

## IRDA Update: Draft Guidelines on Web Aggregators

17 March 2011

By way of an update, the IRDA has issued draft guidelines on web aggregators on 16<sup>th</sup> March 2011. Comments have been invited by 31<sup>st</sup> March 2011. A copy of the draft guidelines is attached and a summary of the key features is below for your reference:

- **Definition:** 'Web Aggregator' has been defined as, '*a Company registered under Companies Act, 1956 (1 of 1956), approved by the Authority under these guidelines, in whose behalf a web site offers information pertaining to insurance products and / or price comparisons of products of different Insurers*'.
- To operate as a Web Aggregator, prior approval must be obtained from the IRDA.
- **Eligibility criteria for approval of the Web Aggregator:**
  - It shall be a company formed and registered under the Companies Act 1956.
  - It shall not be in the businesses of extending loans and advances, accepting deposits or trading in securities on its own account or on the accounts of the customers.
  - One of the objects of the company in its Memorandum of Association shall be the '*display of information pertaining to insurance products and price comparisons of products of different Insurers on the website owned by the company*'.
  - It shall have a minimum net worth of not less than Rs.5,000,000 at any time during the previous three consecutive years.
  - It shall not be licensed or registered as an insurance agent, corporate agent, micro insurance agent, TPA or an Insurance Broker or have a referral arrangement with an Insurer.
- **Form of Agreement:** The Insurer/Broker shall enter into an agreement with approved Web Aggregators which shall necessarily include details such as (a) Fee/Remuneration for the leads to be shared; (b) time frame and mode of transmission of the leads; (c) the onus of complying with regulatory and other legal requirements shall be on both the parties to the agreement; (d) identification of the data elements to be shared (including the name of prospect/client (visitor of the web site) and contact details). The agreement shall be for a period of 3 years and shall agreement must be filed with the IRDA within 15 days from the date of the agreement.

- Display of information and Price comparisons on the web site: Premium rates and Key Features of the insurance products of all the Insurers for each class of insurance business should be displayed on the website along with up to date price comparisons. The price comparisons displayed shall be up to date and reflect a true picture of the products.
- Transmission of leads to be shared: The Web Aggregator shall transmit the data of a client to the Insurer/s preferred by the client. For those clients that do not prefer any Insurer, the web aggregator shall not transmit the lead to more than 5 Insurers in the same class of insurance business OR to more than one broker. The Web Aggregator is required to maintain a generally accepted security procedures, transmit the data within 5 days of the clients visit to the website, and it shall not transmit any leads other than those pertaining to prospects / clients visiting their site.
- Remuneration to the Web Aggregator:
  - Remuneration shall be payable to web aggregators, by Insurers or brokers, only towards such leads that result in the sale of a policy.
  - Such remuneration shall not exceed 25% of the commission payable on the first year premium sold on the basis of the lead obtained from the web aggregator or 25% of the brokerage receivable by the broker on first year premium (as applicable).
  - The fees or remuneration to be paid shall form part of and be within the overall limits on the commission and expenses as provided under the Act and the relevant rules, regulations and guidelines made thereunder.
  - No fees or remuneration, by whatever name called, shall be paid by the Insurer to a web aggregator in respect of the policies that are sold without relying upon the data shared by it.
- Obligations of Web Aggregators:
  - It shall display on its website the particulars of validity of approval from the IRDA.
  - State clearly and unequivocally on its website that insurance is the subject matter of solicitation.
  - It shall at no point of time have net worth below Rs.5,000,000.
  - It shall maintain the records and the reports of its activities under the agreement with insurer / broker, in the manner specified in its agreement with the insurer.
  - Comply with all the provisions of the Insurance Act 1938, the IRDA Act 1999, the rules and regulations framed thereunder and such other directions issued by the IRDA from time to time.

