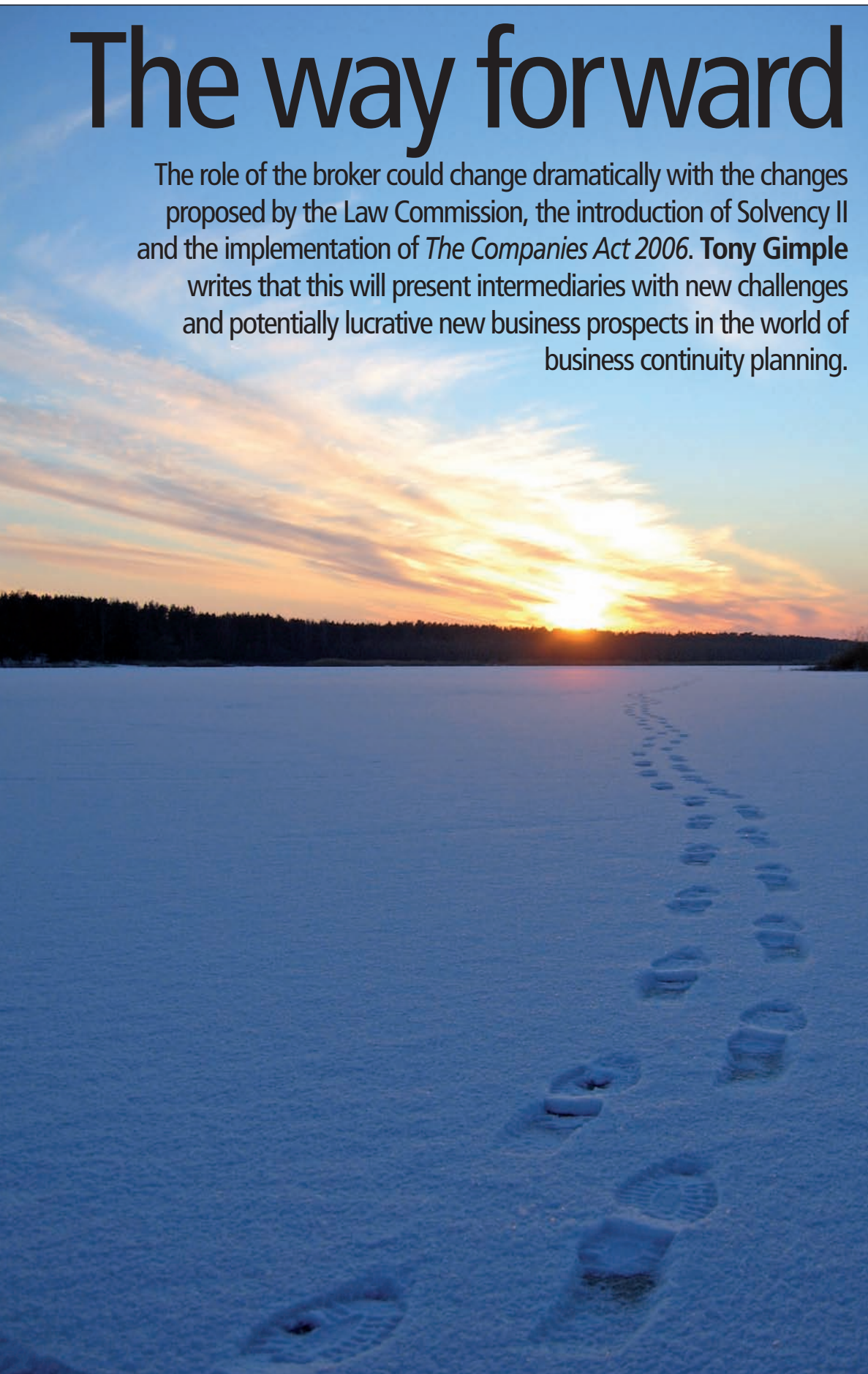


The way forward

The role of the broker could change dramatically with the changes proposed by the Law Commission, the introduction of Solvency II and the implementation of *The Companies Act 2006*. Tony Gimple writes that this will present intermediaries with new challenges and potentially lucrative new business prospects in the world of business continuity planning.



