

**Supplementary
Submission
No 6a**

**12TH REVIEW OF THE EXERCISE OF THE FUNCTIONS OF
THE MOTOR ACCIDENTS AUTHORITY**

Organisation: Insurance Council of Australia

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The Director
Standing Committee on Law and Justice
Legislative Council
Email: lawandjustice@parliament.nsw.gov.au

Dear Sir/Madam

SUPPLEMENTARY SUBMISSION TO THE TWELFTH REVIEW OF THE MOTOR ACCIDENTS AUTHORITY

Thank you for the opportunity to provide a supplementary submission to the Committee's review of the Motor Accidents Authority (MAA), to address issues arising from the MAA's 2012/2013 Annual Report.

The Annual Report uses efficiency and affordability as two of the primary measures for assessing the performance of the scheme in meeting its objectives. As context for the data in the Annual Report, the scheme's actuary, Ernst & Young, found in 2012 that the NSW CTP scheme is the least affordable in Australia, and is also less efficient than comparable schemes in other states.

Efficiency

The Annual Report notes that scheme efficiency looks at the proportion of premiums that is paid directly to injured persons, with the caveat that the calculations do not take account of contracted-out legal costs, which are charged by the injured person's solicitor directly to the injured person, outside of the CTP scheme.

Without any disclosure to the MAA of the total amounts paid by injured persons to service providers, it is not possible to fully measure the efficiency of the scheme. For example, transparency of solicitor/client fees will enable a proper assessment of the proportion of premiums that is actually being received by injured persons. The ICA and our members believe complete transparency of service provider fees to the MAA is essential to enable a rigorous analysis of scheme efficiency, and to fully understand the cost drivers in the scheme. For this reason, the Queensland regulator MAIC is currently looking into greater transparency in the Queensland CTP scheme.

We are aware that the MAA is implementing a suite of changes aimed at improving efficiency, by removing friction points from the scheme, in order to bring the cashflow peak of claims payments forward and shorten the tail.

Our members support the work programme proposed by the MAA, including those actions currently underway, and we will continue to assist the MAA with its scheme improvements as

appropriate. The projects that the ICA and members have been working on with the MAA over the last few months include:

- Early notification of claims
- Analysis of friction points within the claims process
- Changes to Section 81 Notices, Claims Handling Guidelines and Claims Assessment Guidelines
- The Real Time Integration Project, aimed at providing an online interface between insurers' systems and Roads and Maritime Services internal database

The scheme improvements contemplated by the MAA that are priorities for our members are earlier notification of accidents, injuries and claims, including earlier access to Police and medical reports, and a simplified claims form, which would minimise the need for injured persons to seek legal assistance in order to prepare their claim. Our members' objectives are to make the claims process as simple as possible for the injured person and shift from a "compensation-focused" scheme to a "health recovery-focused" scheme.

Affordability

The 2012/2013 Annual Report shows that the affordability indicator has worsened since 2012, to approximately 36% of average weekly earnings.

One of the possible drivers of claim size and thus premium affordability is an increase in legal representation of injured persons. Scheme actuary Ernst & Young has undertaken analysis of the impact of legal representation on claims experience. The claim frequency¹ for legally represented Severity 1 and 9 claims (that is, minor injuries and those where the severity of injury is unknown) has been steadily increasing since 2006. This is despite a fall in casualty rates over the same period, and in direct contrast to Severity 1 and 9 claims that are not legally represented, which have been falling consistently, in line with the casualty rate.

It is possible that the MAA may want to analyse the impact of legal representation on its indicators of affordability and efficiency, however we are advised that the MAA does not currently have the power to obtain all necessary information for such an analysis.

Need for Reform?

The affordability and efficiency metrics would suggest that change to the scheme is necessary, and a range of options was provided to the NSW Government in 2013 by our members as part of a plan to reform the NSW CTP scheme.

Our members look forward to continuing to work collaboratively with the Government as it considers whether the NSW scheme should be based on fault or no-fault, and the types and

¹ Claim frequency is defined by the MAA as the number of notification per 10,000 registered vehicles.

levels of benefits received by injured persons. Due to their wealth of experience working with different schemes throughout Australia, our members can provide the Government with further assistance to ensure the NSW CTP scheme is sustainable, workable and efficient.

The position of the ICA and its members is, as it has always been, that scheme design is for the Government to determine. Our members have experience underwriting a range of compensation schemes in the various States and Territories of Australia, and once the Government determines its scheme design, our members will price premiums accordingly.

We look forward to further engaging with the Committee's inquiry into the MAA, including at its public hearings in March.

If you have any questions or comments, please do not hesitate to contact Vicki Mullen, General Manager, Consumer Relations & Market Development Directorate on

Yours sincerely

Robert Whelan
Executive Director and CEO