

**MARTIN
WHALEN
HENNEBURY
STAMP**

BARRISTERS & SOLICITORS

July 18, 2018

**BOARD OF COMMISSIONERS OF
PUBLIC UTILITIES
PO Box 21040
120 TORBAY ROAD
ST. JOHN'S, NL A1A 5B2**

ATTENTION: SARAH KEAN, ASSISTANT BOARD SECRETARY

Dear Ms.Kean:

RE: RESPONSE TO APPLICATION TO QUESTION AVIVA

In relation to the above-referenced matter, we enclose the Response of Insurance Bureau of Canada.

We trust the enclosed is satisfactory.

Yours truly,

MARTIN WHALEN HENNEBURY STAMP


for **KEVIN F. STAMP, Q.C.**
KFS/KR

RECEIVED BY HAND
BOARD OF COMMISSIONERS
OF PUBLIC UTILITIES

JUL 18 2018

ST. JOHN'S, NL

Kevin F. Stamp, Q.C.
BARRISTER AND SOLICITOR
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VIA COURIER

IN THE MATTER OF an Insurance
Review Hearing before the Board of
Commissioners of Public Utilities

AND IN THE MATTER OF an
Application by the Campaign to
Protect Accident Victims to question
Aviva Canada Inc.

BETWEEN:

**THE CAMPAIGN TO PROTECT
ACCIDENT VICTIMS**

APPLICANT

AND:

**THE BOARD OF COMMISSIONERS OF
PUBLIC UTILITIES**

RESPONDENT

RESPONSE OF INSURANCE BUREAU OF CANADA

1. The Campaign to Protect Accident Victims hereinafter referred to as the "*Applicant*", made application to the Board of Commissioners of Public Utilities referred to as the "*Board*", that it should be permitted to question Aviva Canada Inc., hereinafter referred to as "*Aviva*", with respect to its submission filed with the Board on May 31, 2018.
2. By letter dated July 4, 2018, the Assistant Board Secretary notified the parties that the Board had received an Application from the Applicant to question Aviva in relation to its submission and its related presentation. The Assistant Board Secretary invited parties to make comments on the Application and file them with the Board by 3:00 p.m., Wednesday, July 18, 2018. The Insurance Bureau of Canada, hereinafter referred to as "*IBC*", one of the intervenors in this matter, provides this response to the Application.
3. IBC opposes the Application to question Aviva on several grounds. The hearing procedures established by the Board which included the provision that presenters would not be sworn or subject to cross-examination were published on the Board of Commissioners of Public Utilities website. Those Rules of Procedure also provided that the parties, on the other hand, could be questioned by the Board and by other parties. Aviva is not a party and the Board should therefore adhere to the procedures established prior to the Aviva Submissions and commencement of the hearings.
4. Allowing questioning of Aviva at this stage will unduly lengthen the proceeding.

5. One of the basis for questioning set out in paragraph 13 of the Application is with respect to Aviva's relationship with IBC. In fact, Amanda Dean was questioned by counsel for the Applicant about the IBC's mandate and relationship with its members when she presented for IBC on June 12, 2018. Further, Ms. Dean was questioned about Aviva's presentation by counsel for the Applicant.

[Reference: hearing transcript June 12, 2018, page 51 through 53, page 78-79, page 82 and following].

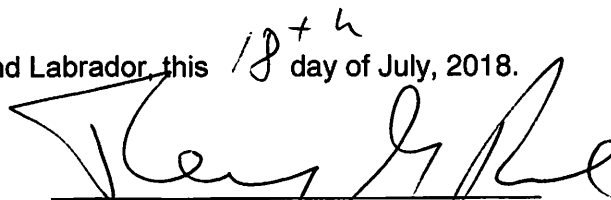
6. Another basis for questioning Aviva referenced in paragraph 13 of the Application is statistics and numbers relied upon by Aviva, especially as it relates to the percentage of unrepresented individuals who settle accident claims without lawyers. IBC notes that the closed claim study summary prepared by Oliver Wyman on April 19, 2018 specifically deals with these issues.
7. The Applicant also wishes to question Aviva about profits in the insurance industry. In fact, Oliver Wyman did a complete report on profit and rate adequacy, dated March 29, 2018. The Board's mandate in the Automobile Insurance Review is to look at the experience of the entire industry and not individual insurance companies such as Aviva. It is submitted there is no practical purpose to question Aviva in this area when the report of Oliver Wyman has been presented.
8. The Applicant also wishes to question Aviva about its position as to the role of lawyers in personal injury litigation. IBC points out that the role of lawyers is not part of the mandate of the Automobile Insurance Review. Aviva's position on that and its experience in that regard will not assist the Board in preparation and delivery its mandated report to government.
9. The Applicant further submits that if questioning of Aviva is not allowed then the Board should not receive the submission. Again, IBC responds by stating that the procedure was set out in advance of the hearing. Non-party presenters are entitled to make their submission without being subject to questioning. The Board is completely free to do what it wishes with the submission.
10. The Applicant in paragraph 12 submits that Aviva is a de facto IBC presenter and should be subject to questioning. The position of IBC on the Review has been set out in its submissions and was presented by Amanda Dean and Ryan Stein on June 12, 2018. Both were subject to questioning by counsel for the Applicant and counsel for other intervenors. It is submitted that there is nothing in the questioning of Aviva which will advance the mandate and the Board.
11. Further, Insurance Bureau of Canada wishes to respond to the questions surrounding the relationship between IBC and its member companies.

IBC is a national trade association for the companies that insure homes, cars, and business of Canadians. Membership is on a voluntary basis and is open to Canadian – Licensed private home, car, and business insurance companies. Most Canadian – Licensed private, home, car, and business insurers are members of IBC.

When preparing submissions, IBC seeks guidance from its members regarding the content, using a consultative process. IBC attempts to obtain consensus among its members, on the positions it takes. At times, there may be a consensus but not unanimity. In those instances, member companies remain free to present their own submissions that reflect more closely their position.

12. Insurance Bureau of Canada requests that the Application be denied.

DATED AT St. John's, Newfoundland and Labrador, this 18th day of July, 2018.



Kevin F. Stamp, Q.C. / Terry Rowe, Q.C.
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St. John's, NL A1C 5X4
Solicitors for Insurance Bureau of Canada