्रयत्न करते हैं। अन्य बाजार साधारण रूप से अग्नि, मरिन तथा विविध रूप को अपनाते हैं।

केवल अपने आकार के चलते मोटर एक अलग से राजस्व लेखा रखने का हक रखता है लेकिन कारण उन्हीं को मालूम होंगे। विधान बनाने वालों ने ऐसा नहीं सोचा जबकि बीमा अधिनियम लागू किया गया।

आईआरडीए ने जब वित्तीय रिपोर्टिंग के लिये विनियम बनाये तो उन्होने बहुत प्राचीन स्तर प्रथा के बदले वास्तविक, पारदर्शी, दोस्ताना अलग से राजस्व लेखा के सदैव बढ़ते पोर्टफोलियो बदलने का सुनहरा अवसर खो दिया।

जब विनियमन बनाये गये तो बड़े परिवर्तन तथा विकास पहले से जारी वित्तीय रिपोर्टिंग आवश्यकताओं दोनों परिकल्पना तथा दो खंडों के रूप में आधिकारिक विविध पोर्टफोलियो का मोटर तथा गैर मोटर के बीच विभाजन करना चाहिये था।

अलग से राजस्व लेखा के न होने का दुष्परिणाम मोटर पोर्टफोलियो के लिये बीमा वित्तीय के लिये कई है उनमें से कुछ है:

(क) मोटर के आंकड़े सदैव संपूर्ण विविध में उड़ा देने वाले गड्डे पैदा करते हैं तथा वर्गीकरण की रिपोर्टिंग आवश्यकताएँ आवश्यक रूप से कंपनियों को राजस्व खाते के लिये आवश्यक रूप से उपयोग करना चाहिये जैसे संबंधित निवेश आय तथा आरक्षित तरलताएँ।

(ख) मोटर अन्य प्रकार की बीमा वर्गीकरण की तरह कंपनियों के शुद्ध लेखा में रखा जाता है

अर्थात् कोई पुर्नबीमा बाध्यकारी समर्पण के लिये सुरक्षित नहीं है। विविध राजस्व खाते में सकल प्रीमियम सभी संबंधित मदों में मोटर में पहले से शुद्ध प्रीमियम केवल गैर मोटर भाग में विविध पोर्टफोलियो के फैला होगा। यह पूर्ण नष्ट (वास्तव में हानि ट्रिटी से अधिक बीमा लेने से मोटर के लिये गयी पुर्नबीमा सख्ती से लागू नहीं होती तथा उसे राजस्व खाते की लागत के रूप में नहीं लिया जा सकता। ज्यादातर बीमा कंपनियाँ विदेशों में ऐसा करती है जहाँ तक भारत का प्रश्न है यह आर आई बंद किया जाता है।

(ग) यदि मोटर के लिये अलग से राजस्व लेखा होगा, तो इस क्षेत्र की रिपोर्टिंग आवश्यकताओं को इस प्रकार बनाया जायेगा कि कंपनियाँ ऑन डेमेज (ओडी) तथा तृतीय पक्ष देयता (टीपी) के बीच ब्रेकअप दे। मेरिन पोर्टफोलियो क्षेत्र की आज्ञा कार्गो ने तथा हल के लिये अलग अलग लेने की है।

(घ) केवल जब अलग से मोटर राजस्व खाता होगा बीमित जनता को यह पता चल पायेगा कितना खेल ठीक नहीं है। गैर मोटर बीमा खरीददारों के लिये जो बड़े रूप में मोटर पोर्टफोलियो को इमदाद प्रदान करते हैं। यह मोटर से ही मालूम हो सकता है। टीपी के लिये कितना ओडी क्षेत्र इमदाद प्राप्त करता है वर्तमान में यह अनुपात बताती है। कुल मोटर प्रीमियम का एक तिहाई जो तृतीय पक्ष भाग के रूप में एकत्र किया जाता है वह कुल उपर्जित दावों का दो तिहाई होता है।

सार्वजनिक क्षेत्र की कंपनियों में केवल नेशनल तथा ओरिएंटल इश्योरेंस अपने वित्तीय में ओडी तथा टीपी की अलग - अलग व्याख्या करते हैं। अन्य दो कंपनियाँ यह ठीक नहीं समझती कि वे वैधानिक आवश्यकताओं से आगे आये तथा फिर भी यह तराना गाती है कि मोटर हमारा खून चूस रहा है।

# “ कुछ तो लोग कहेंगे ”

संतुलन के साथ एक सफल बिक्री सत्ता बनाये रखेगी, एक सफल बिक्री की अपेक्षा यह भी सत्य है कि सत्ता ही सफल बिक्री का संकेतक नहीं है। यदि अन्य बातें समान हों, एक अच्छे मूल्य के उत्पाद की बिक्री उपभोक्ता जरूरतों को लंबों समय तक पूरा करती रहेगी।

द्वारा 'अभाव रोके' क्यों इतने अधिक उपभोक्ता लंबी समय की बचत योजनाओं में अंशदान बंद कर देते हैं एक सामयिक निबंध यूके की वित्तीय सेवा प्राधिकरण द्वारा।

यदि कोई ऑस्कर पुरस्कार सबसे अधिक चर्चित विषय का होगा जिस पर सबसे कम कार्रवाई की गयी हो उसे टोर्ट सुधार जीतेंगे। लेकिन जब हम 2004 में प्रवेश करते हैं मैं हमेशा की तरह पूरे विश्वास से कह सकता हूँ कि जरूरत परिवर्तनों (टोर्ट सुधार) में तेजी लाने की तथा लंबी दूरी तक चलने वाले सुधारों की ... इसे राजनैतिक विषय नहीं समझा जाना चाहिये। इसे आर्थिक समझा जाना चाहिये। यह प्रतिलेखन करता है सभी राजनैतिक सीमाओं की तथा अधिकतर उद्योग क्षेत्र को भी पार करेगा तथा इसको जरूरत है उपयुक्त तथा सामूहिक प्रक्रिया की।

लार्ड पीटर लावेन, अध्यक्ष,  
लॉयड्स ऑफ लंदन

वर्तमान स्तर पर यू एस टोर्ट की लागत वेतन के 5 प्रतिशत के बराबर है। यू एस टोर्ट की लागत 205 बिलियन डॉलर है या 721 डॉलर प्रति यूएस नागरिक वर्ष 2001 में थी यह वर्ष 1950 में 12 डॉलर की तुलना में थी।

*टिलिगास्ट - टॉवर मरिन रिपोर्ट,  
यूएस टोर्ट की लागत 2002*

वर्ष 2002 में 90 प्रतिशत बड़े निगमों ने यह अनुभव किया की वह एक कंप्यूटर द्वारा कानून तोड़ा गया इनमें से 80 प्रतिशत कानूनों का तोड़ना हानि में परिवर्तित हुआ।

*साइबर जोखिम का विल्लिस ग्रूप ने अपने प्रकाशन में बाजार स्थिति की वास्तविकतायें तथा जोखिम प्रबंधन समाधान 2004*

टोर्ट प्रणाली की लागत कराधान के बराबर है। बिना प्रतिनिधित्व अपने प्राथमिक स्तर तक होगा।

*श्री रोनाल्ड प्रैसमैन, अध्यक्ष, जीई इम्पलाइयर, स्वास्थ्य की लागत में बढ़ोतरी के कारण मेडिकल प्रणाली का दुरुपयोग।*

# प्राशुल्क उन्मूलन

ए.सी.मुखर्जी समिति कहती है

साधारण बीमा में बीमा दलालों, एजेंटों आदि के मेहनताना प्रणाली के निरीक्षण के लिये बनायी गयी विशेषज्ञ समिति जिसको आईआरडीए ने श्री ए सी मुखर्जी भूतपूर्व सीएमडी न्यू इंडिया एश्योरेंस की अध्यक्षता में गठित की। उसने अपनी रिपोर्ट 12 दिसम्बर 2003 को आईआरडीए को जमा की। ओरिएंटल एश्योरेंस के भूतपूर्व अध्यक्ष श्री जी वी राव तथा न्यू इंडिया एश्योरेंस के भूतपूर्व सीएमडी इस समिति के सदस्य थे।

इसके मुख्य सिफारिश में एक अप्रैल 2006 तक सभी प्रकार के व्यवसाय पर पूर्ण रूप से प्राशुल्क उन्मूलन तथा इसे आसानी से प्राप्त करने के लिये एक रास्ता तैयार किया जाये।

प्राशुल्क उन्मूलन तक समिति ने सिफारिश की कि 5 प्रतिशत विशेष बट्टा जारी रहे (जो पिछले 25 वर्षों से प्रचलित है) कुल निगमित संगठनों में निजी तथा सार्वजनिक क्षेत्र दोनों में लेकिन केवल अग्नि तथा इंजीनियरिंग बीमा.....

यह भी सुझाव दिया गया की योग्यता स्तर इस बट्टे के लिये अंशदेय पूंजी 10 लाख से बढ़ाकर एक करोड़ कर देनी चाहिये। यह समिति ने महसूस किया कि वह निगमित ग्राहक आधार जो एजेंटों को उपलब्ध है तथा ब्रोकर जो अपने पेशेवर विशिष्टता को प्रदर्शित करते हैं।

साधारण में ब्रोकर तथा एजेंट के मेहनताने समिति ने कहा कि इन दो प्रकार के मध्यस्थों के मध्य भिन्नता बनानी चाहिये जबकि ब्रोकर की जिम्मेदारियाँ तथा कार्य ज्यादा हैं।

अतः प्राशुल्क आवरण के मामले में जहाँ बट्टे लागू नहीं होता। एजेंसी कमीशन एजेंटों के लिये 10 प्रतिशत तथा ब्रोकर के लिये 12.5 प्रतिशत निर्धारित किया जाये सलाह में यह जोड़ा गया है।

भिन्नता कि एक वैधानिकता है जहाँ व्यवसाय के लिये कोई विशेष सलाह की जरूरत नहीं है। विपणन अथवा सेवा के लिये तथा अन्य व्यवसाय के लिये एजेंट तथा ब्रोकर के लिये 10 प्रतिशत कमीशन रखा गया है।

रिपोर्ट में सुझाव दिया गया है कि निगमित निकाय जिनकी देय पूंजी एक करोड़ रुपये से ज्यादा है तथा 25 करोड़ तक है उन्हें 5 प्रतिशत विशेष बट्टा मिलना चाहिये तथा एजेंट व ब्रोकर की सेवाओं के लिये इन मामलों में ब्रोकर को 7.5 तथा एजेंट को 6.25 प्रतिशत से अधिक देय नहीं होना चाहिये।

निगमित देय पूंजी 25 करोड़ से अधिक के पास यह विकल्प भी होगा तथा उन मामलों में ब्रोकर कमीशन 6.25 प्रतिशत तक प्रतिबंधित होगी तथा एजेंसी कमीशन 5 प्रतिशत तक।

प्राशुल्क आवरण के लिये एजेंसी कमीशन यह कहा गया कि परिवर्तित किया जाये ताकि अधिकतम 10 प्रतिशत किया जाये तथा ब्रोकर के लिये 2.5 प्रतिशत का अंतर रखा जाये गैर प्राशुल्क व्यवसाय के लिये।

ब्रोकर के लिये मेहनताना 17.5 प्रतिशत व एजेंट के लिये 15 प्रतिशत हो।

समिति ने यह भी निष्कर्ष दिया कि वर्तमान ब्रोकरेज / कमीशन ढाँचा जैसा अभी लागू है वर्तमान विनियमकों के चलते प्राशुल्क आवरण पर समिति के दृष्टिकोण से वह बड़ा तथा गलत परिपाटियों को बढ़ावा देता है ऐसा पूर्व में हुआ है, बहुत सारे कदम उठाने के बाद भी बीमा के सामाजिक तथा राष्ट्रीयकृत होने के कारण भी।

बाजार उदारीकरण के इस प्रारंभिक दौर में विनियामक को इस प्रकार के नियमित मेहनताने के प्रति चिंता होनी चाहिये। जो मेहनताना प्राशुल्क आवरण के ऊपर भी देय होता है जहाँ पेशेवराना प्रयास सीमित है। ऐसा महसूस किया गया।

जबकि समिति की उपरोक्त सिफारिश तथा टिप्पणी का व्यवहार समिति को दिये गये पहले चार निर्देशों से होता है। उन मामलों में जहाँ व्यवस्था संदर्भ शुल्क / प्रभार के संदर्भ में है समिति का मानना था बीमाकर्ताओं ग्राहकों को मात्र सांख्यिकी उपलब्ध करवाने से कोई संगठन संदर्भ शुल्क प्राप्त करने का अधिकारी नहीं हो जाता। ग्रामीण बीमा के क्षेत्र में यह अपवाद होता है तथा कुछ शर्तों के साथ जैसे बीमाकर्ता का लिखित रूप से पंजीकृत समूह से समझौता हो तथा वह व्यवसाय केवल अपने सदस्यों के लिये करे। यह कहा गया कि वास्तविक प्रीमियम के संबंध में शुल्क केवल 7.5 प्रतिशत हो जितना भी व्यवसाय बुक किया जाये।

