

**INQUIRY INTO REVIEW OF THE MAA AND THE MAC -
EIGHTH REVIEW**

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Eight Review of The Exercise of Functions of the MAA and MAC

Comments on Third Party Insurance in NSW

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MOTORCYCLE COUNCIL
OF NEW SOUTH WALES
INCORPORATED



To
**Standing Committee on Law and Justice,
Legislative Council, Parliament House,
Macquarie Street, Sydney**

Motorcycle Council of NSW
15 Huddleston Street Colyton, NSW

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Scope of Comments

The current system of pricing of Compulsory Third Party Insurance for motorcycles has some issues that require clarification

General comments and background

Relative risk rating

Pricing of premiums

MCIS Levies

LTCS levy pricing

Introduction

About the MCC of NSW

The Motorcycle Council of NSW represents over 36,000 motorcycle riders in NSW through their club affiliations.

The MCC of NSW welcomes the opportunity to work with all agencies concerned with motorcycle issues.

The MCC of NSW recognises the concern the community has regarding fair and reasonable crash victim compensation, as this can happen to any one of us.

The MCC of NSW is keen to support an accident compensation scheme that is fair and reasonable

We find it difficult to understand the basis for CTP Premiums for motorcycles and also difficult to understand the increases justified as LTCS levies.

We have formed the view that motorcycle CTP pricing is excessive and would like the assistance of the Law and Justice Committee to examine whether this is a valid view or not.

To answer this, requires having some questions placed to resolve doubts as to the basis by which insurance companies set motorcycle premiums and the methodology by which the MAA confirms this basis.

Previously supplied answers to requests for data and information in this area have been incomplete, at best.

When we inspect the data made available, we are led to the conclusion that in respect of motorcycle CTP premiums, that insurance company profits are generous.

We have attempted to determine the amount of money being contributed by motorcycle riders to a pool of funds and then the amounts of money leaving that pool.

Money entering the pool is a result of premiums being paid by all owners of registered vehicles.

We are informed by an extract from the MAA website of 6 February 2002, that money leaving that pool is in several streams:

Where will the money from my Green Slip go?

(Note: these figures are based on actuarially estimated Scheme projections for the 1999/2000 year)

- Payments direct to claimants - 41%
- Payments direct to hospital, medical and rehabilitation service providers - 22%
- Claimant legal and investigation services - 5%
- Insurer legal and investigation services - 6%
- Insurer overheads and profit - 24%
- Other - 2%
- Goods and Services Tax % (not shown until 1/7/2000 and is not within the 100%)

There is clearly some on-going debate as to insurer profits and trends in other amounts of money leaving the pool due to legislative changes affecting payments and more recently, the Lifetime Care and Support Scheme.

We are seeking assistance in accurately quantifying the components and methodology for calculating motorcycle CTP premiums.

Crash Types and “at fault” principle

Motorcycles, like any other form of vehicle, have three different “classes” of crash involvement:-

Crash Class	Crash Type
1	Motorcycle at fault, single vehicle crash
2	Motorcycle at fault, hits other vehicle or Vulnerable Road User
3	Other vehicle at fault, hits motorcycle

We will continue to refer to these three as “Classes” of crash, leading to “classes” of claimants.

It is possible to inspect data in the RTA crash database, showing all crashes in NSW by Road User Movement, but this does not reflect those crashes in which a claim arises.

If we look in the RTA data, at the number of motorcycle crashes where the rider was not the “Key Vehicle”, we note that 93% (2001-2005) of these crashes are classified as “Casualty Crashes”.

When we compare this RTA data with the number of claimants against CTP, we note that less than half (44%) of motorcycle riders in crashes where the motorcycle was not the Key Vehicle (i.e. mainly “Class 3”), will lodge a claim. e.g. of the approximately 2100 motorcycle casualties annually, around 720 of these were in crashes where they were not “at-fault”, but over the past five years, only 44% (around 320 per year) have lodged claims against the CTP Scheme.