- Obligations of Insurers / Brokers:
  - It shall not pay any fees or remuneration in contravention of the Guidelines.
  - It shall not pay any fees or remuneration, on any renewal premium/ policy payable from the second year and the subsequent years.
  - It shall not pay the web aggregator fees or remuneration, for the costs incidental to the web aggregator's activities including maintenance of the data base, infrastructure, training, entertainment, development, communication, advertisements, sales promotion etc.
  - It shall not pay any fee or remuneration to a website that has not been approved by the IRDA.
  - Onus of complying with regulatory and other legal requirements is on the Insurer / Broker.
  - No advance payments shall be made in respect of any lead, to any web aggregator.
  - No payments shall be made for lead generation after termination of agreement, expiry of the IRDA's validity, with web aggregator.
  - It shall maintain records of leads / data obtained from each web aggregator, the details of the policies sold out of the leads / data thus obtained and the information regarding the payments.

For further information on this topic please contact Tuli & Co

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## **Exposure Draft on Guidelines on Web Aggregators**

### **1. Definitions:**

1. "Act" means the Insurance Act, 1938 (4 of 1938).
2. "Agreement" for the purpose of these guidelines means an agreement entered into between a web aggregator and an Insurer or an agreement entered into between a web aggregator and Insurance Broker.
3. "Authority" means the Insurance Regulatory and Development Authority established under the provisions of Section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).
4. "Insurance Broker" – as defined in Regulation 2 (i) of IRDA (Insurance Brokers) Regulations, 2002.
5. "Insurer" – as defined in Section 2 (9) of Insurance Act, 1938.
6. "Web Aggregator" – For the purpose of these guidelines, a web aggregator is a Company registered under Companies Act, 1956 (1 of 1956), approved by the Authority under these guidelines, in whose behalf a web site offers information pertaining to insurance products and / or price comparisons of products of different Insurers.
7. All words and expressions used and not defined in these Guidelines but defined in the Insurance Act, 1938 (4 of 1938), the Insurance Regulatory and Development Authority Act, 1999 (41 of 199) or in any of the Regulations / Guidelines made thereunder shall have the meanings respectively assigned to them in those Acts or Regulations / Guidelines.

### **2. Application seeking grant of approval**

The application seeking grant of approval of the web aggregator shall be made by the web aggregator to the Authority, accompanied by a fee of rupees ten thousand paid by way of a bank draft in favour of 'Insurance Regulatory and Development Authority' payable at Hyderabad and containing such information as specified in Form-A.

### **3. Application to conform to the requirements:**

1. An application which is not complete in all respects shall be liable to be rejected. Provided that, before rejecting any such application, the applicant shall be given

an opportunity to complete such formalities within a period of thirty days from the date of receipt of communication from the Authority.

2. The Authority may require the web aggregator to furnish such further information or clarification as may be required by it.

#### **4. Eligibility criteria for approval of the Web Aggregator:**

1. For the grant of approval of the web aggregator, the web aggregator shall ensure the fulfillment of the conditions including but not limited to the following:
  - a. The web aggregator is a company formed and registered under the Companies Act, 1956 (1 of 1956).
  - b. The web aggregator is not in any of the businesses of extending loans and advances, accepting deposits, trading in securities on its own account or on the accounts of the customers.
  - c. The Memorandum of Association of the web aggregator shall have as one of the objects display of information pertaining to insurance products and price comparisons of products of different Insurers on the website owned by the company.
  - d. The web aggregator shall have a minimum net worth of not less than rupees fifty lakhs at any time during the previous three consecutive years.
  - e. The web aggregator does not have a referral arrangement with an Insurer.
  - f. The web aggregator shall not be licensed / registered as an insurance agent, corporate agent, micro insurance agent, TPA or an Insurance Broker under the relevant Regulations framed by the Authority.

Provided that a Broker's web site that offers information pertaining to insurance products and price comparisons of products of different Insurers is governed by the IRDA (Insurance Brokers) Regulations, 2002.

