

A Call for RESTRAINT

by Wayne Cotter
REGULATOR Editor

EDITOR'S NOTE Arthur J. Chartrand, a national insurance regulatory legal consultant, has been following insurance and e-commerce issues since the emergence of the World Wide Web. The following reflect his thoughts on what regulators should be doing to help insurers embrace the new technology.

Very few insurance transactions are being fully consummated on the Web, says Art Chartrand, a former NAIC counsel. "I've done no empirical studies on the matter," he acknowledges, "but my strong suspicion is that most consumers are obtaining quotes and seeking advice through the Internet, but the deal is invariably closed through a human intermediary—an agent calls or an application is mailed."

He dismisses suggestions that perhaps consumers are a bit leery of transmitting large sums of money to insurers via their computers noting their willingness to shell out big bucks for home electronics, computers, and even automobiles over the Internet. It's a good point, but it begs the question: Why not insurance?

Chartrand places much of the blame for the industry's lackluster presence in the new market with regulators who are failing to send the right message to insurers. "Regulators should be embracing the new technology," says Chartrand, "but instead many are sending signals that tend to stifle innovation."

"We have been blessed with a ten-year period in which liquidations and rehabilitations have been virtually nonexistent," says Chartrand. "As a result, many states have shifted their focus to various techni-

Are we over-reacting to insurance regulatory issues created by the internet? One observer thinks everyone should relax a little.

cal infractions, boosting fines to astronomical levels without thinking whether these infractions really have hurt the consumer." Companies fear, Chartrand says, that this same mindset is likely to pervade the electronic marketplace should insurers choose to make a full-fledged commitment.

They envision insurance department examiners seeking out traditional paper trails, including handwritten signatures, in a marketplace that does not readily lend itself to such an approach. Insurers also question, he says, whether it makes sense to totally revamp their methods of conducting business if only a handful of states will support such efforts.

"I understand regulators can't condone an 'anything goes' policy," says Chartrand, "but when certain states are having serious discussions on whether all insurer web sites should conform to one standard, I think we've gone over the edge on regulatory control of e-commerce."

"Restraint is the key word," Chartrand stresses. He points to Illinois, North Carolina, Kansas and Nebraska as states that are models of restraint when it comes to letting insurers test the market in new and innovative ways. "Texas and New Jersey will also work with you if you have a new idea," says Chartrand. He likes



Chartrand on technology:
Join it, don't fight it.

Chartrand on technology

continued from previous page

Arkansas Commissioner Mike Pickens' approach and notes that New York is far more open to innovation than in past years and also boasts a "seasoned staff" that truly understands industry problems. On the other hand, California continues to be a challenge for those seeking innovative solutions to complex problems.

Laws and Regulations

What then should regulators be doing to monitor the e-commerce market? In Chartrand's opinion: Get out of the way and see where the train is headed.

Chartrand suggests that what we don't need is a "flurry of new laws and regulations" to deal with any perceived problems associated with e-commerce. "Most of the current laws are sufficient," he says, "provided they are interpreted broadly." He thinks that people who spend inordinate amounts of time thinking about where a cyberspace transaction actually takes place "probably have too much time on their hands."

Current laws require that insurers must be licensed to transact business within a state. Thus it's Chartrand's position the appropriate situs of an individual insurance transaction is the purchaser's primary residence. "It's just common sense," says Chartrand, "since individuals can't have multiple primary residences, the issue really is a no-brainer."

"If too many laws and regulations are drafted in the wake of e-commerce," warns Chartrand, "we may freeze ourselves in time." His contention is that today's technology may become obsolete long before most of us imagine. New forms of electronic commerce will be here and regulators will be compelled to



If too many laws are drafted in the waked of e-commerce, we may frreeze overselves in time.



develop whole new rounds of statutes and regulations to replace the ones now being implemented.

Agents & Brokers

When it comes to agents and brokers, Chartrand still pleads "restraint." So-called "quoting agents" (Chartrand prefers the term "e-malls"), such as InsWeb, are not really agents in Chartrand's view, and should not be required to be licensed. "When you think about it, e-malls function much more like a newspaper ad or a *Consumer Reports* article," says Chartrand. "They provide information for the consumer." There will be times, however, when such entities cross the line and begin dispensing advice. At that point, says Chartrand, they would be functioning as agents and should be licensed as such.

With respect to commissions, Chartrand believes e-malls deserve compensation if they are generating business for insurers regardless of whether they have a producer's license. Commissions for e-malls would only encourage more quoting services and ultimately more information for consumers to comparison shop.



"Get out of the way and see where train is headed."

No time for Uniformity

Contrary to recent NAIC pronouncements, this is not the time, Chartrand's believes, for more uniformity when it comes to e-commerce. "The last thing we want to do with e-commerce is stifle growth by imposing one monolithic set of rules and standards," says Chartrand. "We need to encourage experimentation, creativity and entrepreneurship in any way we can."

Regulators, Chartrand believes, should be unified with respect to embracing the new technology, but that should not spill over to a unified set of standards to deal with it. "After all," he asks, "why have 50 regulators if we're just going to adopt one approach?" ■

