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IN FOCUS

## MESSAGE FROM THE CHAIR

# POLITICAL REPRESENTATION: TURNING DELAYS INTO OPPORTUNITIES

By Kathleen Ann Rake

THE RCCAQ SEEKS TO DEFEND YOUR SOCIOECONOMIC INTERESTS IN DEALINGS WITH VARIOUS GOVERNMENT AGENCIES AND ADMINISTRATIVE BODIES THAT INVARIABLY OPERATE AT THEIR OWN PACE AND ACCORDING TO THEIR OWN RULES. AS PART OF OUR EFFORTS, WE CUSTOMARILY FOCUS ON A HANDFUL OF KEY ISSUES EMBEDDED IN SPECIFIC POLITICAL AND LEGISLATIVE CONTEXTS. LOBBYING IS INHERENTLY A LONG-TERM PROCESS THAT MAY BE INTERRUPTED AND/OR DELAYED BY VARIOUS DIFFERENT FACTORS, INCLUDING MODIFICATIONS TO THE POLITICAL AGENDA, CHANGES OF GOVERNMENT, ETC.

AT THE PRESENT TIME, THE STRIKE INVOLVING QUEBEC'S GOVERNMENT LAWYERS AND NOTARIES IS PARALYZING A SIGNIFICANT PART OF OUR PROVINCIAL INSTITUTIONS. SO I WOULD LIKE TO REITERATE: WE ARE FOCUSED ON LONG-TERM SUCCESS AS PART OF A MARATHON UNDERTAKING IN WHICH YOUR SUPPORT IS ESSENTIAL.



## TURNING DELAYS INTO OPPORTUNITIES

The delays we face may stem from exceptional circumstances or simply from the twists and turns of the political agenda. Whatever the case, our lobbying efforts often result in a bureaucratic "processing time" that can feel endless. Take, for example, the Bill 188 review, which is currently our #1 hot-button issue:

- **June 2015:** the provincial government issues a report on the *Act respecting the distribution of financial products and services*.
- **Summer 2015:** the RCCAQ consults its members and reaches a consensus on various positions it will adopt in its defence of insurance brokers' interests.

- **September 2015:** the RCCAQ submits a position paper.
- **November 2015:** the RCCAQ holds its annual convention organized around the twin themes of Bill 188 and member engagement.
- **2016:** the RCCAQ rolls out Operation Bill 188. Large numbers of RCCAQ members send out letters designed to raise MNAs' awareness of the related issues. A regional tour is coordinated and the RCCAQ takes part a dozen conferences on the impacts of Bill 188. In short, the RCCAQ and its members are in a state of mobilization.
- **May 25, 2016:** the RCCAQ organizes Parliament Hill Day in Quebec City and meets with finance minister Carlos Leitão, in addition to the caucuses of the main political parties and other influential MNAs in the area of finance.
- **November 2016:** Mr. Leitão announces that new legislation will be introduced no later than December 9, 2016.
- **As of today (February 20, 2017)** the omnibus bill (including the new Act) had still not been introduced.

Nearly two years after the provincial government issued its report and despite the fact that a Finance Ministry spokesperson stated in an interview last December with the *Journal de l'assurance* that only a few minor adjustments still needed to be made, the legislation is still on the backburner. Why? Because the four-month-long labour dispute involving government lawyers and notaries has been holding up the process and preventing institutions from moving forward with various initiatives.

But that does not mean that we're taking a break, far from it! The delays we have faced may well be the result of exceptional circumstances, but our job is to turn these delays into opportunities to pursue our lobbying efforts with key decision-makers. We will also be raising other key issues that are crucial to the future viability of our profession. The Bill 188 review will continue to be our #1 priority.

## SHAPING THE POLITICAL AGENDA

The various priorities that a political party or government establishes are more commonly referred to as its "political agenda". As part of our lobbying efforts, the RCCAQ seeks to ensure that no political agenda is "imposed" on us; we prefer to shape it as much as we can and to seize any opportunities that arise along the way.

