

CONTINGENT BUSINESS INTERRUPTION

SANTAM CONTINGENT BUSINESS INTERRUPTION FACT SHEET

Media questions addressed to Santam in recent weeks as well as statements made through some media publications suggest that there remain key aspects of the Contingent Business Interruption (CBI) issue that are not well understood.

The Fact Sheet below addresses a number of key CBI issues, and may be treated as Santam's official position on these issues.

1. "Insurers have deliberately delayed paying claims and consistently avoid settling claims".

These allegations are not true and there is independent evidence to support Santam's assertion that we look for reasons to pay claims.

Reporting by the Ombudsman for Short-Term Insurance (OSTI) reflects rejected claims (complaints) for those classes of business that are within its mandate, which includes individuals and smaller businesses. The OSTI's annual report for 2019 provides clear evidence of Santam's culture of looking for reasons to pay.

The findings of the OSTI report were:

- 3 764 778 claims were received by all insurers in 2019.
- 9 349 complaints were escalated to the OSTI.
- The combined industry complaint escalation rate (inclusive of Santam, without Santam it would be higher) was 2.48 claims per 1 000 claims.
- Santam's complaint rate on its own is significantly better at a rate of 1,45 claims per 1 000 claims.
- The industry overturn ratio, meaning complaints upheld by the OSTI, was 18.34%.
- Santam's overturn ratio on complaints came in better at 15.43%.
- The percentage of all Santam claims that were deemed as not fairly paid was only 0.019%.

Santam's overturn ratio has enjoyed year-on-year improvement and the trend reflects our determination to do right by the client the first time around. The overturn ratio over five years was:

- 2015 29.64%
- 2016 26.40%
- 2017 21.58%
- 2018 17.00%
- 2019 15.43%

A significantly better complaint escalation rate per claim and strong improvement in our overturn ratio sets us significantly apart from our competitors. We believe that this is strong and tangible testament to Santam's dedication and commitment to our clients.

Insurance has no value if policyholders cannot trust their insurer to be there in their hour of need. Between 2016 and 2019, we paid out over R76-billion in claims. That is a tangible demonstration of our culture of looking for reasons to pay.



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2. Applying for liquidation negates a claim

Allegations that a business that goes into liquidation may no longer submit a claim are not true. A claim can be submitted by or on behalf of a business if it was trading at the time of the lockdown, had a local occurrence of COVID-19 and suffered losses due to those factors.

The claim would need to meet the same requirements in terms of documentation as all other claims in order to be assessed. The claim would need to be adjusted if the business went into liquidation before the end of its indemnity period.

3. The three month indemnity period for H&L policies

It is important to note that the Supreme Court of Appeal judgment in the Café Chameleon case did not and was not required to deal with the duration of the indemnity period.

The judgment of the Western Cape High Court on the indemnity period applies only to the Ma-Afrika policy. Santam's view is that the indemnity period is limited to three months as stated in a memorandum on the schedule applicable to BI extensions and clauses. However, the court ruled that the memorandum for extensions and clauses does not apply to the disease extension and that the standard business interruption indemnity period of 18 months is applicable for such losses.

The Ma-Afrika judgment does not set legal precedent for the indemnity period for all other policies. Further, it is critically important to note the following:

- a. The indemnity period in the standard cover provided by the business interruption section in the Ma-Afrika policy is 18 months. This is not common across all policies. Most policies generally have shorter indemnity periods for business interruption due to physical damage.
- b. Some policies offer extensions to the business interruption insurance which covers loss of revenue caused by interruption to the business due to a number of events beyond physical damage, including infectious diseases. The indemnity period in respect of this extended cover is clearly stated as three months in the relevant Santam policies.

It is Santam's view that the Western Cape High Court erred in its judgment in applying an 18-month indemnity period across the entire policy and we will contest this ruling at the Supreme Court of Appeal (SCA).

4. Full and final settlement offer in H&L

As previously stated, the 18-month indemnity period applies only to the Ma-Afrika policy and can therefore not be construed as legal precedent, particularly in view of Santam's intention to appeal this ruling.

The Hospitality & Leisure Division policies that are impacted by the recent court rulings and are currently being processed by Santam specifically carry three-month indemnity periods for the contingent business interruption extensions in the policy contracts. It is for this reason that Santam is offering full and final settlements in respect of these claims.



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5. Providing evidence of a local occurrence

The judgments in both the Ma-Afrika and Café Chameleon cases included stipulations by the courts that the government's response to the pandemic in the form of lockdowns and other restrictions is part and parcel of the proximate cause of the losses suffered by policyholders.

However, both judgments stipulated that claims would still have to be supported by evidence of a local occurrence of COVID-19 within the radius stated in the policy.

This is why claims also have to be accompanied by evidence of a local occurrence. Santam appreciates the challenges this could pose and will therefore accept reasonable sources confirming local occurrence, such as news reports or other verifiable information as evidence. If we are able to access relevant and reliable information centrally, we will use such evidence to confirm on behalf of clients that the disease existed within the radius. This process is ongoing.

