

SIMONE REIS  
PALAQ VORA

Anagram Partners

simone.r@anagrampartners.in  
palaq.v@anagrampartners.in

*For a more deal-specific discussion on structure or policy, please contact Authors (mentioned above).*

## INTRODUCTION

In most acquisitions, a small subset of warranties sits at the heart of the value proposition and underwriting thesis. Traditionally, 'fundamental warranties' comprised title, capacity and authority to contract, and, over time, this concept was extended to encompass title to the shares being sold. An emerging trend in the Indian market is that sophisticated buyers and insurers are now expanding the notion of "title" to cover title to genuinely business critical assets (for example, key licences, real property, IP or concessions), but only where those assets they are genuinely critical to the deal.

The appropriate warranties to fit this expanded 'fundamental' bucket are best identified by focusing on assets that are the real value drivers of the business from an operational and commercial perspective. Real asset heavy businesses like warehousing and logistics platforms depend on title or long-term leasehold rights to crown-jewel properties. Concessions / "right to operate" arrangements and offtake arrangements/ grid access form the bedrock of infrastructure businesses like road assets and power projects. In sports and media, the franchise or league participation right, long-term media and broadcast contracts and sponsorships hold up the enterprise value. Technology and data businesses are built around ownership or exclusive license of core IP. In financial services, regulatory licenses are business critical.

For W&I insurance, treating such warranties as 'fundamental' usually means longer claim periods, access to higher sub-caps or, in some cases, the full policy limit, reduced or nil de-minimis and, occasionally, tipping or reduced retentions. It also means more exacting disclosure, diligence and knowledge constructs around those specific risk points.

## DOES ELEVATING SECTOR-CRITICAL WARRANTIES TO FUNDAMENTAL STATUS ACTUALLY ADD VALUE?

### Buyer Lens

When done selectively, the answer is yes. Where a substantial portion of downside risk is concentrated in a single licence, title, concession or franchise right, ring-fencing that exposure with fundamental-warranty W&I insurance economics can be meaningful. Protection is being focused where value actually sits, rather than

diluted across a long list of generic business warranties. There is often also a signalling benefit, particularly for lenders and future buyers for whom 'fundamental'-like W&I protection scores highly when assessing protection of core value drivers. In competitive processes, buyers can use fundamental treatment of sector-critical warranties to support a lower or even nil recourse position against sellers, while still delivering real protection through the W&I policy.

### **Insurer Lens**

For insurers, carefully chosen sector-critical warranties can be covered because they are capable of being thoroughly diligenced. Underwriters are open to sit behind a narrow warranty on title to specified properties, validity and subsistence of identified concessions or ownership of defined core IP; this is preferable as compared to backing a vague business 'compliance' standard. Properly scoped warranties, with clear, document-backed diligence, allow risk to be priced and structured from an underwriting perspective with more confidence than broad brushed catch-all warranties.

There is a commercial angle for insurers as well – being able to elevate narrowly defined, well-diligenced sector-critical warranties has become a visible differentiator with brokers and sponsors. Covering sector-critical warranties as 'fundamental' helps carriers attract higher-quality risks and position themselves as go-to markets for complex, sector-specific deals.

### **WILL INSURERS REALLY TREAT THESE AS FUNDAMENTAL? THE UNDERWRITING REALITY**

In the Indian W&I market, underwriting responses have converged around a few themes. Coverage economics can be 'fundamental', but only where the risk has been tightly defined, properly diligenced and sensibly capped.

#### **Narrow and diligenced, not open-ended**

Insurers are more willing to approach fundamental-type economics where the warranty is narrowly drafted. They expect clear, document-backed diligence: title opinions, legal and tax advice, specialist technical or IP reports, and a track record of no notices and renewals.