यहाँ बहुत कम प्रोत्साहन एकल बीमाकर्ता के पास अपनी जोखिम श्रेणी को स्वीकार्य करवाने तथा अनुभव के लिये है जिससे वह जोखिम की दर निर्धारित कर सके। प्रत्येक दावे के लागत के आधार पर। सांख्यिकी की अनुपस्थिति में बीमाकर्ता बाधित होंगे। अनुमानतः एक परंपरागत आधार पर लागत तय करने के लिये तथा वह बाधित करेंगे अपने प्रतिस्पर्धा करने वालों को। इसके देखने वालों ने यह जोड़ा है कि एक मजबूत विकसित बीमा दलाल बाजार में बीमालेखा करने वालों पर बड़ा दबाव होगा तथा चालू प्रतिस्पर्धा अभी युवा है तथा बाजार को परिपक्व होना है। बीमालेखन कार्य निपूरता को लेकर जिससे वह प्रतिस्पर्धा स्थितियों को जान सके जो भविष्य में आयेगी।

बीमालेखन तथा जोखिम का दर निर्धारण सांख्यिकी के आधार पर होना चाहिये जिससे अन्तर्निहित मूल्य ढाँचे को एकल आधार पर तथा बाजार के आधार पर भी संपूर्ण रूप से आधारित होना चाहिये। यह एकल बीमाकर्ताओं के लिये समय है कि वह अपने सांख्यिकी आँकड़े बनाने प्रारंभ करे सुदृढ़ आधार पर जिससे खिचड़ी व्यवस्था को ता बाद में मूल्य युद्ध से बचा जा सके समिति ने कहा।

आईआरडीए प्राशुल्क सलाहकार समिति (टीएससी) तथा साधारण बीमा कार्सिल ने समिति से कहा कि एकल बीमाकर्ताओं

को सहायता दी जाये जिससे मुक्त व्यापार व्यवस्था का परिवर्धन किया जा सके जो व्यापार परिपाटियों के मस्तिक तथा प्रक्रिया पर बाधित की गयी है। यह परिवर्तन इतना सरल होना चाहिये जितना संभव हो तथा उसके परिणामों के बारे में जागरूकता होनी चाहिये।

मध्यस्थों की भूमिका के संबंध में (संदर्भ संख्या 2 व 4) समिति ने व्यापक संस्मृति दी है जो लाइसेंस के नियमों से लेकर मध्यस्थों के बीच सर्वोत्तम बाजार परिपाटियाँ बनाने तक है। लाइसेंस कसौटी का पुनरीक्षण लगता है आवश्यकता है व्यावसायिकता को ब्रोकर समुदाय के बीच लाने की जिससे यह स्वस्थ आधार पर प्रगति कर सके। इसके लिये समिति ने कहा ब्रोकिंग कंपनी का मुख्य अधिकारी को मान्यता प्राप्त बीमा योग्यता होनी चाहिये तथा पाँच वर्ष का अनुभव एक बीमा करोबार में होना चाहिये।

समिति ने सब-ब्रोकर के परिचय के विरुद्ध कहा - जो अब तक के विनियामकों के अनुसार है- इनका कहना था सब-ब्रोकर का परिचय बेकार की वैधानिक समस्याओं को बतायेगा जिससे दूर रहना चाहिये।

इन्होंने इस बात पर भी बल दिया कि बैंक की अवस्था में निगमित एजेंट के कार्य तथा कर्तव्यों पर ध्यान देना चाहिये। इस बात को ध्यान में रखते हुये कि कार्यक्षम विवाद हितों का बढसकता है जब बैंक न केवल बीमाकर्ता का प्रतिनिधित्व करेंगे एक एजेंट के रूप में वरन् दावे में संयुक्त रूप से लाभ उठावेंगे।

यह भी कहा गया कि आचार संहिता ग्राहक से मिलती जुलती निर्माण करनी चाहिये। ब्रोकर तथा बीमाकर्ताओं के बीच जिससे अच्छी परिपाटियाँ तथा सुदृढ़ प्रथायें उनके व्यवहार में विकसित हो सके।

यह भी जोर दिया गया कि भारतीय बीमा ब्रोकर एसोशियेशन की अनुशासन समिति में वर्तमान के आईआरडीए की नामांकन प्रथा में उसे स्थायी रूप से प्रतिनिधित्व प्रदान करना चाहिये।

यह समिति के अनुसार तो स्वस्थ और न ही वांछनीय प्रथा है क्योंकि अनुशासन समिति में आईआरडीए के सदस्य का होना स्वयं संचालित तंत्र को बाधित करेगा। यह भी की यह एक स्वतंत्र प्रतिष्ठा जो वर्तमान में आईआरडीए वहन कर रहा है जनता की नजरों में उसे बाधित करेगा रिपोर्ट का कहना है।

रिपोर्ट में ऐसे भी निष्कर्ष तथा ऐसी टिप्पणी है जिसमें आईआरडीए के विभिन्न पहलुओं की भूमिका तथा विनियमनों के बारे में कहा गया है जो उद्योग के कार्य तथा उसका उत्तरदायित्व जिसमें स्वयं विनियमन भी शामिल है।

समिति रिपोर्ट का पूर्ण पाठ आईआरडीए की वेब साइट [www.irdaindia.org/rptec.pdf](http://www.irdaindia.org/rptec.pdf) पर उपलब्ध है तथा आईआरडीए इस पर आपकी टिप्पणी जानना चाहता है।

# आपने जो कहा

यहाँ आपकी प्रतिक्रिया का नमूना प्रस्तुत है जो हमें आईआरडीए जर्नल के सर्वे द्वारा मिला। प्रतिक्रिया भेजने के लिये धन्यवाद। कृपया किसी भी समय अपनी प्रतिक्रिया भेजते रहें।

आईआरडीए द्वारा जर्नल प्रारंभ करना अपने आप में अनोखी बात है जो बीमा नियंत्रक नहीं कर सके वह आप कर रहे हैं। इसी प्रकार इसे गंभीर बनाये रखें।

आप उद्योग के विभिन्न पहलुओं पर रिपोर्ट प्रस्तुत कर सकते हैं या तो पूर्ण अथवा संक्षिप्त जैसे रंगराजन समिति, न्यायमूर्ति इराडी समिति, अंसारी समिति तथा अब मुखर्जी समिति आदि गोपनीय नहीं हैं तो उन्हें उपलब्ध करवाया जाना चाहिये।

जीवन तथा गैर-जीवन क्षेत्र के सर्वोच्च न्यायालय के निर्णय राष्ट्रीय उपभोक्ता शिकायत कमीशन के निर्णयों को भी शामिल किया जाना चाहिये।

जबकि टीएसी की वेबसाइट है यह महत्वपूर्ण है कि टीएसी के बारे में समाचार प्रस्तुत किये जाये जबकि इनका अपना कोई प्रकाशन नहीं है।

**वी के शर्मा, एलआईसी तथा यूआईआईसी से सेवानिवृत्त, सिकन्दराबाद**

ग्रामीण क्षेत्र से संबंधित लेख बहुपयोगी है। मैं आपसे अनुरोध करता हूँ कि आप ग्रामीण लोगों के लिये भारत में बीमा को आसान बनायें।

**सुरेश कटारिया, अध्यक्ष - ग्रामीण उपभोक्ता जागरूकता शोध केन्द्र, रतलाम, मध्य प्रदेश**

ग्रामीण क्षेत्र से संबंधित लेख बहुपयोगी है। मैं आपसे अनुरोध करता हूँ कि आप ग्रामीण लोगों के लिये भारत में बीमा को आसान बनायें।

**सुरेश कटारिया, अध्यक्ष - ग्रामीण उपभोक्ता जागरूकता शोध केन्द्र, रतलाम, मध्य प्रदेश**

अधिक पेशेवराना निपूर्णता के लेख शामिल किये जाने चाहिये। कृपया देखें कि लेख 2 पृष्ठ तक सीमित ब्रिहये जायें।

**जी वी एन राजू, आईकॉन इंस्टीट्यूट ऑफ ह्यूमन डेवलपमेन्ट, हैदराबाद**

अधिक महत्वपूर्ण भाग सांख्यिकी है। आपके प्रश्न तथा अंक फोकस है। कम से कम दो से तीन पेज प्रश्नों के लिये रखे जाने चाहिये।

आप दो तीन पेज चुनी हुई प्रांतीय भाषाओं जैसे तमिल, मलयालम, कन्नड़ अथवा तेलुगु में प्रकाशित करें।

**एन विश्वनाथन (अध्यक्ष क्लब सदस्य), इरोड, तमिलनाडु**

कम से कम एक लेख विश्व एच क्यू लंदन से पुर्नः प्रकाशित किया जाये।

**बी के टिबरेवाल, एक्सिन इंडिया गैस कंपनी, कटक**

बदलती प्रवृत्तियों के नये भाग भारत में बीमा तकनीक के क्षेत्र में तथा भूमंडलीय स्तर पर ग्राहक जागरूकता पर अधिक ध्यान, जीवन तथा गैर जीवन बीमा क्षेत्र के मामले का अध्ययन नये नवोन्मेट लेख जो अधिक मसालेदार है।

**कमलेश आर वैद्या, बड़ौदा, गुजरात**

हमें प्रतिस्पर्धात्मक परिपेक्ष में बीमा बेचने से संबंधित लेख दें।

**आर वेणुगोपाल, निदेशक, एलआईसी, मुंबई**

हमें बीमा सलाहकार के लिये मार्गदर्शन चाहिये क्योंकि हमें कम्पनियों द्वारा कोई सूचना नहीं मिल रही है।

**के मधुसूदन राव, मदनपल्ली, आन्ध्र प्रदेश**

सर्वे अनुसंधान प्रसंग, भविष्य में उन्मुख लेख विनियामक बदलाव साथ साथ आईआरडीए का दृष्टिकोण तथा उद्योग को प्राथमिकता दी जानी चाहिये।

**विजय वोरा, एलआईसी, मुंबई**

आप कंपनी के सीईओ से लेख आमंत्रित कर सकते हैं। उनके विशेष प्रयास स्वास्थ्य तथा ग्रामीण क्षेत्र के विकास के लिये जिसकी आज्ञा आईआरडीए ने एक अधिनियम द्वारा की है।

व्यापार सांख्यिकी काफी रोचक है। आप व्यवसाय का वर्गीकरण अग्नि, मरिन, स्वास्थ्य तथा विविध में बता सकते हैं।

**एम के जिंदल, ओरिएंटल इंश्योरेंस कम्पनी, मुंबई**

चूँकि यह एक ही जर्नल विनियामक की तरफ से है यह पूरे क्षेत्र के विहंगम दृश्य को देश - विदेश में प्रस्तुत करता है। नये व्यवसाय की तुलनात्मक सांख्यिकी तथा बाजार हिस्सा दिया जाता है। मैं सेवा दृष्टि से तुलनात्मक सांख्यिकी भी देखना चाहूँगा। जैसे दावा निष्पादन तथा अन्य कार्य संपादन के संकेत जिनका संबंध ग्राहक सेवा से है। मैं संपादकीय पेज पढ़ने में आनन्द लेता है तथा अगले अंक के बारे में जानकारी जो वह लिखती है। अधिक मानव रूचि के मुद्दे 'सच्चाई के पल' बीमा दुनिया के चारों ओर तथा आने वाली गतिविधियाँ देश व विदेश में इसे अधिक पठनीय बनाती है।

**स्वर्ण प्रभा सुकुमार, एलआईसी, हैदराबाद**

# विशेषज्ञ का प्रवेश

सुपारस भंडारी

वर्ष 2002-03 के संघ के बजट में संघ के वित्त मंत्री ने कृषि क्षेत्र की आवश्यकताओं को विशेष रूप से देखने के लिये एक संगठन बनाने की घोषणा की थी। इसी आधार पर भारत सरकार द्वारा भारतीय कृषि बीमा कंपनी लिमिटेड (एआईसी) की स्थापना की गयी तथा इसको 10 दिसम्बर 2002 को निगमित किया गया जो राष्ट्रीय कृषि बीमा योजना (एनएआईएस) का संचालन करेगी जो 31 मार्च 2003 तक भारतीय साधारण बीमा निगम (जीआईसी) द्वारा किया जाता था।

एआईसी ने एनएआईएस का अनुपालन जीआईसी से ले लिया है। इस कंपनी का संप्रवर्तक रूपये 1500 करोड़ रूपये की अंश पूंजी द्वारा किया गया है जिसमें (35 प्रतिशत) रूपये 200 करोड़ जीआईसी द्वारा (30 प्रतिशत) नाबार्ड तथा चार सार्वजनिक बीमा क्षेत्र की साधारण बीमा कंपनियों द्वारा (8.7 प्रतिशत प्रत्येक)।

नयी कंपनी का मुख्य उद्देश्य उपज को नुकसान, कृषि अथवा संबंधित गतिविधियों को हानि पहुँचने को वित्तीय संरक्षण तथा सुरक्षा प्रदान करना है तथा बीमा उत्पादों का इस प्रकार विकास करना है वह कृषक समुदाय के हितों में कार्य कर सके।

आर्थिक ढाँचे की प्रगति किसी देश में प्राथमिक रूप से उसके कृषि आधार पर निर्भर करती है। वैसे औद्योगिक तथा सेवा क्षेत्र का अपना योगदान है। भारत लगातार कृषि आधारित देश बना हुआ है। जिसकी 75 प्रतिशत जनसंख्या ग्रामीण क्षेत्रों में रहती है। यह क्षेत्र सकल राष्ट्रीय उत्पाद (जीडीपी) का 25 प्रतिशत प्रदान करता है जो एक अरब से अधिक जनसंख्या को खाद्य सामग्री उपलब्ध करवाता है तथा कुल के दो तिहाई को रोजगार उपलब्ध करवाता है।

भारत में 11 करोड़ किन्सान है जिसमें केवल 20 प्रतिशत उपज ऋण अथवा वित्तीय संस्थानों से लेते हैं उनमें से भी आधों को बीमा सुरक्षा प्रदान की गयी है।

