

This review must remove the cause of the insurance crisis.

Simply this is the litigious economy where claims are based more on the legal community creating revenue where a No Win – No Fee approach to compensation drives insurance companies to settle baseless claims as it is cheaper than spending time defending them.

The only solution is one that provides adequate coverage for consumers whilst eliminating baseless claims where the majority of the payouts goes to legal profession to cover legal fees.

The New Zealand model (ACC) provides an ideal model to follow. They have an enormous array of attractions, adventure based activities, delivering an thriving visitor economy which creates jobs, visitation and sustainable investment into future opportunities. Like for Like insurance in NZ is a fraction of cost of the same offering in Australia. Why is that ? It is because Insurance companies in Australia are exposed to higher risks of someone claiming and need higher premiums to cover this risk. The activities are not more risky than in NZ. The majority of Australian premiums are related to the risk related to the likelihood of a claim rather than the likelihood of an event causing a claim.

Australia attempted to implement a similar model but lobby groups driven by the Insurance Companies and the Legal profession fought against this. Now as a result everyone looks like they will lose out as thousands of business such as our will either be forced to close shortly because either we can not get insurance or it will be unaffordable. When this happens high premiums that Insurance companies business currently charge will cease and so will the claims as the businesses will be closed. So the insurance companies and lawyers will also be out of business – a downward spiral for all.

The question is does this review and the Australian Government have the commitment and the willingness to make the big calls. Are we as a country able to stop worrying about the next election or upsetting the lobby groups and actually making a call on what is right for the long term.

If we can't then please let us know and we will move our business to New Zealand and welcome all the Australian to travel to enjoy our attractions operating from New Zealand.

We are small family owned Recreation facility offering Waterskiing, Aqua Fun Park and High Ropes.

We have extensive Risk Management systems which have been reviewed by our insurers who are more than satisfied that our facility is insurable and happily accepts our premium each year. Despite this we are still exposed to the possibility that they will simply decide to no longer continue to insure our industry or sector which has nothing to do with the risk relative to our activities. Put simply it is directly related to the ROI on their funds.

I think the key element missing in this discussion is why we need insurance and what this has become over time.

Insurance is simply peace of mind for the participant (individual, group or school) and operator.

Legislation, Landlords and Finance providers require a business to hold a \$20 million Public Liability policy over time. Why does this need to be so high.

To cover the increasing cost of supporting the litigious society we have become.

Lawyers are seen advertising on TV, in Newspapers etc to solicit people to a claim under the banner of – No Win – No Fee. Nothing to lose model.

The \$20 million requirement used to be \$10 million. Soon it will move to being \$25million, then \$30 million. Again to protect consumers, landlords and finance companies from the impact of a claim.

Over time the “peace of mind” has been needed to meet third party requirements which like feedback on a Microphone constantly increases to a point that they put business, jobs, and services to the community at risk.

It is not just a case of being able to afford insurance premiums but also to ensure that the markets continue to cover industries over extended periods as this impacts investment certainty and prevents growth there the risk of losing cover is high.

There is also a significant benefit to the Insurers and Lawyers to support a more litigious society at this creates a greater pool of litigation, fee revenue and income. Accordingly, they clearly in our communication with them support the status quo. The more the premium the better their investment return, the more commissions etc.

I am sure that there will be many submissions made advocating for market forces to self regulate which is an absolute slap in the face to common sense.

Any review outcome that does not address the root cause of the runaway train that is insurance availability/cover and pricing is simply putting a band aid on the problem.

We must remove the cause of the issue (ease of litigation).

By way of example I would like to share with you a recent claim on our business.

A customer was injured at our facility in early 2018.

He required an ambulance, and we believe a short stay in hospital.

We conducted a complete review of the incident and called in Workcover, who also did at their independent review.

Our review and the WorkCover review concluded that the business, equipment, staff and processes had all operated correctly and that the injury was a direct result of “intentional misadventure by the customer.

Out of the blue about 18 months after event we received a letter from the customers lawyers advising they were representing the injured customer and they were planning legal action.

Another 18 months and no further communication and the then just before the permitted period to claim was due to expire they re-emerged to “shake the tree” and see what happened with a general letter.

Our insurance company appointed an Insurance assessor who had never heard of our industry and no knowledge of our business – He completed an full assessment of the customers claim.

Despite being found “not at fault” our insurer on the recommendation of the lawyer elected to payout the claim rather than defending against the claim – for one reason only – it was cheaper to settle the claim than to defend it.

We had no say in it – it was simply a financial decision.

This is simply rewarding the customer and their legal representative to claim again and again.

The insurer ends up seeing a higher claim % per \$1 of premium. At some point the insurer who is in this seeking a positive financial return will decide to get out of the industry or market and a vacuum is created. The insured is pushed to take out higher cover as the perceived risk of claim cost increases or perhaps they can not get cover at all. Business, Jobs, Visitation, Economic activity are all soon affected.

We must address the cause of the problem – which in reality it is the risk of someone making a claim and not the underlying activities.

Even in our case the cost of defending a baseless claim was considered not worth it. Our insurance company actually stated to us – “we will take the cheapest option and if we can close the matter by paying someone to make the matter go away that will be the path they take”.