

## VERBAL AND WRITTEN DISCLOSURE OF BUSINESS RELATIONSHIPS TO CONSUMERS

Marketing vs. Reality

M<sup>e</sup> Jean Rivard | LL.L., C.I.P., Inspector



Damage insurance brokers and agents who act as either independent representatives or for a firm or independent partnership are required to disclose their business relationships with insurers.

This disclosure is compulsory and must take place both verbally, when the representative speaks to or meets with the insured (before placing the risk or at renewal time), and in writing when the policy is issued or renewed.

Here is what section 26 of the *Act respecting the distribution of financial products and services* has to say:

*Insurance representatives must, when placing a risk with an insurer with which they have, or with which the independent partnership or firm for which they act has, a business relationship, disclose that relationship to the person with whom they are transacting business.*

*Any direct or indirect interest held by an insurer in the ownership of a firm or held by a firm in the ownership of an insurer, and the granting by an insurer of any benefit or other interest determined by regulation, constitutes a business relationship.*

### Three Categories of Business Relationships that Must Be Disclosed

What is the objective of the Act with respect to the obligation to disclose a business relationship? The Act ensures that the consumer is properly informed of any financial interests that might exist between the insurer and the insurance

representative with whom he is negotiating and from whom he wishes to obtain the desired coverage.

In summary, business relationships requiring disclosure may be divided into three categories:

- **ownership interests** ("any direct or indirect interest") that an insurer holds in a firm or vice versa, no matter what the percentage;
- **benefits** in the form of a loan obtained from an insurer or any other assumption of costs such as those related to advertising or rent;
- the **concentration** of 60% or more in personal-lines insurance book of business with a single insurer.

Schedule 4 of the Regulation respecting information to be provided to consumers stipulates that:

*The damage insurance agent or damage insurance broker must make the disclosure prescribed in section 4.8 or 4.9 by using **one of the following phrases**, and making the necessary changes:*

(1) For disclosure of ownership interests with an insurer or the granting of a loan or any other form of financing by an insurer:

- "Our firm has a financial relationship with the insurer ABC Inc.";
- "The insurer ABC Inc. has granted a loan or financing to our firm.";
- "Our firm is owned in part by the insurer ABC Inc.";
- "Our firm owns part of the insurer ABC Inc."

2) for disclosure of the name of the insurer with which the aggregate risks placed by the firm represent 60% or more of the total volume of risks placed in personal-lines damage insurance:

- "Our firm does business primarily with the insurer ABC Inc.";
- "ABC Inc. Is our firm's principal insurer.";

- "I am an agent for the insurer ABC Inc. and I propose only products offered by that insurer."

It is important to keep in mind both the purpose and the spirit of the Act and its regulations, and respect them not only at the time of verbal disclosure but also when drafting written disclosure. It would appear, however, that certain insurance representatives—either themselves or through the intermediary of insurance companies—often make modifications that distort the true intent and purpose of disclosing business relationships. In fact, while they do include expressions from amongst those authorized in Schedule 4 of the Regulation, certain letters of disclosure are modified and actually turned into marketing tools.

Of course, it is contrary to the Act and its regulations to modify, change or deform in whole or in part the expressions found in Schedule 4 in an attempt to hide a business relationship between an insurer and a damage insurance representative, firm or corporation, and thus distort the information to be sent to the consumer.

## REMINDER

### INTACT-AXA ACQUISITION

Brokers who will be concentrating over 60% of their book of business with Intact Insurance as a result of Intact's acquisition of AXA Canada will have to disclose this fact to consumers. An information sheet on the disclosure of business relationships (what, when, how and to whom) is available to members (in French only) at [chad.ca](http://chad.ca)