साथ ही कृषि आधारित उद्योगों को कच्चा माल उपलब्ध करवाता है जो देश की सकल विकास को आगे बढ़ाता है।

कृषि क्षेत्र की क्षमता जो अपने बचाव के लिये व्यवस्था रखती है जो प्रकृति लहरों तथा उलट-पलट के कारण विकास व संवृद्धि को नाजुक बनाती है। पिछले कुछ दशकों का अनुभव ने यह बताया है कि कोई भी राज्य प्रकृतिक विपत्तियों से संरक्षित नहीं है इससे कोई अंतर नहीं पड़ता की राज्य उसके लिये किस प्रकार तैयार है इसलिये की राज्य उसके लिये किस प्रकार तैयार है इसलिये कृषि बीमा एक महत्वपूर्ण जोखिम प्रबंध का औजार है जिसमें वित्तीय सुरक्षा की क्षमता है।

स्वतंत्रता प्राप्ति के बाद भ्रूण अवस्था से तथा उसके बाद कृषक समुदाय को संरक्षण देने के लिये छिट-पुट प्रयत्न किये गये जिससे प्रकृति आपदाओं से संरक्षण दिलवाया जा सके यह प्रयत्न वर्तमान में लागू राष्ट्रीय कृषि बीमा योजना (एनएआईएस) में शामिल होकर देश में लागू हुये।

अब एक अनन्य कृषि बीमा कंपनी मूर्त है यह प्रयत्न समेकित रूप से लाभकारी होंगे तथा नये क्षेत्रों को सुरक्षा प्रदान करेंगे। लेकिन स्थिर रूप से कृषक समुदाय को सुरक्षा प्रदान करने पर यह समय की माँग है कि वह बीमा का खर्च वहन कर सके इसलिये एआईसी का प्रयास होगी की वह एक संतुलन उच्च जोखिम कृषि तथा सहायक गतिविधियों तथा खर्चवहन कर सकने वाले कृषक समुदाय के मध्य बनाया जा सके इस संदर्भ में सरकार का प्रोत्साहन आवश्यक है।

## व्यापक बाजार क्षमता:

भारत में 11 करोड़ कृषक समुदाय है जिसमें से केवल 20 प्रतिशत उपज ऋण वित्तीय संस्थानों से लेते हैं उनमें से भी आधों को बीमा सुरक्षा प्रदान की गयी है शेष 80 प्रतिशत (8.80) करोड़ या तो स्वयं वित्तीय है या अनौपचारिक वित्तीय क्षेत्र पर निर्भर है। अपनी वित्तीय आवश्यकताओं के लिये इनमें से अधिकांश किस्म अशिक्षित है तथा प्रक्रिया संबंधित जटिलतायें नहीं समझते। ये प्रक्रिया औपचारिकतायें उन्हे औपचारिक वित्तीय संगठनों से दूर रखती है इसलिये वे इनसे शर्म रखते हैं।

संस्थाओं के ऋणी आवश्यक रूप से एनएआईएस से आवश्यक रूप से बीमित होते हैं। केवल 2 प्रतिशत गैर ऋणी कृषक बीमा आवरण को ऐच्छिक रूप से लेते हैं। यह बीमा क्षमता के लिये अच्छा सूचक है जो कृषक समुदाय की जरूरतों को संबोधित करती है तथा कुछ कार्य कुशलता तथा प्रतियोगिता कृषि क्षेत्र में बढ़ाते हैं। यह भारत में कृषि बीमा की संकल्पना की क्षमता को बताता है। जिसको विपरीत प्रभाव कम करने के लिये होगा जो व्यक्तिगत कृषक की अनिश्चितता को कम करेगा।

## एआईसी - उत्पाद तथा प्राथमिकतायें

आज्ञा के भाग के रूप में एआईसी की अपेक्षित दृष्टिकोण कृषि तथा संबंधित क्षेत्रों की बीमा आवश्यकताओं का विस्तृत रूप से एकत्र करना है।

सभी उपज उत्पादकों के लिये विस्तृत रूप से एनएआईएस उपलब्ध है तथा सभी उपजों के लिये उपलब्ध है। यह फिर भी देश के मात्र 10 प्रतिशत कृषकों को आवरण प्रदान करती है। यह महसूस किया गया है कि कृषि बीमा को लाभ बहुसंख्यक कृषक जनसंख्या में फैलने चाहिये विशेष रूप से छोटे तथा सीमांत किस्मों के लिये।

इस संदर्भ में एआईसी की नितिगत आशय प्रभावशाली रूप से बहुसंख्यक ग्रामीण फार्मिंग जनसंख्या को बीमा आवश्यकताओं को विशेषतः गरीब कृषकों की जरूरत के स्रोत को इस प्रकार देखना है कि व्यापक कृषि बीमा उत्पाद विकसित हों तथा वह खर्च वहन की सीमा में ही हों।

इसी समय एआईसी यह पहचान करता है कि दावे से संबंधित वर्तमान प्रक्रिया तथा आपूर्ति अधिक सरल बनायी जा सकती है। कमी का झुकाव सदा फार्मिंग समुदाय के विश्वास पर चोट करता रहेगा। एआईसी का उद्देश्य निर्देशित है। संपूर्ण प्रक्रिया को साधारण बनाने तथा व्यवस्थापरक बनाने के लिये कृषि बीमा व्यवसाय जिससे वित्तीय सुरक्षा प्रभावशाली रूप से पैकिंग हो तथा उसकी आपूर्ति फार्मिंग समुदाय के सभी खंड में होगा।

एनएआईएस के अतिरिक्त, एआईसी की योजना नयी पहल करने की है। छोटे तथा सीमांत किस्मों के लिये जिससे उनकी कठिनाइयों तको कम किया जा सके। यह विशेष आवश्यकताओं का संबोधन न केवल एनएआईएस से करेगी वरन् राजस्व बीमा (फार्म बीमा आय) वर्षा/मौसम के डेशेवेटिक्स बीमा, निगमित कृषि का बीमा तथा उच्च मूल्य की उपज जैसे सब्जियों तथा फूलों का बीमा।

एआईसी की यह भी योजना है कि एक व्यापक बीमा पॉलिसियों का पैकेज किस्मों को उपलब्ध करवाया जाये। जिससे सम्पत्ति, कृषि निविष्टियाँ, ट्रैक्टर, घर, व्यक्तिगत बीमा इत्यादि शामिल हो। ऐसे बीम पैकेज का केन्द्र बिन्दु क्षेत्र में पर्याप्त उत्पादन होगा जो खाद्य सामग्री तथा जीवन यापन की सुरक्षा उपलब्ध करवाते हों जो कृषक की सक्षमता को बढ़ाते हैं तथा देश में कृषि व्यापार का विश्वास बढ़ाते हैं।

## व्यापार परिमाण तथा आवरण

वर्ष 2002-03 में एनएआईएस का अनुपालन 20 राज्यों में तथा दो संघ राज्यों में हुआ जिसमें अनुमानतः 1.20 करोड़ किस्मों को आवरण 11,267 करोड़ रूपये के लिये 366 करोड़ रूपये के प्रीमियम के साथ प्रदान किया गया। बीमांकक सत्ता में यह प्रीमियम लगभग 1400 करोड़ रूपये अनुवादित होता है। वर्ष 2003-04 में हमने योजना में राजस्थान, जम्मू व कश्मीर तथा हरियाणा को शामिल किया है तथा हमें पंजाब की अनुमति भी मिलने की संभावना है। खरीफ 2004 मौसम (2004-05) से सरकार ने बीमांकक आधार लगाने का निर्णय लिया है जिससे प्रीमियम के 1800 करोड़ रूपये तक पहुँचने की संभावना वर्ष 2004-05 तक है।

वर्ष 2004 खरीफ से योजना को बीमांकक आधार मिलने की संभावना है जिससे प्रीमियम 1800 करोड़ रूपये पहुँच जायेगा।

संक्षिप्त शब्दों में 10वीं पंचवर्षीय योजना (2006-07) में यह अनुमान है कि बीमित राशि 25,000 करोड़ रुपये तथा प्रीमियम मापन 3000 करोड़ रुपये तक पहुँच जायेगा। दो करोड़ किसानों का लक्ष्य इस योजना में रखा गया है।

फार्म आय बीमा योजना (एफआईआईएस) जिसको 16 राज्यों के 19 जिलों में पायलट योजना के अंतर्गत गेहूँ तथा चावल के लिये रबी वर्ष 2003-04 मौसम के लिये पहले नये उत्पाद एआईसी द्वारा जारी किये गये। जब योजना देशभर में लागू होने के लिये तैयार होगी क्षमता के कि 45 मिलियन हेक्टर क्षेत्र में 120000 करोड़ रुपये बीमित मूल्य होगा तथा प्रीमियम 8000 से 10000 करोड़ होगा तथा 100 प्रतिशत आवरण गेहूँ तथा चावल के किसानों के लिये देश में होगा।

इसी प्रकार खरीफ 2004 से वर्षा बीमा योजना का परिचय करवाया जायेगा। इसकी बड़ी क्षमता वर्षान्त क्षेत्रों में है।

### विपणन तथा मध्यस्थ

बड़ी क्षमता को प्राप्त करने की चुनौतियों को प्राप्त करने के लिये, एआईसी ने योजना बनायी है। प्रभावशाली चैनल कृषि उत्पादों के वितरण के लिये जैसे यह प्रस्ताव है कि कार्यकुशलतापूर्वक पहले से विद्यमान बैंकों के शाखा नेटवर्क का उपयोग किया जाये, सहकारी संगठनों तथा आगे बढ़कर डाक-घर के बड़े नेटवर्क का प्रयोग बाजार को बढ़ाने के लिये किया जाये।

एआईसी का यह भी प्रयास है कि समर्पित चैनल विकसित किये जाये जैसे मल्टीमीडिया प्रयोजन ग्रामीण एजेंटों के लिये के लिये ब्लाक स्तर पर हो जिससे कृषि बीमा सुविधाओं को किसान के दरवाजे तक पहुँचाया जा सके विशेष रूप से वह जिनके स्रोत बुरे हैं। एआईसी ने यह भी योजना बनायी है कि एक प्रणाली ब्रोकर के लिये जिला स्तर पर एजेंटों के पर्यवेक्षण के लिये बनायी जाये।

उसी समय एआईसी का प्रयत्न है जो जागरूकता फैलाने के लिये फार्मिंग समुदाय के बीच साधरण तथा

स्रोत कमी, जिनमें शामिल है छोटे तथा सीमांत किसान विशेषतः ऐसे प्रयास को एक प्रचार अभियान से जुड़ना होगा जिसको केन्द्र तथा राज्य सरकारों की मदद मिले। केन्द्रीय एजेंसी जैसे दृश्य व प्रचार निदेशालय (डीएवीपी) तथा दूरदर्शन तथा राज्य की विस्तार एजेंसी गाँव तक संदेश पहुँचाने के लिये प्रयोग की जा सकती है।

एआईसी जोरदार कामकाज के द्वारा कृषि बीमा आवश्यकताओं का लक्ष्य तथा संबंधित क्षेत्र संपूर्ण रूप से तथा बीमा के लाभ का प्रचार प्रसार सुदूर जगहों तक करना है। यह एक बड़ा कार्य परिकल्पना तथा आर्थिक दृष्टि से है। हमें भरोसा है एआईसी के गतिशील दल के द्वारा उद्देश्यों को प्राप्त किया जायेगा तथा खर्च वहन को देखते हुये कृषि तथा संबंधित क्षेत्र इसे स्वीकार कर सकेंगे।

*लेखक अध्यक्ष तथा प्रबंध निदेशक भारतीय कृषि बीमा कंपनी लिमिटेड*

## सहायता दायनीय के लिये

*डॉ स्वर्णा सदाशिव विपा*

इक्कीसवीं सदी में कृषि एक जोखिम पूर्ण उद्यम बन गया है। कई कारणों से अनेक राज्यों में उपज में अनिश्चितता बढ़ रही है उनमें से एक कारण (एचवाईवी) उच्च उपज किस्में हैं जो वर्षायुक्त क्षेत्रों के लिये हैं तथा उन इलाकों के लिये जहाँ कम आश्वासित सिंचाई है।

यदि समय पर सिंचाई उपलब्ध न हो एचवाईवी फसलों के लिये हानि अधिक होगी। परंपरागत किस्मों की अपेक्षा जो अकाल के प्रति अधिक प्रतिरोधी हैं।

भूमिजल की उपलब्धता भी वर्षा पर निर्भर करती है। कई वर्षों का सूखा उपज को कई प्रकार से सिंचित इलाकों तक में प्रभाव डालता है। हानि का परिमाण अब पहले से अधिक है क्योंकि प्रति हेक्टर प्रारंभिक लागत बढ़ गयी है। विशेषतः उच्च उपज देने वाली किस्मों तथा व्यावसायिक उपजों के लिये।

भूमि का क्षरण जलमन इलाकों में बढ़ गया है जिसका कारण वर्षा की अनिश्चितता है। उदाहरणतः वर्षा की अधिकता व कमी दोनों उच्च क्षरण के क्षेत्रों में हानि पहुँचाती है। इसलिये भारतीय कृषि में उपज प्राप्ति का जोखिम बढ़ गया है।