Consider the major issue of tax harmonization. After obtaining a significant gain of \$20 million in tax credits in 2013, we know for a fact that this battle is not over and that our lobbying efforts will have to continue. Since those credits expired in 2016, the RCCAQ must demonstrate how much of a financial impact this measure had on brokerage firms; we will ensure that the government takes up this matter as part of its political agenda.

Until recently, the provincial government's austerity measures meant that we could not lobby effectively with respect to the tax credit situation. But now that Quebec has a balanced budget, the government can afford to be more attuned to initiatives aimed at stimulating the provincial economy, particularly in non-urban regions. The RCCAQ intends to seize this window of opportunity with a view to achieving a definitive solution.

## SLOW AND STEADY WINS THE RACE

What at first glance may seem like our being placed "on hold" or having our efforts blocked is actually an opportunity for us to work on related issues and to do the necessary research to develop our positions properly. It's also a chance for us to listen to your concerns and to put together strategies aimed at providing you with the tools you need as we defend your interests. At the same time, we will be working on developing our contacts and staying prepared so we can take effective action when the time comes.

## AND HOW ABOUT YOURSELF?

What can you do to ensure that you're ready when we ask you to take action? As you know, the issues that are endangering the brokerage sector's future viability are numerous and all too real. Please take steps to develop your political network and to take part in community activities in your region. Regardless of party affiliation, the relationships that you maintain with your elected representatives (municipal, provincial and federal) are invaluable when the time comes to mobilize our efforts.

Political representation is a long-distance race. With each passing day, the RCCAQ builds on its experience and is better prepared to anticipate obstacles, to identify stakeholders who will help us maintain our momentum and to draw on the collective support of our members as we cross the finish line as winners!

# BUSINESS TRANSFERS BETWEEN RELATED PERSONS: THE RCCAQ WILL KEEP ON FIGHTING!

By RCCAQ

THE ISSUE OF DEDUCTING CAPITAL GAINS WHEN TRANSFERRING A BUSINESS TO A FAMILY MEMBER IS CRUCIAL TO THE FUTURE VIABILITY OF BROKERAGE FIRMS AND TO REGIONAL ECONOMIC VITALITY. UNDER CANADA'S *INCOME TAX ACT*, SMALL BUSINESSES ARE NOT ENTITLED TO CLAIM AN EXEMPTION IF A BUSINESS IS SOLD BETWEEN RELATED PERSONS. EVEN TODAY, IT IS MORE COST-EFFECTIVE TO SELL YOUR FIRM TO A TOTAL STRANGER! HOWEVER, ON FEBRUARY 6 AND 8, BILL C-274 WAS GIVEN SECOND READING IN THE HOUSE OF COMMONS WITH A VIEW TO RECTIFYING THIS SITUATION. THIS GIVES US THE IDEAL OPPORTUNITY TO PROVIDE YOU WITH AN UPDATE.

Although this issue has been on the RCCAQ's agenda since the fall of 2014, it was not until June 2015 that the first developments took place: at that time, the federal MP for Bourassa, Emmanuel Dubourg, introduced Bill C-691, which aimed to rectify this major shortcoming in Canada's business transfer tax rules. Bill C-691 sought to eliminate the *Income Tax Act* provision that stipulated that gains from an "intergenerational" small business transfer could not be regarded as a capital gain, as they would be in the case of transfers between strangers.

Whenever a business is sold to a member of the same family, federal law treats the gain as if were a dividend (the tax rates for dividends range from 35% to 51%, depending on the province). In contrast, when unrelated persons enter the picture, the difference between the selling price and the initial purchase price is treated like a capital gain; this means that the beneficiary can claim a tax exemption on the first \$824,176 (50% of the remaining capital is taxable, with the rate ranging from 47% to 58%, depending on the province).<sup>\*</sup> Needless to say, business transfers between related persons are much less attractive than between non-related persons.



<sup>\*</sup>Rate in 2016

## **ELECTED OFFICIALS ARE RELUCTANT TO RECOGNIZE THE UNFAIRNESS**

Following the elections in the fall of 2015, which brought the Liberals to power, Mr. Dubourg was appointed parliamentary secretary. Seeing as his new duties prevented him from introducing a private member's bill, this task was handled by Guy Caron, NDP MP for Rimouski, who went on to table Bill C-274. This legislation was debated in the House of Commons on February 6-8 but was unfortunately voted down (the Liberals opposed the measure).