This claim frequency is considerably lower than for other classes of vehicle and gives a view of the number of claims by motorcyclists against the CTP insurance of other vehicles at-fault.

QUESTION 1:

What percentage of injured motorcyclists or pillioners lodge a claim against the CTP of vehicles other than motorcycles?

QUESTION 2:

What is the relative claim frequency, per 1,000 vehicles registered, of claims against motorcycle CTP compared to other vehicle classes?

QUESTION 3:

What is the breakdown of claims against the motorcycle CTP in terms of road user type, vehicle type and relative costs of each?

In the above 3 "classes" of crash, in Class 1, the rider is excluded from making a claim as they are "at-fault" and hence only an injured pillion from a Class 1 type crash would make a claim against the motorcycle CTP pool of funds.

In Class 2, the at-fault motorcycle rider is again excluded from making a claim against the motorcycle CTP pool, although their pillion, or occupants of other vehicles or other vulnerable road users may make a claim if injured as a consequence of that crash.

In Class 3, rider and pillion claims will be against the "other vehicle" CTP and not a claim against the motorcycle CTP pool.

We can readily see that the number of claimants against the motorcycle CTP insurance will be relatively small.

The number of injured pillions is small – RTA data records 661 from 2001-2005 (around 130 per year) Of the 661, the rider was deemed to be at-fault in 469 (71% of crashes over 5 years), yet only 43% or 283 of these resulted in a CTP claim (around 57 CTP claims per year) against the motorcycle.

In other words, motorcycle crashes do not result in the large numbers of severe injury claims that we have been led to believe. Also, that the degree of injury in RTA reported "injury crashes" includes a large number of relatively minor injuries that do not warrant a claim.

What is significant here in this line of inquiry, are **Claims against the Motorcycle CTP insurance** that will determine the cost of insurance.

In Class 2 type crashes, there will be a mix of claimants who are occupants of vehicles, with better protection and hence a lower claims cost, in addition to pedestrians and bicycle riders with a high injury claims cost.

In Class 3 type crashes, there will be no claimants against the motorcycle CTP at all.

A motorcycle owner pays their CTP insurance premium to insure against the value of a claim arising from their vehicle causing injury to another. Current motorcycle CTP premiums appear to be too high, as most injuries to riders or pillions are claimed against other vehicles, or not claimed at all due to the at-fault principle.

Question 1 above, will provide a view of the numbers of injuries that may be excluded from calculation of a motorcycle CTP premium.

While there will be injured riders who were at-fault in crashes, they are not permitted make a claim against CTP insurance due to the structure of the scheme.

Question 3 above, provides a view of the costs to be distributed across the population of registered motorcycles in NSW.

The lower frequency of claims by motorcycle riders is not reflected in the costs of motorcycle CTP premiums.

QUESTION 4:

How does the MAA, using the answers above, show how they harmonise with the current method of calculation of motorcycle CTP being rated as 105% of the base rate for a car?

When a car crashes into another car, it may be regarded as a "fair contest" as to generation of injuries to occupants of either vehicle.

When a car hits a pedestrian it is not a fair contest as to whether the pedestrian or the car occupants will be injured. Similarly for a bicycle rider or motorcycle rider in a collision with a car, the contest is not equal and it is from the collision circumstances that the at-fault principle applies.

This is a fundamental point within the NSW CTP at-fault scheme.

A bicycle rider or pedestrian do not carry CTP insurance and hence their claims are generally against the vehicles that hit them and the courts may attribute "contribution" to the crash. There is no sense of "equivalence" of pedestrians with any vehicle that causes them to be rated with "Premium Relativity" to a Class 1 vehicle, if for no other reason, than they are not required to carry any form of individual CTP.

The difference here, is that a further class of Vulnerable Road User, that is motorcycles, as registered vehicles are required to hold CTP insurance.