आजकल के उदारीकरण के व्यापारिक युग में किसान के आय जोखिम में बढ़ोतरी हो गयी है। साधारणतः ऐसे बाजार में जो अन्तरराष्ट्रीय दबाव से शर्मिदा हो। जब उपज खराब हो जाती है। दाम फसल मौसम में बढ़े जाते हैं तथा बढ़े हुये दाम कुछ हद तक उपज प्राप्ति की कमी की क्षतिपूर्ति कर देते हैं।

पिछले कई वर्षों में कई फसलों के वर्ष 2001 सूखे के बाद भी दाम नहीं बढ़े (जीओआई, कृषि मंत्रालय, वर्ष 2002 की कृषि लागत तथा मूल्य की रिपोर्ट) यह इसलिये हुआ क्योंकि अन्तरराष्ट्रीय दाम दबाव में थे तथा उदारीकरण के कारण घरेलू दाम अन्तरराष्ट्रीय दामों के निकट पहुँच गये।

इसलिये दामों में कमी का सीधा प्रभाव उपज खराब होने से किसानों की आय पर पड़ा। कृषि बीमा केवल उपज जोखिम के लिये है। अन्य उपाय जैसे भविष्य का आग्रिम व्यापार तथा जीन्सों का आग्रिम व्यापार बहुत मूल्य जोखिम के लिये बहुपयोगी है। मूल्य जोखिम जमाव से व्यवहार करने के लिये तंत्र की कमी उपज खराब होने या कम हो की समस्या को बढ़ा देती है।

सीमांत किसानों तथा छोटे किसानों की स्थिति अधिक दयनीय है। अन्न उपज का खराब होना भूखमरी फैला सकता है तथा छोटे तथा सीमांत किसानों का व्यापारियों तथा कर्ज देने वालों के उच्च ब्याज दर कर्ज के नीचे दबा देगा। इसलिये उपज बीमा भारतीय कृषि के लिये उच्चतम महत्व रखता है। व्यवसायिक उपज के लिये एक शीघ्र आवश्यकता है कि भविष्य आग्रिम व्यापार आरंभ किया जाये।

### उपज बीमा योजना:

फसल बीमा का लक्ष्य किसानों को प्राकृतिक विपत्तियों जैसे सूखा, बाढ़, ओला वृष्टि, अग्नि, कीड़े, रोग इत्यादि से सुरक्षा प्रदान करना है। भारत में उपज बीमा समग्र रूप से नहीं है लेकिन इसमें से अब तक बहुत कम लाभ उठाया जा सका है। विस्तृत बीमा योजना (सीसीआएस) 1985 में जारी की गयी जिसका सीमित क्षेत्र था। यह एक ऋण संबंध बीमा योजना थी तथा इसका उद्देश्य किसानों की ऋण क्षमता को बनाये रखना आने वाले मौसमों के लिये था।

राष्ट्रीय कृषि बीमा योजना (एनएआईएस) को 1999 - 2000 में सीसीआईएस के स्थान पर लाया गया सभी

राज्यों में। नयी योजना सभी न केवल उन सभी किसानों को उपलब्ध है जिन्होंने लघु ऋण लिये हैं। सीसीआईएस के संबंध में इसका विस्तार वाणिज्यिक था होटीकल्चर उपज तक किया गया है।

ग्यारह फसलें जिन पर उपज आंकड़े दस वर्षों के उपलब्ध है को इस योजना में शामिल किया गया है। नयी योजना क्षेत्र प्रस्ताव के अनुसार कार्य करती है। प्रत्येक फसल के लिये परिभाषित अधिसूचित इलाके का आंकलन विस्तृत फैली हुई विपदाओं से होता है। एकल का मूल्यांकन स्थानीय विपदाओं जैसे चट्टान घिसकना, ओलावृष्टि, बाढ़ आदि से होता है। अभी तक कार्य क्षेत्र केवल प्राकृतिक आपदाओं तक सीमित रहा है।

#### योजना पर कार्य तथा इसकी व्यवहार्यता

भारत में कृषि बीमा इतना व्यापक रूप से फैला हुआ नहीं है तथा यह बहु सी समस्याओं से घिरा हुआ है। यह समस्याएँ है आवरण की, समस्याएँ देरी से भुगतान की, समस्याएँ मूल्यांकन की, जागरूकता की समस्या तथा व्यवहार्यता की समस्या को समझने की समस्या है।

वर्ष 1949 से 1985 के बीच बीमा सीमित था। ऋण भाग तक तथा संपूर्ण फसल को सुरक्षा प्रदान नहीं करता था। यह केवल उन किसानों को उपलब्ध था जो लघु ऋण लेते थे वाणिज्यिक बैंकों के माध्यम से। 1999 - 2000 में नयी योजना के आने के बाद इसका काफी विस्तार हुआ फिर भी आज कुल आवरण काफी कम है। यह 20 लाख किसानों को वर्ष 2001 में देश में आवरण प्रदान कर रहा था। क्षेत्रवार वर्गीकरण उपलब्ध नहीं है। छोटे किसानों को बाँटी गयी आर्थिक सहायता ते आंकड़े भी उपलब्ध नहीं है।

दावा निष्पादन तथा इकट्ठे किये गये प्रीमियम के अनुसार यह निष्कर्ष आंकड़ों के अनुसार अव्यावहारिक है। 1999-2000 की रबी ऋतु के आंकड़ों के अनुसार 5.42 करोड़ प्रीमियम एकत्र किये जाने के विरुद्ध 7.69 करोड़ रूपये के दावों का भुगतान किया गया। वर्ष 2000 के खरीफ सत्र में 206.51 करोड़ रूपये प्रीमियम एकत्र किया गया तथा 1179 करोड़ रूपये के दावों का भुगतान किया गया। वर्ष 2001-02 के रबी सत्र में 27.45 करोड़ प्रीमियम के विरुद्ध 41.90 करोड़ रूपये के दावा का भुगतान किया गया। अतः दावे प्राप्त प्रीमियम से बहुत ज्यादा थे जिससे सरकार को सत्र के बाद सत्र हानि उठाने को मजबूर किया। अधिक हानि के कारण योजना को रोक दिया गया।

हानि का मुख्य कारण क्षेत्र आधारित प्रस्ताव थे। व्यक्तिगत आधारित प्रस्ताव नहीं। जैसे की कोई इलाका सूखाग्रस्त या बाढ़ग्रस्त या आपदावाला घोषित कर दिया जाता है सभी दावे निश्चित राशि पर देने होंगे बिना इसे ध्यान में रखते

हुये की वास्तविक हानि कितनी हुई है। कुछ ने सिचाई के साधनों का प्रयोग किया होगा तथा औसत उपज से अधिक प्राप्त की होगी।

यदि सरकार यह निर्णय लेती है कि वह क्षेत्र आधार से व्यक्ति आधार पर बदलाव करेगी। उपज बीमा की प्रशासनिक लागत काफी बढ़जायेगी क्योंकि प्रत्येक किसान को मूल्यांकन उसकी स्थानीय अवस्थाओं के अनुसार किया जायेगा। परंपरागत रूप से फसल बीमा की प्रशासनिक लागत बहुत ज्यादा है तथा किसान सहायता राशि का भाग बन जाती है विकसित देशों में।

आगे वसूल किये गये प्रीमियम दरें एक निर्धारित प्रतिशत बीमित मूल्य का है अथवा बीमांकन की दरें जो भी कम हो। अभी तक बीमांकक दरों का आकलन अन्न फसलों तथा तिलहन लिये नहीं हुआ है। बीमांकक दरों को हानि की संभावनाओं का प्रदर्शन करना चाहिये। यह संभव नहीं है कि इन दरों का आकलन किया जाये क्योंकि संभावित मूल्य जिस पर फसल को बेचा जाना है तथा किसानों को हानि का प्रतिशत पूर्व उपज उपलब्ध आंकड़ों के आधार पर। अभी तक बीमांकक दरें वाणिज्यिक उपजों पर लागू होती थी।

प्रीमियम ढाँचे को विवेकपूर्ण बनाने के लिये सरकार ने एक विशेष एजेंसी विशेष रूप से इसी कार्य के लिये प्रस्तावित की है जो फसल बीमा में विशेषता रखती है (देखें विशेषज्ञ का प्रवेश श्री सुपारस भंडारी द्वारा) इस संदर्भ में यह विश्व भर में एक विरोधाभास ही होगी कि विश्व बैंक ने एक मौसम बीमा रिपोर्ट आंध्र प्रदेश के लिये जारी की है। इस योजना के अंतर्गत प्रीमियम से 15 प्रतिशत अधिक दावों का भुगतान वर्षा औसत भारिता सूचकांक के आधार पर किया जायेगा। जब पौधा-पोषण अवधि ज्यादा हो लेकिन यह सभी फसलों के लिये समान रूप से बराबर होगा। आगे इसमें वर्ष में उतार चढ़ाव पर बाध्यता है। केवल 200 मि.मी. से अधिक उचार - चढ़ाव को विचार्य स्वीकार किया जायेगा। (विश्व बैंक पायलेटिंग वैदर इश्योरेंस इन इन्डिया 2003) इसका आधार वह क्षेत्र नहीं है जिसमें फसल हो लेकिन पॉलिसी के अंतर्गत बीमित मूल्य है। यह पद्धति बीमा कंपनियों के अंतर्गत लाभदायक है। लेकिन किसानों के कम लाभदायक है। वह छोटे दावों के लिये बड़ी प्रीमियम राशि देने के लिये बाध्य होंगे।

#### बड़े तथा व्यवसायिक किसानों के प्रति पूर्वाग्रह

फसल बीमा उन बड़े किसानों को लाभ प्रदान करती हुई प्रतीत होती है जो व्यवसायिक फसलें उगाते हैं। उन सीमांत व छोटे किसानों की अपेक्षा जो अन्न उपज उगाते हैं। सबसे पहला और महत्वपूर्ण असुविधा दावा मिलने की समयावधि है। सरकारी तंत्र अभी एक वर्ष से ज्यादा समय

दावा निपटाने के लिये लेता है। ऐसी देरी से किये गये भुगतान उस प्रयोजन को हटा देते हैं जिसके अंतर्गत ऋण पर ब्याज से छुटकारा पाने के लिये बीमा करवाया जाता है। फसल क्षेत्र अभिकल्पना व्यवसायिक कृषि करने वालों को ज्यादा लाभप्रद है। छोटे व सीमांत किसानों के अपेक्षाकृत फिर भी क्षेत्र परिकल्पना उन किसानों को लाभ पहुँचाती है जिन्होंने बीमा के लिये विकल्प चुना था।

फसल बीमा सरकार की पहल है। यह माँग से संचालित होने वाली गतिविधि नहीं है। जैसा कि अन्य प्रकार के बीमा में होता है जैसे कि जीवन बीमा। अन्य असुविधा यह है कि उन्हें अशिक्षित लोगों से व्यवहार करना पड़ता है। जो पूरी तरह से आंकलन व अनुपालन के बारे में अनभिज्ञ हैं।

#### विकास के लिये सुझाव

सरकार ने किसान क्रेडिट कार्य को व्यक्तिगत बीमा से संबद्ध किया है। व्यक्तिगत दुर्घटना बीमा मृत्यु स्थायी अक्षमता को लाभ किसान कार्ड होल्डर के लिये बढ़ा दिया गया है। यह क्रेडिट कार्ड त्वरित ऋण देते हुये ऋण प्राप्ति के समय को कम कर देते हैं। यह लचीला धन वापसी विकल्प भी प्रदान करता है।

वर्ष 1998-1999 में किसान क्रेडिट कार्ड योजना आरंभ की गयी तथा प्रचलित हो गयी जिसके अंतर्गत 20.4 मिलियन क्रेडिट कार्ड जारी किये गये। सहकारी बैंकों ने 66 प्रतिशत क्रेडिट कार्ड जारी किये तथा यह क्रेडिट कार्ड कई प्रयोजनों के लिये प्रयोग किया जाता है।

- विश्वभर में यह विचार हो रहा है कि फसल बीमा का किसान क्रेडिट कार्ड के साथ प्रीमियम भुगतान के लिये तथा फसल बीमा दावों के लिये प्रयोग किया जाये।

- क्योंकि फसल नष्ट होने का संबंध जल संरक्षण से है। विशेष प्रीमियम घटते हुये रूप में देने की सुविधा समुदाय को देनी चाहिये। लाभार्थी के द्वारा रख-रखाव में ढील देने पर समुदाय की भूमि का क्षरण होगा। ऐसे समुदाय जो जल का संरक्षण करते हैं उन्हें लाभ दिये जाने चाहिये।

- अन्न उपज उगाने वाले छोटे और सीमांत किसानों को क्षेत्र परिकल्पना के आधार पर बीमा को वर्षा से संबंध करना चाहिये।

- बड़े व्यवसायिक किसानों से बीमांक अनुसार पर प्रीमियम लगाया जाना चाहिये। एकक मूल्यांकन परिकल्पना बेहतर होगी क्योंकि बड़े किसान बहुत अधिक नहीं है जिससे प्रशासनिक लागत बढ़जाये।

लेखक - प्रोग्राम निदेशक, एम एस स्वामीनाथन रिसर्च फाउंडेशन, चैन्नई

# The Prize Recipe !

R. Alagar

## - Crop Insurance and Pre-Harvest Hedging

Agricultural crop production is, in many ways, an "open roof" industry and, as a result of this dependency on non-controllable weather perils, crop production risks need to be transferred off-farm.

Crop insurance, which represents about 70 per cent of the global agriculture premium income, is the most important single agriculture insurance line. Crop insurance is not a new insurance activity. European private-insurance companies have offered policies for single named peril risks such as hail or fire for more than 100 years. Today, the largest crop-insurance schemes provide multi-peril crop insurance. Multi-peril crop insurance products generally have public support through premium subsidy, administrative cost reimbursement and/or state reinsurance.

