IBC
Insurance Bureau of Canada

Fuelling business prosperity

Government's role in fostering a sustainable commercial insurance market

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Introduction

A thriving commercial insurance market is crucial for the economy.

The availability and affordability of capital to backstop commercial enterprise provides essential risk mitigation, ensuring business continuity and fostering economic growth. A stable, healthy commercial insurance market supports job creation, encourages innovation and enhances global competitiveness.

A recent report quantified the impact of the commercial insurance industry on the Canadian economy. It found that the industry contributes nearly $15 billion to Canada's GDP, and provides about 115,000 jobs and $8 billion in labour income.

After a few tumultuous years, the Canadian and global commercial insurance market is now in a state of transition. There continues to be significant uncertainty due to a variety of macroeconomic factors including geopolitical tensions causing societal and/or political polarizations, persistent supply chain and labour challenges, and a rising trend of natural catastrophe and extreme weather losses.

A healthy commercial insurance market is fundamental to the success of Canada's economy. Small and medium-sized enterprises (SMEs) make a significant contribution to employment and economic growth. Recent challenges in the commercial insurance landscape have led to difficult market conditions, but governments can play a role in enhancing the market.

Insurance Bureau of Canada (IBC) has developed policy recommendations for governments that aim at enhancing the sustainability of Canada's commercial insurance market, lowering costs of commercial insurance products and improving competition, which will lead to better outcomes for businesses and organizations. **This report highlights tangible measures that governments can take to enhance the risk landscape for businesses while empowering continued prosperity.**

Taxes

Provinces and Territories should abolish specific taxes on insurance products, which increase the total cost of insurance and discourage adequate levels of insurance coverage.

Maintaining adequate insurance cover enables individuals and businesses to recover faster and get on with the task of rebuilding after a loss event. However, current transaction taxes at the provincial and territorial level drive up the cost of premiums. Depending on the province or territory, government taxes can reach up to 20% of the premium, resulting from an overlaying of taxes, otherwise known as a tax on a tax. Taxes are a significant financial cost driver of insurance and should not act as a deterrence to obtaining appropriate insurance coverage for businesses.

For example:

In Ontario, a small business owner named Linda insures her business property and faces certain tax obligations on her insurance premium. Linda's annual insurance premium is $12,000, which includes a 3.5% insurance premium tax (IPT) totaling $405.80.

Additionally, Ontario applies an 8% retail sales tax that amounts to $960, which is levied on the total insurance cost, inclusive of the IPT.

In total, Linda's payment is $13,365.80 when considering both the IPT and the sales tax. This additional expenditure of $1,365.80 to the government underscores the financial burden that insurance taxes place on small businesses in Ontario.

Item	Amount	Notes
Base premium	$11,594.20	Amount actually received by Insurer
IPT (3.5%)	405.80	Remitted to Provincial Government
Insurance Premium Paid (DWP)	**$12,000.00**	Amount quoted to Linda as premium
RST (8%)	$960.00	Remitted to Provincial Government
Total Amount Paid	$12,960.00	Total amount paid by Linda to the insurer
Total Additional Cost to Linda	**$1,365.80**	Total amount remitted to provincial government. Additional business cost to Linda, on top of her insurance premium

Recommendation

I) Provincial and territorial governments should eliminate or reduce insurance premium tax and retail sales tax on insurance products to reduce costs for businesses.

Tax Rates (%) on Premiums by Province or Territory, as of March 2024

	Insurance premium tax	Retail sales tax
Alberta	**4.00**	–
British Columbia (auto and property insurance)	**4.40**	–
British Columbia (excluding auto and property, i.e. commercial liability)	**4.00**	–
Manitoba (property insurance)[1]	**4.00**	–
Manitoba (excluding property)[1]	**3.00**	**7.00**
New Brunswick	**3.00**	–
Newfoundland and Labrador (auto and personal property insurance)[2]	**5.00**	–
Newfoundland and Labrador (excluding auto and personal property)	**5.00**	**15.0**
Northwest Territories	**3.00**	–
Nova Scotia	**4.00**	–
Nunavut	**3.00**	–
Ontario (auto insurance)	**3.00**	–
Ontario (property insurance)	**3.50**	**8.0**
Ontario (excluding property and auto, i.e. commercial liability)	**3.00**	**8.0**
Prince Edward Island	**4.00**	–
Quebec[3]	**3.30**	**9.0**
Saskatchewan (auto insurance)	**5.00**	**6.0**
Saskatchewan (hail insurance)	**3.00**	–
Saskatchewan (excluding auto and hail)	**4.00**	**6.0**
Yukon[4]	**4.00**	–

1 Manitoba premium tax rate on property insurance is 4% except on aircraft, auto or hail insurance, and insurance against loss or damage to an automobile caused by fire. A rate of 3% applies to those. A temporary elimination of the Retail Sales Tax on real property insurance premiums is in effect as of July 1, 2020. The RST on all other insurance premiums is left at 7%.