The premium relativity of a motorcycle is not to be calculated on the simplistic basis that injuries arise because people are riding motorcycles, but because claims are made against motorcycles for injuries.

A distinction needs to be made here, between

- Injuries to all motorcyclists in all crashes
- Injuries to road users as a result of an at-fault motorcycle crash

If the premium relativity of motorcycles is established by calculating all motorcyclist injuries, then the calculations have used an incorrect basis that denies a basic principle of the NSW CTP at-fault scheme. This goes directly to the *fairness* of the NSW CTP Scheme.

It appears that the Premium Relativity, an essential component of determining the base price for CTP of any vehicle, may use assumptions that are not reasonable. Sec. 3.4 of the *MAA Premium Determination Guidelines* demands that insurers establish premiums as a percentage factor relative to the base rate for a class 1 vehicle, a passenger car.

We are able to observe that CTP premiums for buses and heavy vehicles are higher than for passenger cars. Perhaps this is due to the likelihood for crashes involving these vehicles to give rise to high claims costs.

Again, the injuries to be insured against by heavy vehicle owners will be based on the injuries cost arising from at-fault collisions involving heavy vehicles, not on some other basis, such as commercially penalising all other road users who lack the protection of a truck cabin due to their chosen mode of transport.

QUESTION 5:

What is the basis for increased CTP premiums for heavy vehicles and buses?

QUESTION 6:

Can the MAA provide statistical data showing the actual costs of and numbers of claimants in each of the Crash Classes noted above and does this data show their "road user class", i.e. were they car occupants, pedestrians, bicycle riders, motorcycle pillion or motorcycle riders?

QUESTION 7:

What were the average and median claims cost for each "road user class" within each "Crash Class"?

For example, in calculating the amounts of money leaving the scheme for Class 2 type crashes, we may see that a proportion of claims are for the other rider in the case of two motorcycles colliding, or for a pillion passenger, which are typically high dollar value claims. Equally, we may see that a proportion of these Class 2 claims are by vehicle occupants, which typically have a lower dollar value claim.

We may discover that different classes of crash type result in significantly different levels of claims costs or number of claims.

In the NSW at-fault CTP scheme, this data will provide a view of who is paying for which crashes. At some later stage, the Committee may obtain a broader view of the fairness of the Scheme; it may be necessary to ask the MAA for comparative data across different vehicle types, or select certain vehicle types, such as tall vehicles that obscure traffic vision, like blind vans or some 4WD vehicles.

These questions directly relate to the Terms of Reference of this Review, addressing the *fairness* of the CTP Scheme.

If the data requested in the questions placed here is provided for each year of the scheme, crash claim trends may also be discovered, which may reflect results of changing demographics, vehicle type trends, or effectiveness of road safety programs. Such data would be particularly useful in measurement or preparation of strategic planning for motorcycle safety.

If all claims by all motorcycle riders and pillion passengers are simply aggregated by the MAA and insurance companies, without regard for the at-fault party, we are not confident that CTP premium setting could be accurate, as the money leaving the "motorcycle CTP pool" would not be accurately apportioned against the at-fault vehicle.

QUESTION 8:

Are claims against the motorcycle CTP pool of funds contributed to by motorcycle owners treated separately? Or, are claims by motorcycle riders and pillions aggregated and then arbitrarily apportioned against a combined pool of funds contributed by all registered vehicle owners? If the apportionment is not completely arbitrary, then what methodology is used to de-aggregate them?

This is an important question, again going to fairness, as it calls into question the basis of assumptions for actuarial calculations that presently class a motorcycle CTP premium base as 105% of a car CTP premium base.

If the basis for assumptions used in actuarial calculations is not correct, then motorcycle owners are not paying the correct rate of premiums for their CTP insurance.

If the bulk of claims by riders and pillions are against other vehicles at-fault, then these claims must be removed from calculations of the motorcycle CTP. This is the "risk relativity".