Pre-harvest hedging in crop insurance centres around strategies of expected revenue, associated risks and producers' risk attitudes. At the time of analysing optimal strategies, it is found that Catastrophic (CAT), Actual Production History (APH) and Crop Revenue Coverage (CRC) play roles in the process. In the quantum techniques, Average Revenue was similar across alternatives, but APH and CRC resulted in the least income variability. The risk reducing effects of hedging were small and the advantage of CRC over APH decreases as hedging increases. This has led to the inference that, if future market conditions differ significantly from the past, optimal strategies have to change.

Crop insurance vis-a-vis pre-harvest hedging is basically dependent on asymmetric information. This relates to the key point of the buyer of insurance and the insurance company not having the same information as regards the probability of losses occurring. It has two dimensions:

1. Adverse selection occurs if higher risk individuals buy more insurance than others, without the insurance

company's knowledge. A common tool insurance companies use to minimise adverse selection is to ask the insured to disclose any factors that may lead to above normal risk. Based on that information, premiums can be differentiated for different classes of risk.

2. Moral hazard, which refers to an individual's change in behaviour after having taken out an insurance policy, results in an increase in the potential magnitude and/or probability of a loss. Insurance companies generally try to minimise moral hazard through the use of:
  - Deductibles or co-payments (the insured has to bear part of the loss be it a fixed amount or a per cent age of the loss)
  - No-claim bonuses (premium

### Insurance requires efficient documents of title on the crop proceeds and sophisticated verification mechanisms at the time of harvesting.

discounts when, over a certain period of time, no claims are made)

- Checks to verify whether the insured takes the precautionary measures agreed upon to prevent losses
- Indemnification based on an objective index, which cannot be influenced by the insured

At this juncture, managing disasters in these types of insurances, along with its annexing industrial/agrarian activities, gives healthy risk portfolios. It plays a key role in hedging risks also when the penetration is likely to surge in the near future.

December, 2003 has become a watershed month in the country's agriculture history. Two significant

events happened in this month. One was the announcement of futures trading in wheat and rice and the second was that a minimum support price (MSP) the same as last year was made.

The so called futures trading is what we call, in insurance parlance at the international level, pre-harvest hedging, even though hedging as a systematised process is more market driven. It is heartening to note that, in the Indian market, a similar process has already been initiated, to sow the seeds of pre-harvest hedging in insurance. This would also encourage the much needed diversification from surplus fine cereals to deficit commercial crops. This would certainly make the pre-harvest hedging portfolio in insurance commercially viable and self-supporting without any premium subsidy.

The policy of open ended procurement, the levy system in rice and restriction on direct purchases from growers are certainly anathema to pre-harvest hedging. It is on the receding phase in the emerging market driven agro- economy. The expansion of irrigation facilities across the country is a pro-active step for these types of insurances, which is now emerging in a multi-faceted manner. The monsoon vagaries are considerably reduced; this is a great positive factor.

The introduction of futures and derivatives contracts in various commodities is an effective method to manage the uncertainty in a free market and mitigate risks. The launch of futures trading in rice and wheat will bring rewards to the producer, the consumer, the insurer and also to the national exchequer by creating alternatives. However, a word of caution; this insurance requires efficient documents of title on the crop proceeds and sophisticated verification mechanisms at the time of harvesting.

India is one of the largest producers and consumers of most agri-commodities and also significant exporter and importer. There is need to have specialised agri-hedging index bureaux within the country, which will encourage

further research and agri-based high profile employment potential. The distribution channel of bancassurance has to start agri-hedging as coagulative insurance along with individual life assurances.

The product in crop insurance should ensure sustaining distribution effectiveness. The very fact that hedging instruments are organised well in advance as an effective financial tool indicates that the distribution process gets planned much earlier. Acquiring and retaining customers is another area; this is set to happen in hedging because, instead of credit, the farmer gets financial resources in advance in futures derivatives. It is at this juncture the following characteristics of futures trading are to be noted:

- Necessarily organised under the auspices of a recognised association.
- "basis variety" and other "tenderable varieties" are well planned.
- Units of price quotation are fixed, which cannot be altered later
- Delivery periods specified
- Other specified selling centres
- Payment of differences without any physical delivery of goods

For the time being, it is confined to rice and wheat; yet, both have wider ramifications justifying pre-harvest hedging as an insurance proposition.

The current international trend of insurers' undertaking re-engineering studies make them feel that redesigning the agricultural products can be weather-based rather than peril-based. The

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**Weather-based insurance changes the nature of risk management in insurance and is much more scientific as compared to other peril-based insurances.**

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weather-based concept changes the nature of risk management in insurance and is much more scientific as compared to other peril-based insurances. The IT activities can be easily outsourced through emerging IT based GIS vendors, which will cut costs in many ways. Here, expenses on GIS become income in IT based underwriting and claims servicing in certain respects.

The pre-harvest hedging insurances will clearly indicate indemnity level and the identification of profitable customers. Government revenue gets enhanced in multi-dimensional ways; most of the unclean methods lose their relevance and the farmer gets a secure future. The broadened identification of additional crops help to increase the efficiency of the sales mechanism.

The pre-harvest hedging of crop insurances will bring in new factors such as:

- Channel management role in meteorology
- Call centres for crop cultivators
- Computer technology interface
- Sales point modifications
- Improved portals on the Internet
- New dimensions in knowledge management and wealth management and
- M-commerce

*The author is Manager-in-Charge, Tariff Advisory Committee, Delhi Regional Office.*



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# Report Card: LIFE

## New business grows at 22% over November 2003

With the completion of nine months of the current financial year 2003-04, the life insurance industry has underwritten first year premium of Rs.9,71,321.03 lakhs towards 1,52,61,435 policies. While the growth in premium of the private players over the figures as at November, 2003 is 25.9 per cent, in case of LIC it is 21.36 per cent. The overall growth in business over cumulative premium underwritten upto November, 2003 was 21.88 per cent. In terms of number of policies, the growth was 20.75 per cent.

The premium underwritten by the private players in the month of December, 2003 was Rs.1,14,526.70 lakhs, taking the share of these players to 11.79 per cent of

the total premium underwritten during the nine month period.

As against this, LIC underwrote a premium of Rs.8,56,794.33 lakhs in December, 2003. The market share of LIC during the current financial year thus stood at 88.21 per cent, recording a decline of 0.38 per cent as against the end of previous month.

In terms of number of policies underwritten, the market share of the private players stood at 6.01 per cent as against 93.99 per cent of LIC. The market share of LIC in terms of number of policies declined by 0.15 per cent as against the period April to November, 2003.

LIC has underwritten Rs.4,12,474.03 lakhs towards 2,27,354 policies under the Varishtha Bima Pension Yojana, a growth of 18 per cent and 17.29 per cent, respectively over the cumulative figures at the end of November, 2003.

In terms of market share, ICICI Prudential continued to lead amongst the private players with premium underwritten of 3.90 per cent and policies issued at 1.36 per cent of the insurance industry for the period April to December, 2003. In terms of number of lives covered under the group scheme SBI Life leads with the figure of 4,73,526 lives under the various group schemes, which is 13.38 per cent of the total lives covered by the life insurers during the period April to December, 2003.

### First Year Premium – December 2003

		Premium u/w		% of Premium	No. of Policies/Schemes		% of Policies	No. of lives covered under Group Schemes		% of lives under Group Schemes
		December	Upto Dec.	Upto Dec.	December	Upto Dec.	Upto Dec.	December	Upto Dec.	Upto Dec.
1	<b>Allianz Bajaj</b>	<b>1,169.87</b>	<b>8,024.66</b>	<b>0.83</b>	<b>16,316</b>	<b>1,09,958</b>	<b>0.72</b>	<b>3,186</b>	<b>28,446</b>	<b>0.80</b>
	Individual Single Premium	3.63	269.48		12	697				
	Individual Non-Single Premium	1,161.21	7,714.40		16,298	1,09,222				
	Group Single Premium		0.76			1			781	
	Group Non-Single Premium	5.03	40.02		6	38		3,186	27,665	
2	<b>ING Vysya</b>	<b>762.33</b>	<b>2,967.84</b>	<b>0.31</b>	<b>8,898</b>	<b>41,934</b>	<b>0.27</b>	<b>996</b>	<b>996</b>	<b>0.03</b>
	Individual Single Premium		18.99			2,795				
	Individual Non-Single Premium	760.37	2,946.88		8,897	39,138				
	Group Single Premium									
	Group Non-Single Premium	1.96	1.96		1	1		996	996	
3	<b>AMP Sanmar</b>	<b>569.94</b>	<b>1,586.81</b>	<b>0.16</b>	<b>10,817</b>	<b>31,320</b>	<b>0.21</b>	<b>7,138</b>	<b>46,512</b>	<b>1.31</b>
	Individual Single Premium									
	Individual Non-Single Premium	557.18	1,473.76		10,817	31,308				
	Group Single Premium									
	Group Non-Single Premium	12.76	113.05			12		7,138	46,512	
4	<b>SBI Life</b>	<b>1,759.95</b>	<b>7,338.70</b>	<b>0.76</b>	<b>8,933</b>	<b>45,990</b>	<b>0.30</b>	<b>44,085</b>	<b>4,73,526</b>	<b>13.38</b>
	Individual Single Premium	268.72	1,184.03		84	5,228				
	Individual Non-Single Premium	424.86	1,823.05		8,800	40,516				
	Group Single Premium	681.65	2,952.59		1	18		7,009	29,727	
	Group Non-Single Premium	384.72	1,379.03		48	228		37,076	4,43,799	
5	<b>Tata AIG</b>	<b>938.02</b>	<b>10,572.55</b>	<b>1.09</b>	<b>10,342</b>	<b>1,09,579</b>	<b>0.72</b>	<b>23,676</b>	<b>1,23,302</b>	<b>3.48</b>
	Individual Single Premium									
	Individual Non-Single Premium	734.03	8,584.69		10,339	1,09,532				
	Group Single Premium	53.62	325.87			1		9,726	70,129	
	Group Non-Single Premium	150.38	1,661.98		3	46		13,950	53,173	

		Premium u/w		% of Premium	No. of Policies/Schemes		% of Policies	No. of lives covered under Group Schemes		% of lives under Group Schemes
		December	Upto Dec.	Upto Dec.	December	Upto Dec.	Upto Dec.	December	Upto Dec.	Upto Dec.
6	<b>HDFC Standard</b>	<b>1,657.85</b>	<b>10,733.31</b>	<b>1.11</b>	<b>40,202</b>	<b>1,33,666</b>	<b>0.88</b>	<b>10,521</b>	<b>35,402</b>	<b>1.00</b>
	Individual Single Premium	522.95	3,818.78		26,158	33,482				
	Individual Non-Single Premium	1,025.42	6,490.11		14,034	1,00,106				
	Group Single Premium	109.48	424.42		10	78		10,521	35,402	
	Group Non-Single Premium									
7	<b>ICICI Prudential</b>	<b>7,735.20</b>	<b>37,844.49</b>	<b>3.90</b>	<b>41,845</b>	<b>2,07,496</b>	<b>1.36</b>	<b>6,872</b>	<b>18,321</b>	<b>0.52</b>
	Individual Single Premium	976.00	7,394.00		1,120	7,661				
	Individual Non-Single Premium	6,733.00	30,175.00		40,721	1,99,794				
	Group Single Premium	26.20	275.49		4	41		6,872	18,321	
	Group Non-Single Premium									
8	<b>Birla Sunlife</b>	<b>4,867.11</b>	<b>16,388.38</b>	<b>1.69</b>	<b>12,647</b>	<b>62,514</b>	<b>0.41</b>	<b>58,468</b>	<b>1,50,658</b>	<b>4.26</b>
	Individual Single Premium	140.97	833.87		264	1,203				
	Individual Non-Single Premium	2,592.35	11,200.85		12,369	61,232				
	Group Single Premium	40.75	284.66					352	2,201	
	Group Non-Single Premium	2,093.04	4,069.00		14	79		58,116	1,48,457	
9	<b>Aviva</b>	<b>721.22</b>	<b>4,152.63</b>	<b>0.43</b>	<b>7,176</b>	<b>44,674</b>	<b>0.29</b>	<b>4,675</b>	<b>34,875</b>	<b>0.99</b>
	Individual Single Premium	36.96	267.82		74	486				
	Individual Non-Single Premium	679.04	3,866.36		7,098	44,178				
	Group Single Premium									
	Group Non-Single Premium	5.22	18.45		4	10		4,675	34,875	
10	<b>Om Kotak Mahindra</b>	<b>1,204.16</b>	<b>5,236.90</b>	<b>0.54</b>	<b>5,531</b>	<b>30,491</b>	<b>0.20</b>	<b>1,569</b>	<b>43,751</b>	<b>1.24</b>
	Individual Single Premium	34.50	255.72		35	209				
	Individual Non-Single Premium	1,160.76	4,435.03		5,495	30,262				
	Group Single Premium									
	Group Non-Single Premium	8.89	546.15		1	20		1,569	43,751	
11	<b>Max New York</b>	<b>2,152.72</b>	<b>8,348.53</b>	<b>0.86</b>	<b>22,546</b>	<b>85,297</b>	<b>0.56</b>	<b>9,821</b>	<b>1,97,823</b>	<b>5.59</b>
	Individual Single Premium	25.20	131.73		33	141				
	Individual Non-Single Premium	2,103.60	7,823.31		22,498	85,077				
	Group Single Premium									
	Group Non-Single Premium	23.92	393.49		15	79		9,821	1,97,823	
12	<b>Met Life</b>	<b>256.63</b>	<b>1,331.90</b>	<b>0.14</b>	<b>2,974</b>	<b>14,304</b>	<b>0.09</b>	<b>818</b>	<b>15,114</b>	<b>0.43</b>
	Individual Single Premium	4.24	27.48		29	172				
	Individual Non-Single Premium	252.35	1,283.21		2,945	14,128				
	Group Single Premium									
	Group Non-Single Premium	0.04	21.21			4		818	15,114	
	<b>Private Total</b>	<b>23,795.00</b>	<b>1,14,526.70</b>	<b>11.79</b>	<b>1,88,227</b>	<b>9,17,223</b>	<b>6.01</b>	<b>1,71,825</b>	<b>11,68,726</b>	<b>33.02</b>
13	<b>LIC</b>	<b>1,50,845.01</b>	<b>8,56,794.33</b>	<b>88.21</b>	<b>24,45,742</b>	<b>1,43,44,212</b>	<b>93.99</b>	<b>4,79,351</b>	<b>23,70,922</b>	<b>66.98</b>
	Individual Single Premium	9,688.39	43,184.60		18,057	72,345				
	Individual Non-Single Premium	1,04,874.86	6,36,057.32		24,26,104	1,42,62,635				
	Group Single Premium	36,281.76	1,77,552.41		1,581	9,232		4,79,351	23,70,922	
	Group Non-Single Premium									
	<b>Grand Total</b>	<b>1,74,640.01</b>	<b>9,71,321.03</b>	<b>100.00</b>	<b>26,33,969</b>	<b>1,52,61,435</b>	<b>100.00</b>	<b>6,51,176</b>	<b>35,39,648</b>	<b>100.00</b>

Note: LIC's business figures do not include Varishtha Pension Bima Yojana.