We would like to point out that it is particularly disappointing that Mr. Dubourg's party, which had backed the initial legislation, did not maintain its position and ultimately did not back the proposal.

In Quebec, the provincial government recently addressed this issue, although the changes made do not apply to the brokerage sector. In its March 2015 budget speech, the government announced that it would ease the tax provisions for business transfers within a family, subject to certain criteria; however, this only applied to companies operating in the primary and manufacturing sectors (these changes took effect in 2016).

What a paradox for the insurance sector, which is desperately seeking new blood to manage brokerage firms in the future!

## **THE RCCAQ WILL CONTINUE TO SPEAK OUT ON THIS ISSUE TO ENSURE FIRMS' FUTURE VIABILITY**

Keep in mind that small and medium-sized businesses make up 67.5% of the brokerage sector; this means brokerage firms with one to four certified owners and/or employees (based on Raymond Chabot Grant Thornton's 2014 study on Quebec's brokerage insurance industry). The economic impacts of this unfair tax policy could be huge, particularly if firms are having difficulty meeting their staffing needs.

The RCCAQ thus has a key lobbying role to play. In a letter he sent to us on February 8, 2017 (the same day the legislation was defeated in the House of Commons), Mr. Dubourg stated that he had been given assurances by the federal finance minister (Bill Morneau) that the discussions would continue after the budget was tabled in order to find solutions to demographic challenges impacting the business succession process.

Therefore, it is our understanding that Mr. Dubourg remains an ally of insurance brokers at the federal level. The RCCAQ will keep on lobbying him as it maintains contacts with other relevant stakeholders with a view to moving forward with this issue.

At the provincial level, even though some encouraging steps were taken last year to ease the tax burden for the primary and manufacturing sectors, the brokerage industry is still being penalized. The next step for the RCCAQ will be to step up its lobbying efforts in order to obtain the same treatment for its members as we seek to ensure their future viability.



# QUEBEC – FIRST JURISDICTION IN CANADA TO EMBRACE A MODERN APPROACH TO ESLIPS

By CSIO

THE CANADIAN COUNCIL OF INSURANCE REGULATORS (CCIR) HAS ANNOUNCED THAT IT WILL IMPLEMENT ELECTRONIC PROOF OF AUTO INSURANCE, OR ESLIPS, IN THE FIRST HALF OF 2017. ONCE IMPLEMENTED, DRIVERS WILL NO LONGER BE REQUIRED TO CARRY A PAPER COPY OF THEIR PROOF OF INSURANCE. INSTEAD, THEY WILL HAVE THE OPTION TO USE THEIR MOBILE DEVICE TO DISPLAY A DIGITAL VERSION.

## SITUATION UPDATE

Quebec is already halfway there – its regulator (Autorité des marchés financiers) permits insurers to send an insurance certificate that contains prescribed content to consumers via email, whereas printing and mailing a paper copy is still required in other provinces such as Ontario and Alberta. With CCIR’s announcement, however, regulators across the country are poised to fully implement eSlips within the next few months.

Industry and consumer demand for eSlips has grown in recent years — to the tune of 31% of Canadians who are interested in using their mobile devices to store and display digital ID or proof of auto insurance (Forrester Research). In fact, some brokers have gone so far as to design mobile apps that allow customers to do just that, whether regulators approve or not.

“The number one, most-used feature of our app is digital pink slips,” says Sherif Gemayel, president of Sharp Insurance in Calgary. “So the clients will actually use their app to show proof of auto insurance. As it’s not legal yet in Canada, we have a disclaimer on the app that says clients still have to carry their paper pink card in their car, but they’ve never had an issue with it.”



Many Sharp customers report that police have readily accepted eSlips displayed on their mobile phone during traffic stops, suggesting that Canadian consumers and police officers alike are open to an update to existing regulations.