The risk of a claim arising against the motorcycle CTP is due to the actions of the motorcycle rider for injuries to a relatively small number of vulnerable road users and vehicle occupants.

No doubt exists that in a crash, the rider of a motorcycle is more likely to be severely injured than a car occupant however, we are attempting to quantify this in terms of the risk of a claim arising, so the insured risk is made clear.

What we can see in the available data, is that the bulk of CTP claims by motorcycle riders and pillioners are against other road users. What we are attempting to discover, is the actual CTP claims risk against the motorcycle CTP insurance.

We certainly acknowledge that some claims by motorcycle riders are very high indeed and that there will be injured riders who are unable to make a claim because the CTP system is based on the at-fault principle. There is some doubt as to whether motorcycle riders are paying for a risk that is not real.

There has, on occasion, been an air of hysteria in discussions relating to motorcyclists' injuries. We are concerned that this has been used to distract from the actual facts.

Claim frequencies by motorcycle riders are much lower than for other vehicle occupants. The bulk of claims by riders are against other vehicles. Are motorcyclists subsidising the CTP scheme insurers simply because they ride a motorcycle, or are the premiums actually fair and reasonable?

It may be a simpler process and provide a cross-check, to ask the questions the other way around and ask "where did the money go?" To obtain a historically accurate view, rather than a guess towards the future based on actuarial calculations, which are based on certain assumptions.

By looking at the past history of motorcycle CTP claims, we may obtain a less confusing and quite accurate view. This enables a reasonably accurate view of claims that may have been spread over a number of years.

QUESTION 9:

What was the total amount of money collected per year as motorcycle CTP premiums for each of the years of the current CTP Scheme?

QUESTION 10:

What was the total amount of money paid out per year in claims against the motorcycle CTP for each of the years of the current CTP Scheme?

If it is possible, could the MAA produce a series of tables and associated graphs to illustrate their answers to these questions of "Where did the money go?"

Requesting the amount charged per individual motorcycle Greenslip is likely to be rejected as commercial-in-confidence, but the aggregated, total amounts of money collected in respect of the NSW CTP Scheme must be available to the Law and Justice Committee so they may exercise their functions and obtain a view of fairness of the Scheme.

We are asking the Committee to use strenuous effort if necessary, to obtain this data. Our past efforts to obtain this data have failed and there is now a perception that the commercial facts have been moved out of view.

The data arising from accurate answers to these two questions, when combined with the annual NSW registration numbers of motorcycles for the years of the current CTP scheme, will provide an approximate and broad historical view of the fairness of premiums for motorcycles.

The average motorcycle CTP premium cost and numbers of motorcycle CTP policies written must be obtained from each CTP Scheme insurer so that the total of motorcycle owner contributions may be determined. This provides a view of the total size of the motorcycle CTP funds pool.

This total may then be compared to the amounts of money leaving the motorcycle CTP funds pool, in respect of claims against the motorcycle CTP.

Additional amounts leaving this pool will be for legal and administrative costs and insurer profit.

QUESTION 11:

Exactly how does the MAA establish the premium relativity for a motorcycle?

Section 2 Highly variable CTP quotes

QUESTION 12:

Why do motorcycle CTP quotes from the same company vary so wildly from year to year?

Riders have become aware that quotes provided as a renewal, posted to the owner at around the time for renewal of registration, often bear no commercial relationship to the previous years premium cost.

It has been regarded as a sort of "Reader's Digest" method of marketing, of assuming that the simple convenience of providing an inflated quote will induce a number of owners to simply pay the Greenslip with no shopping around.

The size of the variance means that most riders will shop around.

We have noticed a few features of this process that may be of particular interest with regard to the *MAA Premium Determination Guidelines* Section 3.8 "Unearned Premium Surplus".

QUESTION 13:

The *MAA Premium Determination Guidelines* require a Premium Filing Report by an insurer to include "it's own and industry experience" in determining premiums. If the MAA is regulating CTP pricing, why do the various insurers vary so much in their premiums each year?