2 In Newfoundland and Labrador, the Retail Sales Tax on auto insurance premiums was eliminated effective April 15, 2019. Non-owned auto, which is a third party liability coverage reported under general liability, is considered an exempt auto insurance coverage. The Retail Sales Tax on property insurance premiums was also eliminated permanently effective April 7 2023.

3 Insurance premium tax rates includes compensation tax. The temporary surcharge of 0.18 in Quebec expired in March 31, 2022, and the 0.30% compensation tax will become permanent from April 1, 2024.

4 Effective January 1, 2021, Yukon increased the insurance premium tax rate to 4% from 2%.

Source: IBC

Climate Proofing

Support flood mitigation and adaptation efforts, and amend building codes and land-use planning to build in the right way and in the right places.

Canada is becoming a riskier place to insure, as the severity, frequency and costs of catastrophic weather events continue to increase. Insured losses related to severe weather in Canada now routinely exceed $2 billion annually. In 2022 and 2023, insured losses across the country from severe weather exceeded $3 billion. By comparison, between 2001 and 2010, Canadian insurers averaged $701 million a year in losses related to severe weather when adjusted for inflation.

IBC continues to engage with the federal and provincial governments on ways to improve the climate resilience of communities across the country. Governments have a critical role to play in helping businesses adapt to the impacts of climate change. A focused approach is essential to building resilience against the escalating risks associated with extreme weather events. Adapting to these new realities is critical and can be achieved by investing in resilient infrastructure, flood prevention and response measures. These solutions are paramount for fostering a secure business environment.

IBC advocates for strategic measures at the community and property levels aimed at enhancing physical resilience to climate-related challenges. These measures include updating building codes to improve the physical resilience of commercial buildings and incenting resilient retrofits of existing buildings. Improved infrastructure and judicious land-use planning to avoid construction in high-risk areas would help improve community resilience. SMEs need to be an integral part of climate-proofing initiatives that underscore the importance of tailored strategies to safeguard their interests.

Recommendations

I) **Stronger building codes for commercial buildings:** To fortify the physical resilience of commercial structures, governments must implement stronger building codes that specifically address the unique vulnerabilities of small businesses. These codes should encompass measures to mitigate the risks associated with extreme weather events, ensuring that commercial buildings are better equipped to withstand these challenges.

II) **Infrastructure investments and land-use planning:** A crucial step in safeguarding businesses from the impact of severe weather events is prudent land-use planning, particularly in avoiding development in high-risk flood zones. To reduce risk at the community level, local investments in climate-resilient infrastructure are needed, including avoiding construction of commercial buildings in areas prone to extreme weather events and advocating for local investments in community resilience. These efforts will minimize the risk of damage and better ensure the safety and continuity of businesses and communities.

Tort Law Reform

Create a more proportionate joint and several liability (JSL) framework.

JSL is a legal principle that allows a wronged party to sue any or all responsible parties and collect the total damages awarded against all from any or one defendant (for example, if one defendant is insolvent).

The existing JSL frameworks in many jurisdictions across Canada (namely, in British Columbia, Alberta, Manitoba, Ontario and Nova Scotia) place an inequitable burden on certain defendants, such as liquor-serving hospitality establishments, even when found minimally liable. These defendants are often required to cover the majority of damages due to the insolvency and exhausted insurance coverage limits of the other parties involved. This system introduces pricing uncertainty and ties up funds in case reserves for insurers. Costly litigation persists for insurers, even when policyholders are deemed not liable, contributing to increased premiums and resource strain in the legal sector. This situation creates uncertainty for businesses and insurers operating in a given market.

For example:

Tom owns a small landscaping business that partners with a larger construction firm on a residential development project. His company is responsible for the project's aesthetic elements, like planting and garden design, while the construction firm handles the structural work.

During the project, a poorly constructed retaining wall collapses, causing property damage and minor injuries. The investigation attributes most of the blame to the construction firm for using substandard materials (90% liable) and a smaller portion to an architectural consultant for flawed design (9% liable). Tom's landscaping business is found only 1% liable, having inadequately assessed the soil's suitability for the intended plants, which marginally contributed to the wall's instability.

When the court assigns liability for the damages, both the construction firm and the consultant are embroiled in financial difficulties and legal complications. They are unable to pay their shares. Tom's business is pursued for the entire amount. The overwhelming burden of the entire judgement for damages places his small business in jeopardy.

Recommendation

I) Introduce JSL reforms that distribute damages based on full proportionate liability, balancing responsibility among defendants.

Commercial Trucking

Address the escalating challenges in commercial trucking with sensible public policy solutions.