2. While considering the application, the Authority may, if it so desires, verify the information furnished by the applicant including the supporting documents and also inspect the premises and infrastructure of the web aggregator.
3. The Authority may, after considering the application with reference to the matters specified in these guidelines, grant approval to the web aggregator which shall be valid for a period of three years from the date of grant of such approval.

#### **5. Procedure where approval is not granted**

1. The Authority may reject the application made by the web aggregator to the Authority seeking grant of approval, if it does not satisfy the eligibility criteria laid down in clause 4 of these guidelines or if the grant of such approval is not found to be in public interest.
2. The decision of the Authority along with the reasons to be recorded in writing shall be communicated to the applicant within a period of fourteen days from the date of the decision.

## **6. Agreement with web aggregator**

1. Insurer/Broker shall enter into an “agreement” with the web aggregator approved by the authority which shall necessarily include details relating to, though not limited to, the following:
  - a. Fee/Remuneration for the leads to be shared
  - b. Time-frame and mode of transmission of leads to be shared
  - c. Onus of complying with regulatory and other legal requirements on both the parties to the agreement
  - d. Identifying the different data elements to be shared (viz., name of prospect / client (visitor of the web site), contact details)
2. The agreement shall be valid for a period of three years from the date of grant of approval by the Authority.
3. The web aggregator shall file the agreement to the Authority within fifteen days from the date of agreement.

## **7. Display of information and Price comparisons on the web site**

1. Web aggregator shall display on the web site the premium rates and Key Features of the insurance products of all the Insurers for each class of insurance business.
2. The price comparisons that are displayed shall be upto date and reflect a true picture of the products.

## **8. Transmission of leads to be shared**

1. Web aggregator shall transmit the data of a client to the Insurer(s) preferred by the client.

Provided that, if the client evinces interest in buying insurance but does not prefer any Insurer, web aggregator shall not transmit the lead to more than five Insurers in the same class of insurance business.

Provided further that if the client evinces interest in buying insurance but does not prefer any Insurer, web aggregator may transmit the lead to not more than one Broker.

Provided further that no same lead shall be shared to both Insurer/s and Broker by the web aggregator.

2. Web aggregator shall transmit the data of clients to Insurer/Broker:
  - (a) within five days of the client's visit to the web site.
  - (b) reasonably secured from unauthorized access and misuse;
  - (b) with a reasonable level of suitability, reliability and correctness;
  - (d) in compliance with generally accepted security procedures;
3. Web aggregator shall not transmit any leads other than those pertaining to prospects / clients visiting their site.

## **9. Remuneration**

1. Remuneration shall be payable to web aggregators, by insurers or brokers, only towards such leads that result in the sale of a policy.
2. An Insurer shall pay, such fee or remuneration, by whatever name called, to the web aggregator for such lead which shall not exceed twenty five percent of the commission payable on the first year premium sold on the basis of the lead obtained from the web aggregator. The fees or remuneration to be paid shall form part of and be within the overall limits on the commission and expenses as provided under the Act and the relevant rules, regulations and guidelines made thereunder. However, no fees or remuneration, by whatever name called, shall be paid by the Insurer to a web aggregator in respect of the policies that are sold without relying upon the data shared by it.
3. A Broker shall pay, such fee or remuneration, by whatever name called, to the web aggregator for such lead which shall not exceed twenty five percent of the Brokerage receivable on the first year premium sold on the basis of the lead obtained from the web aggregator. However, no fees or remuneration, by whatever name called, shall be paid by the Broker to a web aggregator in respect of the policies that are sold without relying upon the data shared by it.

## **10. Obligations of web aggregators**

1. Web aggregator shall display the particulars of validity of approval obtained from the Authority on its web site.
2. Web aggregator shall state clearly and unequivocally that insurance is the subject matter of solicitation.