The insurance premium is for the same level of coverage for motorcycles under the statutory requirements of the NSW CTP scheme. Or is it not?

It appears to motorcycle riders, that the various insurance companies "take turns" at providing the lowest Greenslip price each year. This makes no apparent sense, when the claims experience of all insurers is properly taken into account and an industry wide view of the risks is available. It could make sense if the MAA does not permit such an industry-wide view by limiting information release, or failing to collect it, as an unknown risk will attract a higher premium.

It is difficult to divine any advantage to the insurers in pricing themselves out of the market, unless they are aware that most individuals do not understand the need to shop around each year and are taking advantage of ignorance of the public. For a Statutory scheme requiring a compulsory purchase, this exposes many to market forces that may not be appropriate.

If there was some other advantage to the insurers it would be more readily understood, such as the ability to hide profits from the MAA under some guise. This could certainly help explain the year to year variations in premiums from the same company, but that would also require that we have concluded there is a level of dishonesty of failing to disclose something and we are not suggesting any impropriety here. It is just difficult to understand and we are seeking the help of this Committee.

We would be delighted if the Law and Justice Committee is able to shed some light on the features of the marketplace for motorcycle CTP policies.

The observed history of insurance companies "taking turns" at the motorcycle CTP market has lead to a view that the lower cost available reflects the real cost of premiums and that inflated quotes are probably just attempts to trap the unaware within a captive market. A bit like the tow truck industry. This view is particularly prevalent amongst Sydney metropolitan motorcycle owners.

Are these variations in pricing able to be explained in any reasonable manner? The differences simply look like unprofessional conduct by the insurers. We are in possession of several letters from motorcycle owners expressing this view.

MCIS Levies

At the introduction of the Lifetime Care and Support Act, motorcycle riders noticed an amount noted as "MCIS Levies" appeared on their CTP policy certificate.

In efforts to divine the exact nature and amounts of the various levies incorporated into this convenient heading, the only responses have been to provide unreliable information in respect of the Lifetime Care and Support Scheme.

QUESTION 14:

What are the exact amounts and the exact nature of any levies, other than LTCS levies, now incorporated under the heading of "MCIS Levies" on motorcycle CTP Certificates? i.e. exactly what are the purchasers of Greenslips actually paying for?

QUESTION 15:

What guidelines for the costs these non-LTCS amounts does the MAA provide? Can the Law and Justice Committee please ensure this information is made public?

There is little useful information available from the MAA website. Insurance companies have failed to provide clear or accurate answers, leading to doubts as to their honesty.

QUESTION 17:

What guidelines for the cost of LTCS levies are currently applicable?

The Act provides for a range of possibilities, but administrative practice of the MAA remains a mystery.

We have been previously advised by way of publications from the MAA and in a meeting with the Chief Executive of the MAA, Mr. David Bowen, in addition to Ministerial declarations recorded in Hansard, that the cost of the LTCS levy would be an average of \$20 per annum per CTP Greenslip and not vary in accordance with vehicle class or rating zone. That the LTCS levy would be applied as a blanket levy across all classes of vehicle.

Judging by the amounts of MCIS Levies on currently issued Greenslips, there must be an awful lot of people paying very, very little for the LTCS levy in order to achieve a \$20 average.

We are receiving a steady stream of correspondence from our members advising us that this is not true and that there is some other methodology being employed in the calculation of LTCS and other MCIS levies.

One of the more interesting pieces of correspondence is from Mr. David Bowen, General Manager of the MAA, under MAA Ref: 07/227;A50561, in which he states the following:

"The LTCS component of the levy is set as a percentage of Green Slip premiums and varies by vehicle class and rating zone, depending on the frequency of catastrophic injuries in those zones and vehicle classes. For example, from 1 April 2007 the LTCS component of the levy for passenger vehicles in the Outer Metropolitan zone will be 29.8% of the premium. For large motorcycles, it will be 38.9% of the premium, reflecting the higher incidence of catastrophic claims for motorcycles compared to passenger vehicles"

This has no relation to what he or the MAA have previously advised the Motorcycle Council of NSW.

