

**Submission
No 3**

**INQUIRY INTO 2018 REVIEW OF THE COMPULSORY
THIRD PARTY INSURANCE SCHEME**

Organisation: Suncorp Group

Date Received: 14 June 2018

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The Hon Natalie Ward MLC
Chair
Standing Committee on Law and Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000
By email: law@parliament.nsw.gov.au

2018 Review of the Compulsory Third Party insurance scheme

Suncorp welcomes the opportunity to participate in the *2018 review of the Compulsory Third Party (CTP) insurance scheme* (the Review). Suncorp provides CTP insurance in New South Wales, predominantly through its GIO and AAMI brands, and has approximately 1.3 million customers.

As the Committee would be aware, the former *Motor Accident Compensation Act 1999 (MACA scheme)* was replaced with the *Motor Accident Injuries Act 2017 (MAIA scheme)* from 1 December 2017. Suncorp acknowledges the significant achievement of carrying out this reform by all parties involved, particularly Minister the Hon. Victor Dominello MP, and members of Parliament, who oversaw its passage into law.

At the outset, we emphasise to the Committee how critical it is for the MAIA scheme to now be given time to stabilise following the reforms. CTP insurance is a 'long tail' insurance scheme, meaning time is needed for claims to be resolved, and for the reforms to settle. This is essential before the effects for customers can be fully realised. Any major changes to the scheme in the near term could have a detrimental impact on customers and the performance of the scheme.

The relatively short time period since the establishment of the MAIA scheme means there is an insufficient evidence base to draw conclusions from, however we consider that changes to the claim process are having an overall positive impact on customer experience and competition within the scheme.

Suncorp's key observations for the Committee include:

- the expansion of no-fault cover and statutory benefits is positive, but the opportunity exists to consider further expanding this from six months to five years, after a period of stabilisation;
- the durability of the minor injury threshold is yet to be tested, which has the potential to significantly increase claims costs, fraud and subsequently put upward pressure on premiums. We have concerns about the numbers of legally-represented claims from low-impact collisions with no visible signs of injury – a pattern that the New South Wales Police Task Force *Ravens* identified as potentially indicating unmeritorious claims.

Customer experience and no fault cover

The MAIA scheme has brought some welcome changes to the experience of Suncorp customers. The new scheme represents a significant (albeit incremental) shift away from an adversarial,

compensation-focused system to one focused on recovery outcomes for all those injured on our roads.

The ability of insurers to have direct access to claimants during the initial statutory benefits phase of the claim is unquestionably positive. It reduces delays in the provision of treatment and return-to-work assistance¹ that generally occur when all communication is conducted via a third party (i.e. a legal representative). This feature of the reform has contributed to the reduction of the average time for the initial claim's lodgement from six days to 24 hours, and increased the ability of insurers to provide clear information, explanation, and guidance to injured people.

The shift from lump-sum compensation to the provision of statutory benefits is improving the immediacy of treatment. We expect this to result in better recovery outcomes and to increase the proportion of every dollar in premiums that directly benefits the injured.

The contact between injured customers and the New South Wales State Insurance Regulatory Authority (SIRA), through *CTP Assist*, is a positive development providing claimants with information and a level of comfort about their options. Anecdotally, claimants are more aware of the claim process and their options regarding Internal Reviews and External Dispute Resolution.

People who are seriously injured and unable to attribute blame to another driver (at-fault) will regrettably have all benefits cease after six months. This will result in significant hardship for many people who often make minor, everyday errors of judgement or are the victims of circumstance. The Committee should note that people in remote and regional areas are disproportionately impacted due to the number of high-speed single-vehicle accidents (due to factors such as road conditions, fatigue and wildlife) that frequently cause serious injuries to the driver.

Although an improvement on the MACA scheme, the MAIA scheme substantially limits the proportion of scheme claim costs for those with serious injuries by restricting no-fault benefits to six months. We would encourage ongoing assessment and monitoring of injured people after their statutory benefits cease – specifically at-fault drivers with moderate and serious injuries. This would enable government to understand the extent of the hardship experienced and what outcomes occur when the no-fault statutory benefits period is limited to six months.

Recommendation 1: SIRA should:

- i. include at-fault injured people under its reporting framework to monitor the circumstances of this class of injured from when their benefits cease after six months of injury, and*
- ii. report outcomes to government for at-fault injured each year for five years.*

Minor injury test

Suncorp has concerns about the effectiveness of the minor injury test as a mechanism to limit fraud and claims exaggeration, contain scheme costs (including legal costs) and increase the proportion of funds directed to those injured who need it most.

Initial evidence indicates that a higher than anticipated proportion of customers who are receiving statutory benefits have legal representation (~20-25 per cent across the scheme). This proportion has steadily increased since the MAIA scheme's inception. Suncorp data reveals May 2018 had the highest proportion of represented statutory claims at 27 per cent, up from 25 per cent and 20 per cent in April and February 2018 respectively.

¹ A potential issue exists regarding treating doctors certifying claimants as "unfit for work" when they may have some work capacity. This restricts an insurer's ability to actively support a rapid return to work.

This high and increasing proportion of legally represented claimants receiving statutory benefits raises concerns that plaintiff law firms are 'gearing up' to test the boundaries of the minor injury test (for both physical and psychological injuries).

