



Law Council
OF AUSTRALIA

Legal Practice Section

28 February 2020

Manager
Financial Services Reform Taskforce
Treasury
Langton Crs
Parkes ACT 2600

By email: FSRCconsultations@treasury.gov.au

Dear Sir/Madam

FINANCIAL SERVICES ROYAL COMMISSION ADDITIONAL COMMITMENT IN RESPONSE TO RECOMMENDATION 4.2 – RESTRICTING USE OF THE TERM ‘INSURANCE’ AND ‘INSURER’

1. The Australian Consumer Law Committee (**the Committee**)¹ of the Law Council of Australia’s Legal Practice Section welcomes the opportunity to make a submission to Treasury in relation to the Financial Services Royal Commission Recommendation Additional commitment in response to Recommendation 4.2 – Restricted use of the term ‘Insurance’ and ‘Insurer’.
2. Only firms that have a legitimate interest in using terminology regarding insurance (for example Australian Prudential Regulation Authority-regulated insurers, brokers and other distributors) should be able to use the terms. Otherwise, consumers will be misled as to the nature of the products they are purchasing.
3. Most consumers understand that when they purchase “insurance” they have protections, such as a prudentially regulated insurer, and access to free external dispute resolution.
4. The Exposure Draft (**ED**) is a straightforward implementation of this recommendation ensuring that it is a strict liability offence for a person or business to describe a product or service that they offer as insurance if it is not.
5. The Committee therefore supports the ED as drafted.
6. However, the Committee supports strengthening the legislation to ensure that firms cease using misleading terms implying that they are providing insurance when they are not. For example, rental car companies who are not offering insurance through a third party but instead a contractual liability limitation. Some of these contracts use the term “insurance” and “insurance policy”. They also use insurance terms such as

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“excess”, “loss waiver,” “damage liability,” “third party loss,” “liability coverage” or “damage protection.”

7. The Law Council would welcome the opportunity to discuss this submission with the Department. In the first instance, please contact the Chair, Ben Slade on BSlade@mauriceblackburn.com.au.

Yours sincerely

Margery Nicoll

Margery Nicoll
Acting Chief Executive Officer