What is of concern in this statement is the phrase *"reflecting the higher incidence of catastrophic claims for motorcycles compared to passenger vehicles"*.

This appears to indicate that Mr. Bowen holds a belief that it is motorcycles that cause the claims. This subject was dealt with in the earlier questions about claim frequency against the motorcycle CTP.

What we are asking the Law and Justice Committee to ascertain with certainty is that it is motorcycle riders and pillioners who claim against the other vehicle in the majority of cases, which would indicate that the claims are caused by cars and other vehicles.

To hold the reverse view here, requires a prejudiced view; that the motorcycle rider is to blame for the injury resulting in a claim because they were riding a motorcycle. In the same manner, a bicycle rider or pedestrian would be blamed for their injuries because they were not driving a car.

Data obtained in the earlier questions will resolve this, as long as the data is actually used to determine the commercial costs of claims against the motorcycle CTP and hence the relativity to a Class 1 vehicle.

It is our view that blaming motorcycles for the injuries caused to them by other vehicles is reprehensible.

I will leave you to devise your own questions of Mr. Bowen.

QUESTION 18**Why is this process fraught with half truths and guesswork?**

There is clearly a massive failure in communicating to motorcycle owners, exactly what they are paying for. Nobody appears to know what the correct and fair rate is for the various levies.

QUESTION 19:**Why do the MCIS levies charged to purchasers of motorcycle CTP policies vary so wildly?**

If there are statutory levies required to fund the various schemes collected under the heading of "MCIS Levies" then please state what these are, clearly.

I will provide a few examples to illustrate the dilemma faced by motorcycle riders in understanding the premium increases for their Compulsory insurance.

Firstly, the correspondence from Mr. Bowen is the only information available to riders as to the possible structure of the MCIS levies.

Inspecting CTP Certificates of riders, Sydney metropolitan riders are now generally being charged MCIS levies at 48% of the Premium, as are riders from Woolongong, Maitland, Central Coast and further afield.

However I have before me, CTP Certificates supplied by riders, showing that at Noraville on the Central Coast MCIS Levies are charged at 46%, while in Armidale, MCIS levies are at 53% for a 650cc and 49% for the same owners 250cc. A 200cc scooter in Waterloo is charged 49%, a 1000cc from Bega 53%, a 250cc from Murrumbateman 49%, a 1000cc from Mangrove Mountain at 46% and a 1200cc from Rothbury in the Hunter Valley at 53%. Oh yes, the list continues, 44% at Korora, 46% at Drummoyn and more.

The dollar amounts for MCIS Levies vary from \$38.74 in Murrumbateman, and \$53.21 in Waterloo to \$211.75 in Ryde.

Can we have some clarity on the lack of consistency for a start?

Earlier this year, riders were paying MCIS levies of around 14-15% of the Premium.

In most cases, renewal notices for this year, from their previous years CTP insurer, shows an increase in the Premium, of up to \$200, before the MCIS levies are added. This sort of increase cannot be regarded as fair unless there is a sound basis.

Whatever happened to the \$20-on-every-vehicle promise for LTCS? The increases in MCIS levies are dramatically larger than \$20. Why?

With a fleet of around 4.2 million registered vehicles in NSW, a \$20 levy produces around \$84million. To achieve the \$90 million initial annual funding for the LTCS Scheme as stated in Hansard, means a \$2 price rise from \$20 to \$22.

We are concerned that the MAA is not fully in control of this new scheme, the relativities, or the insurance companies providing CTP for motorcycles in NSW.

We look to the Standing Committee on Law and Justice to help resolve these matters.

If we are able to assist in other ways with this submission, please contact Guy Stanford from the Motorcycle Council of NSW on 0417 661 827.