



**KEEP  
CALM  
AND TRY  
SPEED  
DATING**

DATING

# Top Issues Facing Our Industry Sector

**Tim Grafton  
Chief Executive**

**Insurance Council of New Zealand**

**14 September 2017**

**ICNZ** Insurance Council  
of New Zealand

## » ICNZ

- 26 members covering all insurance except health and life
- members cover 95% of non-health, non-life insurance
- so, members cover home, contents, motor, marine, commercial, travel, liability, earthquake, business interruption, etc

## » Top Issues (some of them)

- **Digitisation**
  - Challenges/Opportunities and some ethical/legal considerations
- **Climate Change**
  - Challenges/Opportunities and some ethical/legal considerations
- **Current Legislative/Regulatory agenda**
  - EQC Act Review
  - IPSA Review
  - Financial Services Legislation Amendment Bill
  - FENZ Regulations
  - Building warranties
  - Section 9 of the 1936 Law Reform Act
  - Insurance Contracts Bill
  - Fair Insurance Code Review 2018

# ICNZ's Mission, Vision and Values

## » **Mission**

**“Promoting and shaping a responsive and sustainable insurance industry to safeguard New Zealand”**

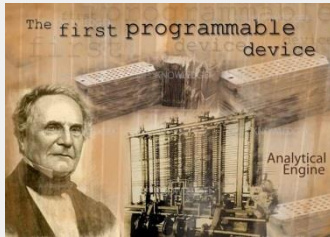
## » **Vision**

**“New Zealanders have trust and confidence in the New Zealand Industry”**

## » **Values – brand essence is “trust”**

- **Doing what's right** (*integrity*)
- **Setting and maintaining high standards** (*professionalism*)
- **Working constructively with all stakeholders** (*teamwork*)
- **Making things happen** (*achievement*)
- **Fostering awareness and understanding** (*of risk and insurance*)

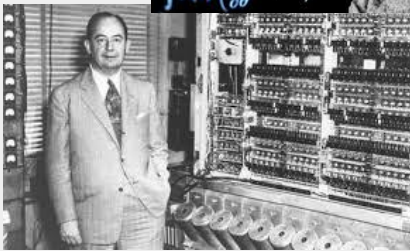
## Formal Logic



$$\frac{\partial}{\partial a} \int_{a, \sigma^2} (z_i) = \frac{\partial}{\partial a} \int_{a, \sigma^2}$$

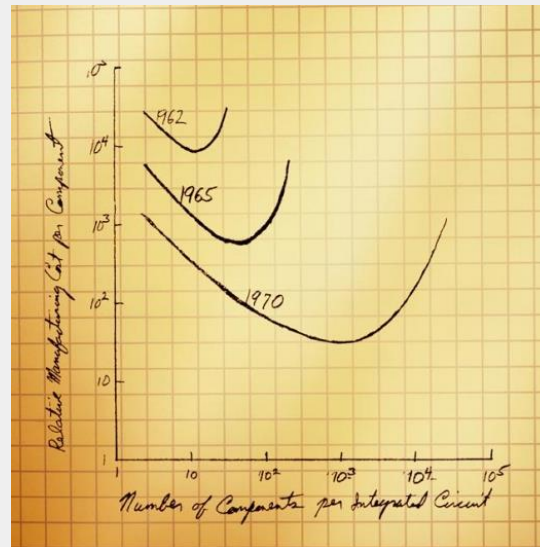
$$\int \tau(x) \cdot \frac{\partial}{\partial \theta} f(x, \theta) dx = M \left( \tau(\xi) \cdot \frac{\partial}{\partial \theta} \right)$$

$$\int \tau(x) \left( \frac{\partial}{\partial \theta} \ln L(x, \theta) \right) \cdot f(x, \theta) dx$$



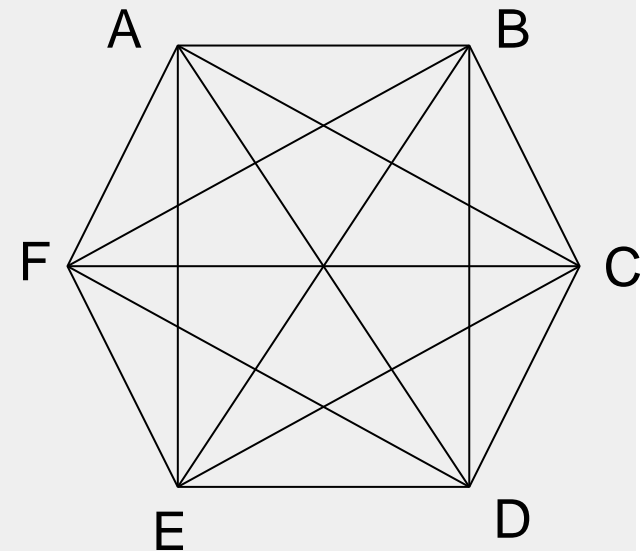
1930's

## Moore's 'Law'



1965

## Combinatorics



Public Internet 1990's

## What is it?

- » Conversion of information (picture, text, voice etc) to digits that a computer can process
- » Moore's Law – exponential increase in computational capability
- » Global interconnectivity – 50 billion devices by 2020