#### **Survival periods, caps and sub-limits**

Where sector-critical warranties are treated as quasi-fundamental, survival periods will often track the classic fundamentals: five to seven years, as opposed to two to three years for general business warranties. Many carriers prefer meaningful sub-limits – for example, 25–50% of the overall policy limit – rather than opening the entire limit to sector-critical items. In India, a frequent compromise is fundamental-style treatment for title to crown-jewel properties or licenses, but with a defined sub-limit.

#### **De-minimis and retention**

Nil de-minimis and nil retention are still most commonly seen for classic fundamentals such as title, capacity and capitalisation. That said, we are now seeing reduced or nil de-minimis, together with tipping retentions, for carefully selected sector-critical warranties.

## Disclosure and Knowledge

Fundamental status does not equate to no disclosures. Insurers will want tightly defined 'Actual Knowledge' for the insured deal team, with full access to specialist diligence outputs, data-room materials and regulatory correspondence relating to the specific risk. The more robust the underlying record, the easier it is to support a fundamental-style outcome.

## PROS AND CONS OF PUSHING FOR FUNDAMENTAL TREATMENT

### From the Buyer side

Elevating sector-critical warranties aligns insurance protection with the buyer's internal risk matrix, rather than with abstract legal categories. It supports financing and exit narratives: the ability to say that core value drivers are insured 'like title' will resonate with sponsors and lenders. In competitive sell-side processes, it can be a genuine bid differentiator where sellers are offering limited or nil recourse.

The trade-offs are that buyers should expect higher premium and incremental legal fees. Longer survival, higher sub-caps and fewer exclusions are priced, and they tend to generate additional negotiation on policy wording. Underwriting will typically be more intensive, with additional Q&A rounds, specialist underwriting calls and, in some cases, transaction-specific exclusions where diligence is thin or legacy documentation is incomplete.

Against that backdrop, buyers should look hard at the true delta between 'title-like' treatment and robust business-warranty cover. In many cases, the practical difference may be limited: claims on sector-critical risks are often discovered within the first two to three years; 'fundamental' treatment may still sit behind a sub-limit rather than the full policy limit; and the main enhancements may be reduced or nil de-minimis and retention rather than a genuinely broader recovery opportunity. The real question is whether the additional cost, friction and narrower warranty constructs are buying materially greater collectable cover, or are largely delivering optical enhancements to the overall risk narrative.

### From the Insurer side

Insurers benefit from being able to concentrate capacity where risk truly sits. They can position themselves competitively with brokers and sponsors who are now explicitly asking what will be treated as fundamental in a given sector and jurisdiction.

The constraints are structural. For long-tail or systemic risks such as ABAC in high-touch sectors, wide-ranging environmental exposure or long-standing employment practices, elevation to fundamental status would be rare. Local regulatory and capital considerations matter as well. In India, carriers fronting for global markets still need to manage their capital and concentration across long-tail, high-severity risks. The more capacity is tied up in fundamental-style items under one policy, the less is available for other risks and future claims.

## CONCLUSION— USING 'FUNDAMENTALS' WHERE THEY MATTER

As the Indian W&I market matures, sophisticated users are no longer asking whether sector-critical risks can be insured, but which of those risks really warrant fundamental-style treatment and on what evidentiary and commercial terms. Elevating

business-critical warranties to this enhanced status only adds value where it is anchored in the investment thesis, earned through a demonstrable diligence record and used as a targeted commercial lever in allocating recourse between buyer, seller and insurer. Used in that way – and only for a short, defensible list of core value drivers – fundamental-style cover can move beyond optics and deliver real, collectable protection around the parts of the business that matter most.

*This publication is for educational and informational purposes only and is not intended and should not be construed as legal advice. We have focused here on themes we see most frequently in our work with PE investors, corporates and leading W&I markets. The risk allocation on any particular transaction will, however, turn on its facts, sector and diligence record.*

---

**anagram**partners

Follow us for more  
 [anagrampartners.in](https://www.linkedin.com/company/anagrampartners)

0401–2026