3. At no point of time of its functioning, a web aggregator shall have net worth below rupees fifty lakhs.
4. At no point of time of its functioning, a web aggregator shall have referral arrangement with any Insurer.
5. Web aggregator shall maintain the records and the reports of its activities under the agreement with insurer / broker, in the manner specified in the agreement entered into between the insurer / broker and the web aggregator.
6. Web aggregator shall along with its employees (whatever their designation may be) comply with all the provisions of the Act, the IRDA Act, 1999, the rules and regulations framed thereunder and such other directions issued by the Authority from time to time.

#### **11. Obligations of Insurers / Brokers**

1. An Insurer / Broker shall not pay any fees or remuneration, by whatever name called, for such leads converted into sales more than what is prescribed in Clause 9 of these Guidelines.
2. An Insurer / Broker shall not pay any fees or remuneration, by whatever name called, on any type of renewal premium / policy payable from the second year and the subsequent years.
3. An Insurer / Broker shall not pay the web aggregator fees or remuneration, by whatever name called, towards the costs incidental to the web aggregator's activities including maintenance of the data base, infrastructure, training, entertainment, development, communication, advertisements, sales promotion etc.
4. An Insurer / Broker shall not pay any fee or remuneration, by whatever name called, to any website not approved by the Authority under these guidelines that is engaged in web aggregation or price comparison.
5. Onus of complying with regulatory and other legal requirements in dealing with the web aggregators by the Authority is on the Insurer / Broker.
6. An Insurer / broker shall not in respect of any lead, by whatever name called, make any payment in advance to any web aggregator.
7. An insurer / broker shall not pay any remuneration towards lead generation after termination of agreement with web aggregator.



8. An insurer / broker shall not pay any remuneration towards lead generation after the validity of approval given by the Authority to the web aggregator.
9. An Insurer / Broker shall maintain records of leads / data obtained from each web aggregator, the details of the policies sold out of the leads / data thus obtained and the information regarding the payments made in Form B.
10. An Insurer / Broker shall submit to the Authority, the records referred to in Clause 11 (9) above and the reports, if any, of its activities as relevant for the purpose of these Guidelines, whenever called upon to do so.

## **12. Action against the web aggregator**

The Authority may cancel the approval granted to a web aggregator or take any other action as deemed appropriate under the Act, in case the web aggregator fails to exercise due diligence or comply with any of the obligations under these Guidelines or act contrary to the provisions of the Act, Insurance Regulatory and Development Authority Act, 1999, the rules and regulations framed thereunder and such other directions as issued by the Authority from time to time.

Provided that no such action shall be initiated by the Authority and order passed thereafter without giving an opportunity of hearing to the web aggregator.

## **13. Action against the Insurer / Broker**

1. An Insurer / Broker that fails to furnish any information or furnishes wrong information to the Authority relating to the agreement with web aggregator, and/or;
2. An Insurer / Broker that fails to comply with any of the obligations specified under these guidelines and such other directions issued by the Authority from time to time

shall be liable for any actions as provided for under the provisions of the Act, the Insurance Regulatory and Development Act, 1999 (41 of 1999) and the relevant Regulations made thereunder.

Provided that no such action shall be initiated by the Authority and order passed thereafter without giving an opportunity of hearing to the Insurer / Broker.

## **14. Power of Authority to Inspect:**

1. The Authority may appoint one or more of its officers as an inspecting authority to undertake inspection of the premises of the web aggregator to ascertain and see how activities are carried on, and also to inspect the books of account, records,

and documents of the web aggregator for any of the purposes specified in the sub-clause 2 of clause 14.

2. The purposes referred to in sub-clause 1 of clause 14 are as follows:

- a) to ensure that the provisions of the Act, rules and regulations are being complied with
- b) to investigate into the affairs of the web aggregator *suo moto* in the interest of proper development of insurance business or in policyholder's interest.

**15. Power of the Authority to issue clarifications:**

In order to remove any difficulties in respect of the application or interpretation of any of the provisions of these Guidelines, the Authority may issue appropriate clarifications.