Canada's economy relies on the safe, efficient delivery of goods, and the trucking sector plays a crucial role in transporting goods. However, in recent years, insurance claims costs have surpassed premiums collected, resulting in elevated losses for insurers.

A high turnover of experienced drivers (due to retirement and prohibitive costs), inadequate training, fraudulent activities and increased liability claims highlight the need for sustainable practices in the sector. Recognizing the urgent need to address these issues, IBC has worked with trucking organizations across Canada to develop comprehensive solutions. The proposed measures include an enhanced mandatory driver training framework, the establishment of a centralized database to combat fraud, and rules requiring trucking operators to provide drivers with their complete employment and driving history information. These initiatives are designed to stabilize the market, reduce fraud and facilitate accurate underwriting, ultimately fostering a more sustainable commercial trucking sector.

Recommendations

I) **Driver training and accreditation, and trainer certifications:** To improve overall driver competency and address the challenge of inadequate training, governments must work to implement standardized systems for better training, accreditation and new trainer certifications. This will ensure that drivers receive comprehensive, standardized training, leading to a more highly skilled and safer workforce .

II) **Centralized database to verify risk information:** To effectively combat fraud, the establishment of a centralized database is crucial. The database would serve as a way for insurers to verify risk information, enabling them to make underwriting decisions informed by reliable data. A centralized system will also enhance efficiency in identifying and preventing fraudulent activities within the trucking industry.

III) **Provide truck drivers with ownership of their driving and employment history:** With a record-high demand for truckers, some operators try to prevent drivers from finding a new employer by denying them access to their record of employment and driving history. This can create insurance complications, particularly if a driver cannot prove their level of experience. The government should mandate trucking companies to provide these records to assist those seeking new employment opportunities. This could be addressed by creating an accessible database where insurers could verify driving claims and infraction histories.

Cyber Risk

Establish a robust policy framework for cyber security within Canada by bringing together government agencies, the tech industry, financial services sectors and business groups.

In today's tech-driven world, businesses face an increasing risk of a cyber threat. It is more crucial than ever, especially for small enterprises, to bolster their cyber resilience. As the digital landscape evolves, the need for comprehensive cyber insurance grows. This type of coverage acts as a safety net, shielding businesses from the financial losses associated with cyber incidents such as data breaches and ransomware attacks.

Encouragingly, the cyber insurance market in Canada is evolving, providing a broader range of options specifically designed to meet the distinct needs of businesses.

Nonetheless, there is still room for government action to foster a more sustainable cyber risk ecosystem, enhancing resilience and broadening access to cyber insurance.

Recommendations

I) The federal government should improve Cybersecure Canada, its cyber security certification program. Because of the evolving nature of cyber threats, the program could be more effective if it had an ongoing certification requirement. Further, adoption of the program may be enhanced if the government: (i) tied the program to an incentive, (ii) incorporated the program into an existing and trusted certification, (iii) subsidized the program and (iv) made the certification process less onerous for businesses.

II) The government should look to leverage its procurement process to create minimum standards and incentives for businesses to improve cyber security controls by requiring prospective vendors to meet cyber hygiene standards that are commensurate with the size of the business and level of risk based on the amount and sensitivity of the data that the business processes.

III) The government should play a leading role in educating businesses on the critical importance of cyber hygiene.

Risk Management

Businesses must play a role in mitigating their risks.

Successful risk management planning starts at the top, with the owner, CEO and other key executives communicating about risk at all levels of the organization. Even a small business or organization faces exposures that make having a strong risk management plan important.

Risk management is the process of identifying, evaluating, controlling or eliminating potential risks that may arise in a business environment. The goal of risk management is to minimize the negative impacts on reputation, finances and operations while maximizing opportunities for growth.

After prioritizing risks, businesses and organizations need to develop strategies for mitigating them. This can involve implementing new policies or procedures, investing in insurance coverage or developing contingency plans.

It is important to continually monitor and reassess risk management strategies as conditions change over time. Risk management should not be viewed as a one-time event but rather an ongoing process to ensure long-term success for a business or organization.

Taking the time to understand risks and putting a robust risk management strategy in place will not only help protect a business or organization from preventable losses, it can help reduce insurance costs.

Recommendation

I) The government should incent all businesses to develop, implement and regularly review a comprehensive, proactive risk-management strategy to reduce or eliminate the chance of loss or damage.

Conclusion

The success of businesses is essential to Canada's economic vitality. This report offers targeted recommendations for government actions to create a more sustainable business environment.

The recommendations focus on reducing tax burdens, adapting to climate change, reforming tort laws, tackling challenges in commercial trucking, and enhancing cybersecurity measures. These initiatives will contribute to a stronger commercial insurance ecosystem, better equipped to support Canadian businesses.

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