# Report Card: GENERAL

## December premiums surge at 15 %

G.V. Rao

### Performance in December 2003

The premium performance of the non-life insurers in the month of December 2003 of Rs. 1,472 crores shows that it has surged by about Rs. 190 crores over the corresponding period in the previous year, recording a growth rate of 15 per cent. What stands out as even more remarkable is the premium accretion of the public players of Rs.148 crores (growth rate of 13 per cent), with the private players contributing a relatively meagre Rs.42 crores (32 per cent). This is an interesting reversal of the normal pattern witnessed in the recent months wherein the private players' contribution was always more.

Of the accretion achieved by public players of Rs. 148 crores, National Insurance Company alone has garnered Rs. 112 crores (58 per cent share of the

total accretion and 75 per cent of the accretion of the public sector, and 48 per cent accretion over its performance in December 2002) showing what a dominant player it continues to be in the public sector group. Oriental's contribution has been Rs. 30 crores (13 per cent accretion) and United India's Rs. 16 crores (seven per cent accretion). New India has continued to struggle to defend its monthly renewals and in fact it has dropped its premium in December by Rs. 13 crores.

The uneven premium performance of the four after they have been delinked from the GIC is one indicator of what autonomy given to each public player has resulted in. The wide differences in premium performance among them could be either due to individual strategic objectives pursued or due to plain uncompetitive policies in the

market faced by three out of the four players.

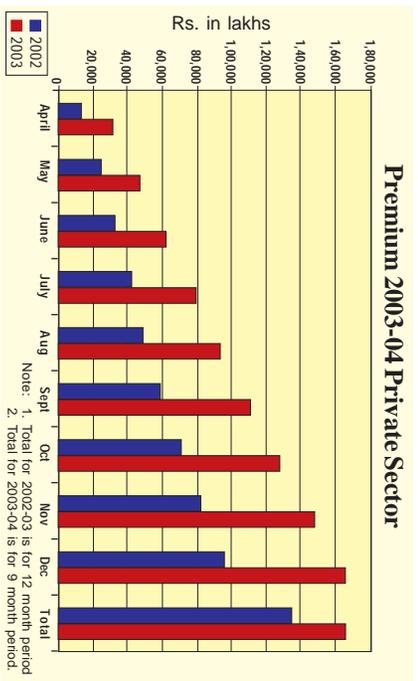
The private players who were recording till now growth rates of about 80 per cent every month have slipped to a growth rate of 32 per cent in December 2003. ICICI-Lombard, the leader of the pack clocked an accretion of Rs. nine crores (38 per cent) with Tata-AIG recording an accretion of Rs. 11 crores (70 per cent growth). Bajaj-Allianz has an accretion of Rs. 11 crores, IFFCO-Tokio Rs. six crores and Royal Sundaram Rs. five crores. HDFC-Chubb has picked up an accretion of Rs. 11 crores while Reliance has dropped its premium to Rs. 14 crores from Rs.33 crores, the only insurer to do so.

The sudden surge in premium volumes of the public players in December 2003 could perhaps be attributed to large renewals due in the month of a few mega-sized risks. The private players after the initial burst

## Gross Premium Underwritten – December 2003

(Rs. in lakhs)

Insurer	Premium 2003-04		Premium 2002-03		Market share upto December, 03	Growth % Year on Year
	For the month	Upto the month	For the month	Upto the month		
Royal Sundaram	1,996.91	18,667.74	1,547.82	13,219.47	1.56	41.21
Tata-AIG	2,733.51	26,902.58	1,602.12	16,449.82	2.25	63.54
Reliance General	1,350.03	13,700.03	3,323.27	15,953.46	1.15	-14.13
IFFCO-Tokio	1,996.67	23,695.11	1,446.85	15,579.72	1.99	52.09
ICICI-Lombard	3,275.60	35,004.43	2,385.45	14,043.03	2.93	149.27
Bajaj Allianz	4,338.22	33,757.46	2,888.51	20,575.70	2.83	64.06
HDFC Chubb	1,140.89	7,149.66	96.93	220.75	0.60	3,138.80
Cholamandalam	785.54	6,746.71	-	-	0.57	-
New India	40,171.00	2,91,873.00	41,388.00	2,90,530.00	24.46	0.46
National	36,104.00	2,52,678.00	24,873.00	2,10,382.00	21.18	20.10
United India	24,029.00	2,34,542.00	22,412.00	2,26,106.00	19.66	3.73
Oriental	25,552.42	2,17,384.38	22,525.16	2,10,257.26	18.22	3.39
ECGC	3,686.23	30,974.29	3,492.27	24,394.24	2.60	26.97
<b>PRIVATE TOTAL</b>	<b>17,617.37</b>	<b>1,65,623.72</b>	<b>13,290.95</b>	<b>96,041.95</b>	<b>13.88</b>	<b>72.45</b>
<b>PUBLIC TOTAL</b>	<b>1,29,542.65</b>	<b>10,27,451.67</b>	<b>1,14,690.43</b>	<b>9,61,669.50</b>	<b>86.12</b>	<b>6.84</b>
<b>GRAND TOTAL</b>	<b>1,47,160.02</b>	<b>11,93,075.39</b>	<b>1,27,981.38</b>	<b>10,57,711.45</b>	<b>100.00</b>	<b>12.80</b>



of garnering a sizeable number of corporate accounts are finding it difficult to maintain the same pace.

It would have been a difficult track for them but the Voluntary Retirement Scheme (VRS) announced by the public players has offered them an even better opportunity than before to chip away at the corporate accounts of the public sector companies. The market is likely to witness exciting and churning times in the competitive environment in the next few months. Evidently cost considerations have prevailed over the retention of accounts for the public players. Will they pay a high price for this trade off in their corporate strategy?

#### Performance up to December 2003

The non-life market at the end of the third quarter 2003-04 has picked up an accretion of Rs. 1,350 crores (12.8 per cent) to record a premium level of Rs.11,930 crores. The contribution of the public players is Rs. 650 crores (6.8 per cent growth rate) while that of private players is Rs. 700 crores (73 per cent). The market share is stabilising at 85 per cent for the public players. The accretion in premium volume of Rs. 700 crores by private players shows they have worked according to a plan of priorities.

National Insurance Company, among the public players, has recorded a growth rate of over 20 per cent with an accretion of Rs. 412 crores and has emerged as a powerful market player. It has earned a premium of Rs. 2,527

crores and is only Rs. 392 crores behind New India, the market leader, whom it wants to overtake. United India has recorded an accretion of Rs. 84 crores (3.7 per cent) and has earned a premium of Rs. 2,345 crores. Oriental has an accretion of Rs. 70 crores (3.4 per cent) and has earned a premium of Rs. 2,174

It is, however, New India the doyen in the market that is facing the worst competitive weather. With an accretion of Rs. 14 crores (0.5 per cent) it has earned a premium of Rs. 2,919 crores. Its location in the Western Zone – that has 40 per cent of the Indian premium – that proved a powerful competitive advantage till now is proving an obvious disadvantage, as five of the private players have located their corporate offices in the zone.

It is undoubtedly the premium growth in the western zone that will fuel the future shape of business volumes in the non-life market and the other players that have their head offices outside the zone will have to rethink how to strengthen their organisations in the West. Their business structures in the West have to be reshaped for future.

I C I C I Lombard, among the private players, leads with a premium volume of Rs. 350 crores and an accretion of Rs. 210 crores to show how the current fiscal has made a difference to it. Bajaj Allianz with an accretion of Rs.

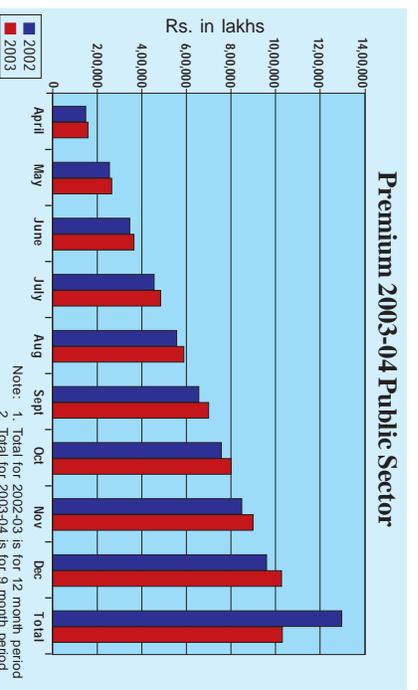
132 crores is a close second at Rs. 338 crores and it is almost a race between the two for the top position among the private players. Tata AIG and IFFCO-Tokio is another league in the Rs. 200 crores range. Royal-Sundaram with Rs. 187 crores in premium and an accretion of Rs. 55 crores is next.

ECCG with a growth rate of 27 per cent and a market share of 2.6 per cent continues to perform well.

#### Prospects

The last quarter of the year financial year 2003-04, promises to be an exciting contest at the market level for business procurement with private players having a big edge. This is likely to spill over to the renewals of April 1, 2004 as well to determine the shape of things for the next financial year. The public players will have to contend with organisational, personnel and cost issues even while they have to struggle to retain their accounts. The annual closings will be another problem for them to contend with. Hopefully, they would have worked out policies and programmes to be in place to deal with the foreseen and unforeseen contingencies. When one has to deal with a host of issues all converging at one time, the tasks become even more onerous and the responses have to timely, measured and responsible. Which way will the public players go?

The author is retired CMD, The Oriental Insurance Company Limited.



## THIRD PARTY CLAIM VALID EVEN IF LICENCE INVALID: SC

In a major ruling on accident cases, the Supreme Court has held that an insurance company cannot forego its liability to pay third-party insurance on the grounds that the driver of the insured vehicle did not possess a valid licence, if the accident was caused by mechanical faults.

“If it is found that the accident was caused solely because some other unforeseen or intervening causes like mechanical failures and other causes having no nexus with driver not possessing requisite type of licence, the insurer will not be allowed to avoid its liability merely for technical breach of conditions concerning driving licence,” the court said.

Deciding on appeals filed by National Insurance Company, a bench comprising Chief Justice V. N. Khare, justices D. M. Dharmadhikari and S. B. Sinha said minor breaches of licence conditions such as want of certificate for medical fitness, requirement about age of the driver and the like not found to have been the direct causes of the accident, would be treated as minor breach of inconsequential deviation in the manner of use of vehicle.

Moreover, it said if the vehicle driven by a person holding a learner's licence met with an accident, the insurance company could not avoid its liability to pay third-party insurance as the learner's licence is a licence granted under the terms of the Motor Vehicles Act. However, the bench said if the driver did not have a licence or possessed a fake licence at the time of accident, then though the insurance company would have to pay compensation under third-party liability laws, it was entitled to recover the same from the owner of the vehicle.

## FDI limit hike likely only after elections

The foreign direct investment (FDI) limit in the insurance sector is likely to be hiked to 49 per cent only after the Lok Sabha elections official sources have been quoted saying.

The move, which is expected to facilitate more capital inflow and fuel growth in the insurance sector, would provide relief to some of the Indian promoters and enable foreign players to increase their stake to over 26 per cent in joint ventures.

After a proposal from the Union Finance Ministry last year, the Department of Industrial Policy and Promotion (DIPP) has sent a

consolidated proposal to the Group of Ministers (GoM) for hiking FDI limits in aviation, telecom and insurance.

Although the GoM has already taken a decision on aviation and telecom, a final view on insurance is yet to be taken as it would involve legislative amendments, a senior Finance Ministry official has been quoted saying.

Once, the GoM approves the proposal, it will be taken up by the Cabinet and then Parliament's nod would be sought for necessary amendments in IRDA Act to be carried out to raise the FDI ceiling.