## Why does it matter?

- » It enables vast amounts of data to be collected, analysed and applied to create new products, services, business models – automated transport, artificial intelligence, chatbot advisers, blockchain, and we know the cliché disruptors (Uber, Airbnb)

## General implications for insurers

- » Some parts of the risk pool reduce (AVs), but expand overall (aggregation of risk, new risks, 25% of all business transacted online), with risk fragmenting

## Opportunities

- » **Distribution** - closer, direct customer engagement via IoT from disintermediation
- » **Services** - greater customisation, risk prevention, richer engagement from customer insights
- » **Pricing and underwriting** - better quality, granular data, predictive underwriting with semi-automated underwriting and compliance.
- » **Claims** - faster with insightful processing, semi-automated and higher customer satisfaction
- » **Operations** - more efficient processes/transactions verified across multiple parties – insurers, brokers, insureds, banks etc – through blockchain technology

## Challenges

- » **Changing the model** – demutualisation of risk and its implications, is cherry-picking risk any different to what is done today, just a more sophisticated version of what's always been done
- » **Consumer empowerment** - customers can switch on and off at will, insurers need to be very consumer centric and responsive
- » **Jurisdiction?** – cross-jurisdictional issues raise a host of issues, think cloud storage, cyber intrusions, need for international regulatory standards?
- » **Access to data and its use** – use of freely available data e.g. Facebook, consumer consent, what is deemed 'sensitive or private data', transparency of use/**not** used for, access to data a barrier to competition?
- » **Role of Regulators** - technology-neutral (regulate in the same way regardless of how delivered), proportional (reflect size, systemic significance etc and integrity-enhancing (promote transparency, consumer benefit without creating market abuse, cyber security etc) .

# Climate Change



**Mission Bay**

**By 2050, average global flood losses will be \$52 billion**



**Tamaki Drive**

**70% of the infrastructure in cities in 2050 have not been built yet, so there's time**



- **traditional insurance** works well for random, uncertain risks that are not correlated by pooling risk and premiums so many pay for the few – assumes diversification as not all properties suffer loss at the same time
- flooding is different:
  - predictable; properties on same flood plain flood at periodic, recurrent intervals
  - affects a large number of properties in the same area at the same time
  - leads to adverse selection as only high-risk individuals seek out insurance (where flood is a specified add-on peril),
  - in a flood plain all properties affected at the same time, so diversification by risk pooling no longer applies
- frequent, repeat flood claims lead to high, unaffordable or commercially non-viable premiums or very high excesses or withdrawal of cover

# Climate Change – sea-level rise and flooding

## What we know

- »Sea-level rise and increased rainfall in the west – so property is at risk
- »Insurance a risk transfer not a risk reduction tool, so increasing risk progressively limits insurance availability and affordability (higher excess, higher premiums, flood exclusions, actions of the sea exclusions, withdrawal), loss in values etc
- »Risk reduction/adaptation the fundamental response

## Challenges and Opportunity

- »What's the scope of exposure and likely impact?
- »Who pays? Inter and intra generational equity to fund adaptation
- »Liability/tort for failure to reduce known risks – councils, central government?
- »Carney's 3 risks for insurers – underwriting, asset and transition
- »UK Climate Change Act 2008 multi-election framework

# Legislative/regulatory agenda



## On the radar

- »Earthquake Commission Act review.
- »Insurance (Prudential Supervision) Act review.
- »Financial Services Legislation Amendment Bill, regulations and Code Working Group.
- »Fire and Emergency New Zealand levy regime and regulations.
- »Insurance contracts law review and section 9 Law Reform Act 1936.
- »Builders' warranty scheme.
- »2018 review of ICNZ Fair Insurance Code.

Note attempts to quantify the cost of regulation to insurance and broader financial services sector.

## Announced to date

- contents claims pass to private insurance cover
- standard EQC excess of \$1000
- lift cap to \$150,000 ex GST
- land compensation (except for total physical loss) applied solely to a land-foundation or similar structure to ensure a building platform solution
- all claims to be lodged with insurers



## A couple of the outstanding issues

- Standard of EQC's reinstatement
- Assessment and management of claims – Insurer, EQC or both?

## Standard of EQC's reinstatement

- EQC's standard should follow that of the insurer, the policy the customer chose
- Legislate this, but leave EQC a reserve power to intervene and set a minimum standard in the unlikely event market standards fell unacceptably low
- would simplify assessments, remove the scope for disputes, reduce frictional costs between EQC and insurers

## Assessment and settlement of claims

- from a customer-centric perspective it would be better for customers to be dealing with their own insurer whose policy they had chosen to purchase.
- success of the Kaikoura model relative to Canterbury while acknowledging these were different events
- insurers manage 1.2 million claims a year and operate on a 24/7 basis
- insurers will be managing contents claims in any event
- with the shift toward land damage compensation focusing on the building platform, it became more appropriate as these would highly likely to be over cap repairs.
- without certainty of this role insurers may be reluctant to invest in the necessary systems and infrastructure to support such a model

