Supplementary Submission No 8a

FIFTH REVIEW OF THE EXERCISE OF THE FUNCTIONS OF THE LIFETIME CARE AND SUPPORT AUTHORITY

Organisation: Australian Lawyers Alliance

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Standing Committee on Law and Justice

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Supplementary Submission to Standing Committee on Law and Justice in Respect of Twelfth Review of the Motor Accidents Authority and Fifth Review of the Lifetime Care and Support Authority

1. Subsequent to the Australian Lawyers Alliance's (ALA) submissions, the Standing Committee on Law and Justice has invited us to make a supplementary submission in respect of either or both reviews arising from the 2012/13 Annual Reports in respect of the MAA and LTCSA.

2. We have had the advantage of reading the NSW Bar Association's Supplementary Submission and broadly support it.

3. In addition, we wish to emphasise certain matters.

Comparison Between NSW and Queensland Schemes

4. The recent much higher increases in NSW by comparison with Queensland cannot be justified on the basis of profit history. The history of the scheme is of super profits by the insurers, well above the 8% theoretical target. The historic average profit is just under 20%.

5. The history of the scheme is of clear underestimation of future profits through insurers' over-estimation of future liabilities. This can be readily traced through the table annexed to the Bar Association submission. Profit levels for any given year are found in subsequent years to be a gross underestimation as it becomes progressively apparent, year by year, that future liabilities would be much less than forecast. The question which must be asked of the MAA is why it has failed to adequately manage the state of affairs and why such an increase in prices was permitted given this history. This is a mature scheme, relatively stable and excessive profits have been the predictable outcome throughout the scheme.

6. The questions to be asked of the MAA must include whether the MAA lacks the power to control prices and excessive profits or whether it has failed in its duty in this respect.

7. Similarly, the insurance industry should be asked why it should go on making super profits and obtain increases much greater than those in a neighbouring state.

8. The question for Government to consider is whether drastic changes are needed to the scheme. ALA again emphasises that the Government's now rejected proposals would have inflicted enormous hardship upon most victims of motor accidents and would have the potential to greatly increase the administrative costs by moving to weekly or fortnightly payments. Such a scheme inevitably has a major built-in disincentive for rehabilitation.

9. Any comparison between NSW premiums and Queensland premiums ignores the several existing no-fault elements which add at least $130 to NSW premiums. It also ignores the fact that NSW effectively complies with the NDIS but Queensland does not. When the Queensland scheme has to comply, then it is likely that Queensland premiums will be comparable with NSW. Inevitably, the perceived problem in respect of comparable premiums is one which will disappear as the NDIS is implemented.

Conclusion

10. The Australian Lawyers Alliance welcomes the opportunity to address and answer questions in relation to these issues in oral evidence before the Standing Committee on Law and Justice.