## MUNICH RE, RELIANCE TO REVIVE TALKS

Munich Re, the reinsurance major, it is reported, has decided to revive talks with the Reliance group for setting up a reinsurance company in India after the general elections in the country.

Senior officials from Munich Re are quoted saying that both the companies were delaying finalisation of any sort because the country was faced with an election that “it was put on hold for the time being but we are upbeat about a joint venture with Reliance.”

Officials said that the issue of management control could be sorted out through a mutual understanding once both the parties start discussion on the matter. One of the largest reinsurance companies, Munich Re already has liaison offices in metros where insurance companies are head quartered and has also bagged substantial reinsurance volumes from Indian insurers in the past.

At present a portion of risk has to be compulsorily transferred by insurance companies to General Insurance Corporation of India (GIC) while the rest of the risk can be parked with foreign companies.

If the Government takes away the monopoly position of GIC and the compulsory cession to the latter, Munich Re and other reinsurance majors like Swiss Re will find increased opportunity in the domestic market in the segment, it is believed.

It was with this intention that foreign reinsurance majors were looking at presence in India where they could increase business volumes.

## More UK jobs to shift to India

Despite the ongoing backlash against offshore outsourcing, British companies keen to cut costs are continuing to outsource jobs to low-cost locations like India. Latest to join the bandwagon are banking major Abbey and insurance giant AXA.

While Abbey is moving 400 call centre jobs to India as part of a review to improve customer services and employee conditions, AXA plans to shift up to 230 British jobs to India.

The French-owned AXA said 220 jobs would be axed at its general insurance sites in Morecambe and Darlington and 250 other posts would go through efficiency measures at other offices.

From October, Abbey's current account inquiries will be handled by the firm's new call centre in Bangalore,

which opened last year. Abbey National Group Union said the transfer of jobs abroad is wrong for employees, customers and Britain.

Trade union Amicus said it was a fallacy that customer service would improve. Amicus national secretary for finance Mr. David Fleming said, "If businesses want to offshore then they should be up front about their motives, which are cutting costs not improving services.

"This puts more pressure on the Government to find a political solution to the trend for companies to export UK jobs." Abbey said it currently had more than 40 sites across Britain, and plans to move to fewer, larger centres offering better conditions and opportunities to employees and higher quality services to customers.

The changes are part of a review to plan work around five centres in Belfast, Bradford, Glasgow, Milton Keynes and Sheffield. Abbey said £25m would be invested in IT and training in these centres.

Meanwhile, AXA said it will no longer be actively promoting AXA Direct, the division that provides private motor insurance and other personal insurance policies although it will continue to accept new business and service existing customers.

The chief executive of AXA Insurance, Mr. Peter Hubbard, said, "We very much regret having to reduce the number of people who work with us. However, through natural attrition and re-deployment it is hoped that the need for any redundancies will be minimal."

The implications of off-shoring will be announced later in the year, but AXA said it was likely to account for up to 230 jobs.

## TAC May Become Data Provider After De-tariffing

The Tariff Advisory Committee (TAC), a body primarily meant for monitoring the tariff and premia of various products in the general insurance sector, may be turned into a central data organisation after de-tariffing takes place in 2005, it is reported.

"Though the chances of abolishing the TAC cannot be ruled out, the effort is to turn it into an organisation dealing with data and analysis of various services and products. It will be treated more like a knowledge base," official sources are quoted saying.

The general insurance sector has already seen a 12 per cent growth in the current financial year as against 20 per cent in 2002-03. The total market of the segment is estimated at Rs 14,000 crores at present.

## E-choupal insurance work gets British grant

ITC Ltd has won a Rs 5.80 crore grant from a British challenge fund to promote and provide insurance services to farmers at their doorstep using its e-choupal project, a network of around 3,000 internet kiosks manned by trained villagers.

According to newspaper reports Britain's Department for International Development (DFID), under its Financial Deepening Challenge Fund (FDCF), has extended a grant of

£7,29,285 (equivalent to Rs 5.80 crores) to Megatop Insurance Services Ltd, an associate company of ITC Ltd.

The grant is for three years, and ITC will have to spend an equivalent amount. In other words, the DFID will share the costs equally. Megatop has secured an insurance broker's licence from the regulator in May last year, and began hawking products of ICICI Prudential Insurance from October.

This month, it added the products of Life Insurance Corp of India, Mr. C.V. Sarma, Director, Megatop, is quoted saying, adding that it had already sold over a 1,000 policies using a unique combination of its e-choupal sanchalaks and trained officers.

"The sanchalaks bring together a group of villagers who are interested in insurance. Our trained officers then brief the villagers. The sanchalaks do the follow-up work like helping the villagers fill up forms and so on," Mr. Sarma has been quoted saying.

## LLOYD'S IN 2004

UK insurers received over six billion of US reinsurance premium in 2002, about half of it with Lloyd's, and "American reliance on international carriers continues to grow," Lord Peter Levene, Chairman, Lloyd's of London said in a speech in New York.

He pointed out that under the present requirements Lloyd's now has "about nine billion dollars tied up in the associated trust funds, much of it unnecessarily sitting there when it could be deployed much better elsewhere. All this despite the fact that we are already highly regulated in the UK." Levene indicated that some progress had been made, and he does see some possibility of resolving the issue in 2004.

Discussing this year's priorities, Levene noted that Lloyd's entered 2004 "in extremely strong shape," having posted record profits during 2003. "But we are determined to maintain and improve our position further," he continued, "and two key areas on which we are focusing this year are quality of underwriting, and quality of service."

While Levene is neither the first nor the last head of a major insurance group to lament the industry's dismal performance in providing adequate rates of return to investors, he may be among the most listened to. Citing statistics from the Insurance Information Institute, he told the audience that the "rate of return has been sliding dramatically since the 1970s - and averaged just 2.8 per cent in the first three years of this decade. What investors in any other industry would settle for that I wonder?"

## New Car Owners Know Little About Insurance Coverage

A recent survey in the US by the Ohio-based vehicle insurer Progressive, found that new car owners know much more about the features of their vehicle than they do about the insurance that protects it, themselves and others.

The survey found that a vast majority of drivers who had recently purchased a new vehicle knew its transmission type (98 per cent) and number of cylinders (91 per cent). Also, nearly all drivers who recently purchased a new vehicle said they knew how many airbags it had and where they were located (99 per cent, respectively).

By contrast, more than half (51 per cent) did not know the amount of bodily injury liability coverage they had for one person, and 62 per cent didn't know their liability coverage limits per accident. The survey revealed that almost one in three drivers (30 per cent)

didn't know how much they paid every six months to insure their newly purchased vehicle.

New car buyers should know that the make and model they choose does affect insurance premium. That's because rates are determined not only by driver characteristics such as age and gender, but also by vehicle characteristics, which generally include the car's make, model and year, weight, horsepower, body type, wheel base, and vehicle type (passenger car, van, pickup, SUV, etc.). To illustrate how the cost of insurance can vary by vehicle, Progressive compiled its list of the most and least expensive 2004 vehicles to insure.

The top five most expensive cars to insure were the Dodge Viper, Acura NSX, Jaguar XKR, Porsche 911 and BMW M5. The least expensive to insure were the Oldsmobile Silhouette, Pontiac Montana, Saturn SL, Chrysler PT Cruiser and Saturn SC.

## 40 MILLION POOR TO GET FREE HEALTH SERVICES

Indonesia's forty million poor people in Indonesia may enjoy free health services if a bill drafted by the government gets the nod from members of the House of Representatives (DPR).

The bill, which is soon to be submitted to the House for deliberation, suggests that the government allocate up to Rp 3 trillion (US\$360 million) annually to pay health insurance premiums for the country's poor.

The draft, which took the government two years to prepare, was finalised in a cabinet meeting chaired by President Megawati Soekarnoputri.

"Under the proposed bill, the state is obliged to allocate funds from the budget to pay insurance premiums for the country's poor," Coordinating Minister for People's Welfare Mr. Jusuf Kalla said after the cabinet meeting.

According to Mr. Jusuf, the government would still decide whether to give the money directly to regional administrations or to appoint an insurance company to manage the funds.

"Either way, the government will fully cover the insurance fees," he said.

The ministry of health had formulated the national health-insurance scheme as far back as 2001. Under the scheme, called the National Health Insurance (JKN), each Indonesian citizen would be encouraged to obtain a health insurance card guaranteeing them basic medical care across the country.

The health-insurance scheme is part of the National Social Security System (SJSN) which will also cover life insurance and workers' welfare, as well as severance payments and pensions, as required by the amended 1945 Constitution.

## Munich Re 2003 Catastrophe Study

- Fatalities up 450 per cent; \$15 billion insured losses

Munich Re has released its analysis of natural catastrophes in 2003 and concluded that economic and insured losses continue to increase at a high level.

Preliminary portions of the study had been presented at the recent meeting of the Intergovernmental Panel on Climate Change (IPCC) in Milan in early December. The final report includes data from the recent earthquakes in California and Iran.

The study includes an analysis of all reports on natural hazard events that cause material or human losses anywhere in the world. "Right up until the last days of the year, 2003 was marked by a series of severe natural hazard events, with the number of fatalities far exceeding the long-term average," said the bulletin.

It added that, "In view of the deteriorating risk situation, the insurance industry must continue to act rigorously – for example, by agreeing on limits of liability and risk-adequate premiums."

Munich Re's Press bulletin cited the following highlights from the report:

- More than 50,000 people were killed in natural catastrophes worldwide, almost five times as many as in the previous year (11,000); such a high number of victims has only been recorded four times since 1980.

The heat wave in Europe and the earthquake in Iran each claimed more than 20,000 lives.

The number of natural catastrophes recorded in 2003 was around 700 and thus at the same level as in the previous year.

- Economic losses rose to over US\$ 60 billion (2002: US\$ 55 billion). These were mainly the result of tornadoes, heat waves, and forest fires – but also severe floods in Asia and Europe.

- Insured losses increased to about US\$ 15 billion (previous year: US\$ 11.5 billion). The series of tornadoes in the Midwest of the United States in May alone cost insurers more than US\$ 3 billion.

- The year 2003 was marked not only by natural catastrophes but also by other remarkable events: the power outages in the United States, the United Kingdom, Denmark, and Italy, for example; total losses involving two satellites; again numerous terrorist attacks; a major leak of poison gas in China shortly before the end of the year. However, the extent of the losses caused by these events was much smaller than that caused by the natural catastrophes and they claimed fewer lives.

Seventy earthquakes were reported in 2003, and many caused extensive damage. The report indicates, however that "the

resulting economic losses of approximately US\$ 6 billion were far higher than the insured losses of approx. US\$ 100 million."

The continent's summer heat wave was devastating. Munich Re said that "In Germany alone, the record temperatures from June to August corresponded to a 450-year event in climatological terms; if the atmosphere continues to warm up unchecked, such a heat wave could already become a mere twenty-year event by 2020." It noted that the "heat affected a very large area (western and central Europe and large parts of the western Mediterranean region). Economic losses of approx. US\$ 13 billion constituted an extremely large amount. Nevertheless, the burden imposed on insurers by, for example, drought-related losses is relatively small because reduced yields in the agricultural sector as a result of dry weather are mostly not yet covered in the European Union."

Munich Re is convinced that the increasingly severe weather related events are linked to changes in climate. "They show that new types of weather risks and greater loss potentials must be reckoned with in the future." Stefan Heyd, responsible on Munich Re's Board of Management for corporate underwriting stated "The insurance industry must prepare itself for increasing risks and losses. This requires above all transparency and a limitation of the risks. Prospective action also means adjustments in the premiums."

## British insurance cheats face Israeli lie detector

Some people blush, some stutter and others become aggressive, but the British insurance industry can discover if somebody is lying without even seeing them, thanks to technology developed by the Israeli security forces.

The device is used by phone to find out whether or not somebody is telling the truth over a claim: some allege things have been stolen or smashed when they were actually sold, or blame other people for damage they did themselves.

Mr. Lior Koskas of Digilog, the company that developed the "voice risk analysis" system, said: "People think that we use some sort of machine with a red and a green light which flashes, which is far removed from the truth."

Several British insurers such as Admiral and Esure use it on people whose claims are considered dubious.

These people are then telephoned by an operator, who is trained in using Digilog, and are told that the call is being recorded for fraud prevention purposes. At this point, the system is already working.

Some people immediately hang up. Others suddenly say that they have decided not to pursue their claim.

For those who hang on, the operator will ask them various bland questions, such as how they spell their surname, to allow the system to establish their voice pattern at normal stress levels. At the

same time, the machine is monitoring the voice.

Once the system has got used to the nuances - a process which takes about 10 seconds - it will flash a message on the computer screen showing the operator whether the person is "stressed", "no risk", "excited" or making "a risk statement."

It can be very specific about the moment the person is lying, even dividing the taped conversation into two second segments.

Highway Insurance, which became the first insurance company to use the system in Britain about 18 months ago, says that the level of fraud detection has jumped from five per cent to 18 per cent since it was introduced.

# Back to the Basics !

P. S. Prabhakar



Accounting in the general insurance industry is very different from accounting in other industries, which are more or less uniform.

Let us see what each of the above ratios means and what each one will signify, in terms of understanding the overall financial picture of any company.

**Retention Ratios:** Here, the Ratio of Net Premium to Gross Premium is seen. No insurance company, however massive its operations are, can afford to retain all the risks to itself.

In fact, it is the concept of reinsurance that drives the business of

(a) Premium Retention Ratios

(b) Incurred Claim ratios

(c) Commission Ratios

(d) Expenses of Management Ratio etc.