# Insurance (Prudential Supervision) Act 2010 Review

## To date

- »RBNZ consulted on various aspects of IPSA including overseas insurer licensing and stat funds, insurer distress management, disclosure and financial strength ratings
- »ICNZ also submitted on the need for independent review of IPSA by Treasury, independent merits review of RBNZ decisions, and for RBNZ to have jurisdiction over market developments including to monitor impact of disruption
- »Oppose statutory funds and restrictions on legal structures
- »Support NZ policyholder preference, distress management (with more clarity on RBNZ response), restriction on use of 'insurer' and policies parading as insurance

## Looking forward, our read is

- »RBNZ not looking to reinvent the wheel; can expect minor changes to supplement the current regulatory toolkit available in IPSA.
- »Likely rejig of licensing of NZ branch of offshore insurers.
- »Resourcing and funding by industry.

# Financial Services Legislation Amendment Bill

## To date

- » Bill in Parliament places duties on all advisers.
- » Disclosure regulations being developed.
- » Code Working Group consulting on minimum standards of professional conduct including competence, ethics, conduct and client care.

## Looking forward

- » ICNZ supports increased professionalism and high standards of ethics, conduct and competence.
- » Ensuring insurance brokers transparently disclose remuneration is a key priority, regardless of complexity of commercial arrangements with insurers.
- » There is always a conflict when a broker acting as agent for the insured is remunerated in any way by the insurer.
- » Premium payable to the insurer should be separated from government taxation and any form of broker remuneration in an invoice to the insured.



## To date

- » FENZ funding remains on insurance in new levy collection regime.
- » Due to commence 1 January 2019 but may be 1 July 2019 if election delays and if FENZ cannot get the data it needs to model what the new commercial levy rate should be.
- » Regime starts to look more like old Fire Services Act as it is rolled out, given potential to differentiate commercial levy rate for different types of commercial property and to levy amount insured (property value) rather than sum insured.
- » Compliance is wrought with complexity: system changes, policy structures, mid-term adjustments, types of insurance.

## Looking forward

- » The regime will date quickly as insurance product offerings evolve.
- » Expansion of FENZ services to include ambulance and civil defense will dramatically increase FENZ' thirst for revenue (and build greater case for centralized funding model).
- » Other opportunities to get the levy off insurance.

## To date

- »1998 Law Commission R46 and 2006 RFPP insurance review.
- »Offshore developments, particularly in UK.
- »Minister committed to review again in 2018 once FSLAB priorities have progressed.

## What we expect in the review

- »Consolidating antiquated patchwork of insurance contracts legislation.
- »Disclosure – a step towards offshore developments.
- »Section 9 Law Reform Act (see next slide).
- »Claims notification and time limits.
- »Issues raised by Law Commission.
- »Insurer conduct regulation.
- »Unfair contract terms, noting developments in Australia and that NZ position is better.
- »Digitisation and use of insured data (linking with Privacy Act).

ICNZ has gone some of the way to foreshadowing change in the Fair Insurance Code.

## Section 9 Law Reform Act 1936

- » Section 9 charges an insured defendant's liability insurance sum insured, in favour of the injured plaintiff.
- » Mostly used in corporate insolvency.
- » The policy intent to give plaintiffs access to defendants' liability insurance rather than have the sum insured go to all other unsecured creditors *pari passu* is sound.
- » But the legislation is nightmarish to apply in practice in modern times.

### To date

- » ICNZ raised many problems multiple times with government.
- » Key problems include determining the priority of competing claims, determining whether the charge applies to 'claims made' policies (during period of insurance), and that the charge does not apply to sums insured offshore.
- » NSW replaced statutory charge with right to tie insurer to proceedings.

### From here

- » Could be dealt with in insurance contracts law review or in MBIE's corporate insolvency law working group.

# Building warranty scheme

## Recap

- » Proposal in 2015 to create a residential building warranty scheme for New Zealand, which stems from Law Commission review on joint and several liability.
- » ICNZ understands scheme would cap building consent authority liability. The higher the cap, the lower the scheme will cost, and vice versa.
- » May attract attention circa election due to NZ housing pressures and cross-political party focus on intensive construction of residential housing, but could go either way as increased quality of building and consumer protection will come at a greater cost.

## Insurer involvement depends on robust improvement to regulation of building professionals, including:

- » compulsory liability insurance
- » tackling the phoenix company problem
- » raising the cap on liability of building consent authorities
- » raising the bar on monitoring of construction standards

ICNZ reviews the Code every 3 years. The last review began in 2014. The next review will begin in November/December 2017 with an invitation for public submissions open until March 2018.

## ICNZ's vision for the Code

- »balance principle with prescription - an informative document for customers.
- »opportunity to anticipate what is on the horizon for New Zealand regulatory environment and show leadership through self-regulation to build trust and confidence in insurance.

## What to expect

- »Whether to increase standards regulating insurer conduct, culture, good behaviours and good customer outcomes.
- »How to make the Code technology-neutral reflecting increased digitisation.

**We invite submissions from all on the review of the Code.**