THE REGULATORY burden on businesses mounts year on year, but for once there is a clear way to profit from it.

Following the imminent Law Commission review, brokers could soon be facing increased pressure. The suggested changes to the balance of power in insurance contract law in favour of the consumer are likely to affect how the law views brokers' duties and responsibilities in their dual relationship with insurers and the insured.

Consolidators and aggregators are often perceived as making life difficult for the independent broker, and this factor, together with the commission disclosure proposals, could easily see profit margins decline. *The Companies Act 2006* places an even greater duty of care on directors to justify their actions. Meanwhile, brokers need to differentiate their offerings and insurers have to think differently if they are to keep underwriting profitable.

So what is likely to happen and how can everyone in the market benefit? Unusually, the regulatory changes can actually help if the right action is taken now.

Under the Act, there is great emphasis on the duty of directors to decide on what is most likely to promote a company's 'success'. Parliament defined this success for commercial companies as normally meaning a "long-term increase in value". Failing to put in place measures to help a company survive a serious disruption or disaster could, therefore, bring into question the directors' duty of care and perhaps result in litigation. In any case, planning for such an eventuality is common sense and good practice, especially after the wake-up call of this summer's floods; the need should now be obvious to everyone.

Why do it?

The case is backed by a strong set of statistics. For example, 80% of businesses without a business continuity plan close within 18 months of a major incident, while nearly one in five businesses suffers a major disruption every five years on average and 70% of small businesses would go out of business within a year if they experienced a major disaster. Also, only 34% of small businesses (those employing less than 50 people) have even a rudimentary BCP.

Apart from the loss of future brokerage and fees when a client's business fails, with increasing legal responsibility being placed on the broker, not recommending a BCP may leave them open to negligence claims.

From its roots in IT and disaster recovery, business continuity planning has finally come of age with the launch of the full British Standard 25999 for business continuity management in October. This is good news for those already conversant with or practising business continuity management, but what of those that are not?

At a basic level, a BCP looks at how to respond to fire, flood, pestilence, IT failure and denial of access. These are the obvious threats to which all risk and continuity management should respond. Comprehensive business continuity planning will also look holistically at a business's surrounding environment and the less obvious risks. Post-Buncefield, the neighbouring oil depot or control of major accident hazards site is now an obvious risk, but who would have thought that the smell of cooking would lead to the closure of an entire street?

Community effect

On Monday 1 October, D'Arblay Street in London's Soho was closed because of a suspected chemical weapons threat. As the ambulance service sent in its Hazardous Area Response Unit, fire fighters wearing specialist breathing apparatus entered the surrounding streets to seek out the source, which turned out to be Chalemchai Tangjariyapoon, a chef preparing Nam Prik Pao, a hot, chilli-based Thai dip. Happily, the cause was located in a matter of hours and, in any case, was probably a one-off.

The threat to each client will almost certainly be different, but consider the potential impact on businesses in the vicinity. Firms could have been closed for days, and with no physical damage how would their business interruption cover (if purchased) have responded? If, however, their brokers had encouraged them to have a detailed BCP that dealt with the consequences of denial of access, then they would have reduced the impact of a loss and also made the purchase of an extension that addressed such an event much more likely. Moreover, insurers would then have had an identified and quantified risk assessment on which to base an underwriting decision, resulting in better loss mitigation for all and a quicker return to normal trading for clients.

The British Insurance Brokers' Association is urging its members to take heed of the fundamentals of business continuity management, including identifying the potential impact of a major loss on a business, establishing how long it would take to recover, assessing how major destruction or damage at a customer's or supplier's premises might affect a business, and establishing how destruction or damage at the premises of a utilities supplier (gas, water, electricity, telecommunications, internet service providers and IT outsourcers) might affect a business. They are also asked to look at assessing how being refused access to the premises following a loss in the immediate vicinity might impact trade, as well as advising on the development of a BCP to enable the business to survive a major disaster.

