

Ms Helen Daniels  
Assistant Secretary  
Copyright Law Branch  
Attorney-General's Department  
National Circuit  
BARTON ACT 2600

30 January 2009

Dear Ms Daniels

**UN CONVENTION ON THE USE OF ELECTRONIC COMMUNICATIONS IN  
INTERNATIONAL CONTRACTS 2005**

The Insurance Council of Australia<sup>1</sup> (Insurance Council) appreciates the opportunity to comment on the Consultation Paper on accession by Australia to the above UN Convention released by the Attorney-General's Department in November 2008.

The general insurance industry in Australia is subject to the Electronic Transactions Act 1999 and similar State and Territory legislation (the ETAs). The Insurance Council supports the principle of Australian law keeping pace with best international business practice. Accordingly, the Insurance Council endorses all twelve recommendations made in the Consultation Paper as their implementation would:

- enable general insurers to meet the service expectations of an increasing online consumer population;
- reduce administrative costs associated with hard copy communication;
- be better for the environment; and
- not interfere with the stringent level of consumer protection afforded under current laws.

The general insurance industry is also bound by the requirements of the Insurance Contracts Act 1984 (the IC Act). Section 77 of this Act provides that all notices (i.e. all disclosure documentation including schedules, Product Disclosure Statements and renewals) "may be given" to a customer personally or by post to their last known address. It is therefore uncertain that electronic communication meets the obligations of the IC Act.

Following the Cameron/Milne review of the IC Act in 2004, a draft Bill was issued for consultation in 2007 which provided for the revision of Section 77 to allow explicitly for the sending of a notice or other documents to a person's appropriate address, including an email address. The Insurance Council made a major submission on 11

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<sup>1</sup> The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. September 2008 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross premium revenue of \$31.7 billion per annum and has assets of \$82.2 billion. The industry employs approx 60,000 people and on average pays out about \$92 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

April 2007 strongly supporting, amongst other issues, the ability for general insurers to communicate electronically with their customers.

Unfortunately, due to competing legislative priorities, the amending Bill has not yet been introduced into Parliament. However, we understand that, provided a Bill is ready, introduction into the next Parliamentary session is possible.

Therefore the Insurance Council strongly submits that:

1. Australia, including its States and Territories, should adopt the UN Convention and amend the ETAs where necessary.
2. As a matter of priority, the text of the Insurance Contracts Amendment Bill should be finalised so that it can be introduced into Parliament as soon as possible.

If you require any further information please do not hesitate to contact Mr John Anning, Insurance Council's General Manager, Policy – Regulation Directorate, on (02) 9253 5121 or [janning@insurancecouncil.com.au](mailto:janning@insurancecouncil.com.au)

Yours sincerely



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