## BENEFITS OF ESLIPS

eSlips will benefit the broker channel in many ways, including:

- Meeting the expectations of consumers for digital delivery of insurance documents
- Reduced operational costs for printing and mailing proof of auto insurance slips
- Fully realize the benefits of CSIO’s eDelivery solution, sending electronic copies of policy documents to insureds without the requirement to mail a paper copy as well

CCIR’s announcement caps off a great deal of effort on eSlips in 2016, including CSIO’s February *eSlips Advisory Report*, prepared by national law firm Fasken Martineau LLP to educate the broker channel on the legal landscape surrounding eSlips and to advocate for regulatory acceptance. CCIR issued its own Issues Paper and conducted a public consultation shortly afterwards in May.

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CCIR identified issues for further study including:

- Consistency of regulations between jurisdictions
- Liability for damage and protection of privacy when mobile devices are handled by law enforcement (e.g., damage to a customer's phone while being handled by an officer)
- Liability for telecommunications carriers where the electronic device is unable to download and display the eSlip
- Safeguards against fraud

## THE AMERICAN EXAMPLE

When envisioning just what eSlips could look like in Canada, it is worth taking some time to study our neighbours to the south.

Since 2011, the number of states accepting eSlips in one form or another has risen from 0 to 43, which accounts for 86% of all jurisdictions. Unlike the CCIR's unified approach, laws can vary from state to state. While this variation may lead to confusion for drivers crossing state lines, it provides many opportunities to see how various approaches to regulation work in practice.

For instance, North Carolina allows insurers to send an insurance card electronically, but still requires drivers to carry a paper copy for traffic stops. To address privacy concerns, New Jersey legislation states that the use of an electronic device to display proof of insurance "does not constitute consent for a police officer or judge to access any other contents on the device."

CSIO is in communication with CCIR on this initiative and looks forward to working with them to ensure the successful implementation of eSlips in 2017.



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## THE TECHNOLOGICAL SHIFT TAKEN A STEP FURTHER

TELEMATICS HAS BEEN USED FOR OVER A DECADE NOW. DESPITE THE PRIVACY FEARS RAISED BY CONSUMER PROTECTION GROUPS, THE FEW INSURANCE COMPANIES THAT OFFERED IT TO THEIR CUSTOMERS QUICKLY EXPERIENCED SUCCESS.

And for a good reason! Telematics makes it possible to better document customers' driving habits and price the risk associated with an individual. For consumers, telematics provides an incentive to improve driving habits: the better you drive, the greater the discount. It has become part of an arsenal to improve customer acquisition and loyalty. Customers now expect their insurance company not only to cover risks, but also to help them reduce their risk, particularly through the use of technology. And the younger the customer, the more connected and mobile they are.

In fact, Quebecers aged 18 to 34 are more likely to use the internet regularly than the average for all adults, according to *NetTendances*, an information sheet published by CEFRIQ in December 2015:

**96%** browse the Web regularly, compared to 81% of adults.

They spend **10.4 hours** per week on **mytheir phones** (the average for adults is 6.4 hours).

**78%** own a smartphone (adults: 52%).

### THE SOLUTION: TO OFFER MORE MOBILITY IN ORDER TO RENEW OUR CLIENTELE

If they're harder to satisfy, young people interact up to two and half times more often with their insurer than any other generation members, namely on the Web and with their phones. Thus, Intact Insurance has reached a new technological milestone by migrating its telematics program to smartphones.



The new *my* Driving Discount application offers the same benefits: a 5% enrollment discount and savings up to 25% on premium after a six-month assessment period. More highly-developed and user-friendly than ever, the new *my*Driving Discount mobile app is simple to install, use and read: the customer receives a link by email and downloads the mobile app directly to the phone. And it works for any model of car, regardless of its age. Another advantage is speed, both in downloading the app and in how fast the driving data is recorded and becomes reviewable. Interaction is immediate, and users have access to their own data portal. Therefore, they know what they need to improve, before the end of their assessment period, to qualify for a bigger discount.

The phone continues to be the main driver of growth in digital communications among the general public. *Fortune* magazine reported last year that 71% of Americans who own a phone sleep with the device and 3% hold it in their hand while sleeping. According to the *Daily Mail*, 50% of Brits use it as an alarm clock.

These data can easily be transferred here and confirm the relevance of digital initiatives such as the *my*Driving Discount app.

**The Intact Insurance Team**