With legislative change and the even greater impact on regulated professions such as the law and financial services, a BCP moves

Crisis Survivor profile

Brokers that help their clients to understand and manage risk through business continuity planning increase brokerage and fee income.

Regulatory changes mean that many professions, including insurance brokers themselves, are required to have a testable BCP. This also impacts on all company directors as the *Companies Act 2006* states: "Directors may fail in their duty of care if they do not take the right decisions to ensure the success of their business."

Brokers have an increased legal responsibility to demonstrate that they 'know their clients' and have taken the right steps to protect their interests. Commercially, making business continuity planning the heart of a broker's practice brings rapid, tangible and long-lasting rewards. Moreover, it increases that broker's value in the market.

Crisis Survivor supplies business continuity planning to insurance brokers and their clients. It has a flexible sales model that delivers a structured BCP process using either brokers' own staff or one of its licensed consultants. An advanced computer-aided planning tool that ensures reliability and consistency in its output supports its process.

Its management team includes specialist risk managers that ensure compliance to standards and compatibility with insurance practice, as well as sales and marketing professionals who are available to advise brokers on how to move their business from competing on price to winning business using a more holistic approach.

from being 'nice to have' to 'must have'. With the right approach, the spin-off benefits of an effective BCP to the insurance industry are extremely attractive. For example, deeper customer knowledge and risk assessments generate clear cross and up-sell opportunities as well as better risk management, which helps to reduce claims. A standards-based approach also guarantees quality and gives clients tangible added value, with brokers more able to demonstrate an holistic and advisory approach to risk management.

Those that react best will use business continuity planning to move away from simply competing as a supplier based on price to a position where they use a BCP as the means of becoming a client's 'trusted professional adviser'. Meanwhile, the industry is able to manage both risk and premium with a greater degree of certainty and clients will understand how and why their businesses are better protected as well as the difference between value and price.

Crucial competition

Most crucially to brokers, this approach will be an excellent counter to competition from the consolidators and aggregators where a commoditised approach makes it difficult for them to provide an advice-based service. Brokers can and should trade increasingly on the advice they give. Until now, the barrier to advice-based trading has been the client's lack of understanding of what insurance is really about. Business continuity planning is the way to address this.

Getting started needs careful consideration. At its simplest, brokers can suggest do-it-yourself software, find the resources to offer BCP in-house, or contract out to specialists.

The DIY option depends on clients knowing what to do, while delivering it in-house relies on the availability of suitable staff and a robust methodology. Delivering BCPs on any scale introduces issues of consistency and quality control, and doing so at lower volumes makes keeping up to date with current best practice very difficult.

Selling a bought-in service may be

attractive, but if demand grows rapidly over the coming years then suppliers may struggle to maintain quality and consistency in their processes, though in time these issues will be resolved through adherence to the new British Standard. Client confidentiality and avoiding channel conflict also need to be addressed when using third parties. However, those that see BCP as an opportunity need to take rapid action to receive the maximum benefit from the competitive advantage that business continuity planning as a clear differentiator bestows.

The industry knows that a least-cost, quote-driven business model drains profits. If this trend continues then the only winning strategies are to get big or commoditised — and there are already a lot of established players in this space — or to be visibly different.

It is essential to increase the added value the industry delivers. If the market extends beyond the current focus of premium and payout and moves to a clearly understood advice basis then everyone wins. The level of claims should reduce, insurers will be able to quantify risk with a greater degree of certainty than ever before, and brokers will have the means to develop non price-dependent relationships. Better still, clients will enjoy risk management that goes beyond the 20% of their risk that is conventionally insurable.

The timing is favourable. The common-sense understanding that businesses need to plan to ensure their survival has been bolstered by an increased perception of threat and uncertainty based on terrorism, economic outlook and global warming. This summer's floods delivered a tangible penalty to those unlucky enough to be based on a flood plain or in areas with failing storm water management systems, and, with BS25999 a recognised standard is being introduced to give confidence to those that are new to the BCP approach.

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