However, smaller and recent companies will transfer the majority of risks to reinsurers, thus parting with a significant share of the premium with them. (In fact, the retention percentages of most companies in the middle eastern region and in other smaller nations will be only in single digits, and these act more as reinsurance brokers than insurers.)

The retention ratios will differ from portfolio to portfolio also. For instance, world over, due to bad claims experience, Motor (automobile) portfolio will have little takers and hence almost in all insurance companies, Motor will have the highest retention ratios, not out of choice but out of compulsion.

The one indicative benchmark that can be seen is from the rating agency, Insurance Solvency International, which says that the acceptable ratio of Net Retained Premium to the Gross Premium is 50 per cent. There are differing practices in accounting the premium.

Some companies will only take Gross Direct Premium, i.e. premium collected from direct insurance operations and some will also add their RI acceptances and make the total as Gross Premium. As the companies' cessions will include the RI premium acceptances portion also, this too makes sense. In India, the published financials for 2002-03 indicate that Retention Ratio of the PSU insurers range between 66 and 74 per cent. As the private sector has still not come of age, we shall have to ignore their present ratios.

An important parameter for fixing the retention levels is the quantum of

Accounting in the general insurance industry is very different from accounting in other industries, which are more or less uniform.

To read and understand the financial statements of an insurance company, one needs some 'domain' knowledge. To help the non-finance industry watchers analyse and evaluate for themselves the performance of an insurance company's financials, it is endeavoured to discuss a few basic issues in this article. The 'analysis' of financials will have to be necessarily on the basis of operating and other financial ratios, as only they can be the equalising platform, in the obtaining situation of differing performances of various companies.

The financial statements of a general insurance company consists of individual portfolio-wise (Fire, Marine and Miscellaneous) Revenue accounts, Profit & Loss account, Profit & Loss appropriation account and the Balance Sheet. The consolidation of the Revenue Accounts can be compared to a 'Trading Account' or a 'Manufacturing Account' of a trading or a manufacturing enterprise, as the case may be.

However, the major factor that is to be noted is that the 'revenue accounts' are the ones that reflect the conduct of the core insurance operations, and the resultant effect directly augments or deplete the 'Policyholders' Funds'.

**The higher the Retention Ratio, the higher is the perceived inherent strength of an insurance company to retain the risks that it underwrites.**

The direct insurer underwrites the risks and with his already-in-place parts (Treaties) or with any specifically-entered-to-deals (Facultative), transfers the risks to reinsurers both locally and abroad, parting away with the premium shares. He also retains his share in the risk, to the extent which he thinks he can afford.

The Retention Ratio will signify to what extent a company retains the premium it procures to its 'net' account, after ceding to the reinsurers. The higher the Retention Ratio, the higher is the perceived inherent strength of an

shareholders' funds. The risk-bearing capacity of an insurance company depends on the inherent strength that the primary stakeholders can muster and augment. Many an insurance company in the West has failed due to the absence of the comfort of the fallback option of the equity.

Again to take the indicative benchmark of Insurance Solvency International, the maximum of the Net Retained Premium of a company can be 330 per cent of its shareholders' funds. This is more of a self-regulatory measure, as each nation's regulatory laws prescribe minimum 'Solvency Margin Parameters' about which we can see later. (In India, the PSU companies average was in the region of only 70 per cent only, which is in fact unduly comfortable).

**Claims Ratios:** The most talked about ratio of any insurance enterprise is the Incurred Claims ratio, which is the proportion the incurred claims (claims actually paid less reinsurance recoveries duly adjusted by the claims outstanding at the beginning and at the end of the year) bears to the premiums underwritten.

In any insurance company, the major item of outgo is the claims. It is also the most unpredictable item, in terms of quantum. In any business of trade or industry, the final pricing of a product would depend on the costs incurred and the margin of profit fixed. The peculiarity of the insurance

business is that the product is sold at certain price and costs are found out only later. Though the general insurance industry constantly cribs about high claims ratios, the calculations will show that the industry operates comfortably in non-Motor areas.

It is generally the practice to calculate the Claims Ratio as the amount of incurred claims to the Net Premium Income. However, it is the considered view of the author that the more appropriate calculation would be on the Net Earned Premium Income, which is post-URR.

The Net Earned Premium Income actually represents the premium that pertains to the accounting year, as this

It is generally the practice to calculate the Claims Ratio as the amount of incurred claims to the Net Premium Income. However, the more appropriate calculation would be on the Net Earned Premium Income, which is post-URR.

takes away the 'unearned' portion of the premium that gets collected. The 'Net Incurred Claims' also is the figure that is arrived at after deleting those claims

pertaining to earlier years but paid during the year, and adding those pending claims that will be paid in the following year(s). When the other years' adjustments are done in claims, similar adjustments should be done in premia also and then only ratios are calculated.

However, seldom do companies make this calculation. For the year 2002-03, the ratio of net incurred claims to net premiums of the four PSU companies was 79.8 per cent, but the ratio of net incurred claims to net earned premiums was 83.3 per cent. In the Miscellaneous portfolio (of which Motor is the major share) alone, the difference was about nine per cent (NC to NEP would be more).

The readers of the financials would do well to analyse the portfolio wise claims ratios, from the revenue accounts as well as from the segment reporting details that are mandatorily given now. It will, then, be possible for the readers to discern how inequitable the whole pricing regime is.

While in the case of all the companies, the first glance shows that the Fire portfolio is the profit-making, the Miscellaneous portfolio (because of Motor), is the biggest loss maker. This means that Fire insurance customers are subsidising Motor insurance customers. If we go into the details, we can actually learn more.

In the next part, we shall see about the commission / expenses as well as the 'combined' ratios, before leaping to balance sheet ratios and their analysis.

*The author, who used to work with the nationalised general insurance industry, is a practicing Chartered Accountant. In this new series he will discuss the process of analysing the balance sheet of a general insurance company.*

**Net Incurred Claims to Net Earned Premium (%) 2002 - 2003**

	Fire	Marine	Misc.	Total
National	37.01	79.54	93.74	82.39
New India	59.14	55.67	92.10	81.88
United India	44.24	55.24	108.76	90.33
Oriental	34.83	65.40	91.96	79.03
<b>Total</b>	47.18	62.33	96.16	83.34

# What & Why

## Changes in Reporting Formats for Investments

*IRDA Investment (Amendment) Regulations, 2004 are effective January 1, 2004 following their notification in the Gazette. Included in the amendments are changes in reporting formats relating to investments of insurance companies in order to ensure transparency and consistency in reporting.*

*We bring you what has changed and why.*

### Definition of "Group"

As the Regulation uses the term "Group" defined in MRTTP Act, 1969 which had been repealed by The Competition Act, 2002 this change has been incorporated under "definitions" of IRDA (Investment) Regulations.

### FORM – 1 (Statement of Investment and Income on Investment)

The form has been redesigned to be in line with the Guidelines on Category of Investments, to enable the Authority have a control on the investment portfolio.

### FORM – 2 (Statement of Downgraded Investments)

The existing format did not include amount of investment and the rating agency details. These details are captured in the modified return. Further, the Regulations require "Assets / Instruments under consideration for investments to be of a grade not less than "AA" of investment grade as per their current rating." To capture all the Downgraded Investment in the investment portfolio, FORM – 2 has been modified to include all investments that have been "downgraded and carried in the Balance sheet."

### FORM – 3A (Statement of Controlled Funds), FORM -3B (Statement of Total Assets)

As the existing form did not include Non-Investment assets which were non-liquid, some of which did not have a cash flow but were covered under the definition of "Controlled Fund / Total Assets, these have been included in Part-B of the return. As the character of Investments does not apply to these non-liquid assets, the various percentages have been worked on the basis of Investment Assets.

### FORM – 3C (Statement of Exceptional Investments)

This form had been modified to include the Category Code as per guidelines on Category of Investments to establish the link with FORM-3A or FORM-3B.

### FORM – 4A (Statement of Investments subject to Exposure Norms)

As there is no format to gather data on the Investments that are subject to Exposure Norms, FORM – 4A has been introduced.

### FORM – 5 (Statement of Investment Reconciliation), FORM – 5A (Statement of Investment in Mutual Fund)

These forms have been introduced to establish the link between the Purchase and sale of investments and FORM – 3A, FORM – 3B.

### FORM – 6 (Certificate under Section 28(2A)/28(2B)/28B(3) of Insurance Act, 1938.)

The Act under section 28(2A) and 28(2B) requires a life insurer and under section 28B (3) a general insurer, to certify that the assets forming part of Controlled Fund in the case of the former and Total Assets in the case of the latter are free from encumbrance, charge, hypothecation or lien. The Act, even though specifies this requirement, does not provide a format for this certification. Hence this format has been introduced.

### FORM – 7 (Confirmation of Investment Portfolio Details)

This format has been introduced to monitor the Non Performing Assets in the investment portfolio.

### Guidelines - INV/GLN/001/2003-04 & INV/GLN/002/2003-04 (Category of Investments – Life Fund, Linked Fund, General Business and Pension Fund)

As Regulations had not specified the exhaustive categories into which individual investments could be grouped, to bring in uniformity in classifying investments, these Guidelines have been introduced.

### Guidelines – INV/GLN/003/2003-04 (Market Value of Investments – Basis for FORM – 3A, FORM – 3B)

The Regulation requires, on a quarterly basis, in FORM-3A and FORM-3B, the Market Value of securities that are carried in the books to serve as a base to understand the performance of investments. As there were inconsistencies in providing this information in FORM-3A, FORM-3B the basis for providing the same have been issued as Guidelines.

### Guidelines – INV/GLN/004/2003-04 – (Mutual Fund Investments)

As investments in mutual funds are neither covered by the Act nor by Regulations, the Authority had issued these guidelines to cover such investments.

### Guidelines – INV/GLN/005/2003-04 – (Preparation of Statement of Investment Reconciliation)

As the Authority had introduced FORM-5 and FORM-5A to link the purchase and sale of investments with FORM-3A / FORM-3B, it has set forth these Guidelines for preparing the Statement of Investment Reconciliation.

### Guidelines – INV/GLN/006/2003-04 – (Certificate under Section 28(2A)/ 28(2B)/28B(3) of Insurance Act, 1938)

The Authority has issued these Guidelines for preparing FORM-6.

### Guidelines – INV/GLN/007/2003-04 – (Explanation of Definition of "Group")

The explanation for the term "Group" mentioned in point #1 above, had been provided through this Guideline.

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*...on balance, a successful sale is more likely to persist than an unsuccessful sale. Of course, persistency will not be a perfect indicator of successful sales ..., but, other things being equal, a sale of a good value product that meets the consumers' needs will tend to persist for longer.*

From 'Stopping short: why do so many consumers stop contributing to long-term savings policies?', an occasional paper from Financial Services Authority

*If there were an Oscar awarded for the most talked about issue, resulting in the least action, then tort reform would win it. But as we enter 2004, I am as convinced as ever of the need for expedient and far-reaching change...(Tort reform) should not be considered a political issue, but an economic one. It transcends all political boundaries and crosses most industry sectors. And it needs an appropriate and collective response.*

Lord Peter Levene, Chairman,  
Lloyd's of London

*At current levels, US tort costs are equivalent to a five per cent tax on wages. The US tort system cost \$ 205 billion in 2001, or \$721 per US citizen. This compares with \$ 12 per citizen in 1950*

Tillinghast-Towers Perrin's report,  
'US Tort Costs: 2002 Update'

*Ninety per cent of large corporations experienced at least one computer security breach in 2002, with 80 per cent of those breaches resulting in financial loss.*

Willis Group on Cyber Risk in its publication,  
Marketplace Realities and Risk Management Solutions 2004

*The events of 9/11 affected no line of insurance more than War Risk. The era of blanket War Risk coverage ended that day and may never return.*

Willis Group on Specialty benefits in its publication,  
Marketplace Realities and Risk Management Solutions 2004.

*The cost of the tort system is the equivalent of taxation without representation at its most basic level.*

Mr. Ronald Pressman, President of GE Insurance and Chairman, President and CEO of GE Employers Reinsurance Corporation, attributing a large part of the increase in healthcare costs to abuses of the medical malpractice system

# Events

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February 2 - 4, 2004

Venue: Pune  
Ethical Values in Human Capital, organised  
by National Insurance Academy  
(NIA), Pune

February 5 - 7, 2004

Venue: Pune  
Insurance Management of Infrastructure Projects  
by NIA, Pune

February 10 - 11, 2004

Venue: Seoul  
4th CEO Insurance Summit  
Theme: Delivering on the Growth Promise And Profit in Asia  
Organised by Asia Insurance Review and The Geneva Association

February 15 - 20, 2004

Venue: Pune  
Vigilance & Disciplinary Proceedings  
by NIA, Pune

February 16 - 21, 2004

Venue: Pune  
Lateral Thinking & Decision Making  
Management of Credit Insurance  
by NIA, Pune

February 18 - 19, 2004

Venue: Delhi  
Sixth Global Conference of Actuaries organised by the Federation  
of Indian Chambers of Commerce and Industry (FICCI) in  
association with Actuarial Society of India (ASI)

March 2 - 3, 2004

Venue: Singapore  
1st Asian Conference on Commutations & Run-Offs

March 7 - 10, 2004

Venue: Delhi  
14th Insurance Congress of Developing Countries  
organised by the Association of Insurers and Reinsurers  
of Developing Countries  
Theme: Towards a more Dynamic and Responsive Insurance  
Environment