SIRA amended the guidelines on 30 April 2018 to require that insurers provide copies of correspondence to the legal representatives of claimants receiving statutory benefits.

It is appropriate that claimants with serious injuries have legal representation. However, Suncorp is concerned about enabling a further increase in the proportion of legally-represented claims from low-impact collisions with no visible injuries (which are potential indicators of unmeritorious claims).

This has the potential, contrary to the intention of the MAIA scheme reform, to direct lump-sum payments (minus the proportion diverted to legal representatives) to claimants with non-serious injuries from which they fully recover. If this eventuates, it will challenge the assumptions upon which the CTP premium reductions have been based, reduce the proportion directed to those with serious injuries, and potentially provide an incentive for fraudulent and exaggerated claims.

As demonstrated in the modelling conducted for the proposed CTP reform in the Australian Capital Territory, providing no-fault cover and statutory benefits for five years in conjunction with a 10 per cent Whole Person Impairment (WPI) threshold for common law claims extends benefits, improves efficiency and substantially reduces premiums (see Appendix A). If similar reforms were introduced in New South Wales, similar benefits would be realised.

Recommendation 2: The Parliament should confirm a definition of minor injury to avoid any weakening through common law claims

Risk and profit mechanisms

Recent reforms to the New South Wales CTP scheme include the Risk Equalisation Mechanism (REM) and the Profit Normalisation mechanism.

The positive impacts of the REM are that competition between insurers has increased in certain market segments (such as young drivers and older vehicles) and the incentive for insurers to only capture less risky segments of the market (specifically new vehicles) has been reduced. The REM structure is complex, however, and could be simplified as the MAIA scheme's claims data matures, without impacting the desired outcomes.

It is too early to assess the impact of the Profit Normalisation (PN) mechanism. The effect will become more apparent after three years.

Suncorp considers the PN incentives for innovation to be inadequately defined by SIRA. As an example, in early 2018, AAMI and GIO sought to introduce a vehicle recognition feature to their websites as an innovation to speed up online customer quotes, deliver a better customer experience, and improve data quality.

Suncorp has received little guidance whether innovation such as this would be acknowledged under the PN mechanism. Suncorp encourages the Committee to consider how innovation can be realised with more certainty to encourage and reward investment by insurers.

Recommendation 3: SIRA to provide a clearer definition of 'innovation' to insurers so investment is recognised and encouraged

Reporting obligations

SIRA requires that insurers provide MAIA claims data in 'real time'. Commencing 18 April 2018, insurers are now required to submit data three times a day, up from monthly reporting under the MACA scheme. It is unclear how submitting data multiple times a day delivers customer benefits or improves performance of the scheme.

The timeframes for insurers to correct data errors and exceptions are onerous and administratively demanding. To illustrate, if a claimant has not provided their date of birth, this is reported as an error. The insurer has 24 hours to correct this, diverting claims managers from other tasks, as they urgently seek these details. If, by mid afternoon, they don't have the information, a member of Suncorp's Regulatory Submissions team must email SIRA to request a suppression or extension, otherwise a breach will be recorded against Suncorp. The cumulative impact of this administrative requirement is significant.

Suncorp supports the collection of comprehensive and timely CTP data. A sensible balance is necessary to ensure the timely provision of data in an efficient manner.

Recommendation 4: The time limits for claims reporting and data exceptions be reviewed to ensure an appropriate balance between timeliness and compliance burdens

Conclusion

Although the Review is too early to make definite observations of all the MAIA scheme features, the expansion of no-fault cover and statutory benefits is unquestionably positive. The Review should consider the opportunity to further expand no-fault cover from six months to five years, to improve the fairness, efficiency, and sustainability of the scheme (see Appendix A).

It is important that the Committee recognises the consequences if the minor injury threshold is weakened or does not perform as intended. This has the potential to unwind cost assumptions, increase fraud, and apply upward pressure on premiums. The scheme's profit normalisation measures, intended to encourage innovation, need greater clarity so investment can be better directed in support of New South Wales CTP customers.

Suncorp thanks the Committee for its interest in the New South Wales CTP reform and welcomes the opportunity to appear before the Committee at the hearing on 23 July 2018.

Should you wish to discuss any of the points raised in this submission, please contact Brendan Bolton, Senior Advisor, Government, Industry and Public Policy on [redacted] or [redacted]

Yours faithfully

Chris McHugh
Executive General Manager
Personal Injury Portfolio and Products

Appendix A:

ACT CTP Reform – extending coverage and lowering premiums

In October 2017, the ACT Government commissioned a citizens' jury process to examine the ACT Compulsory Third Party (CTP) insurance scheme. The jury provided broad requirements and four models were developed by a Stakeholder Reference Group (SRG), which included representatives from insurers and legal providers. Suncorp was part of the SRG.

The four models were structured by Finity and costed by EY.

The result demonstrated that providing statutory benefits to injured people, instead of lump sums (through an adversarial common law process), allows both a generous expansion of no-fault coverage and a significant reduction in premiums.

No-fault cover increases the number of injured people covered by approximately 67 per cent (between 900 to 1500 people per year). Defined benefits in models C and D include quality of life payments to all injured people with a WPI of 5 per cent or more.

Model	Period of no-fault statutory benefits	Premium: mid point (range)	Statutory quality of life payments	Common law access (not at-fault people only)
Current	Nil	\$556	NA	Unlimited
A	6 months	\$535 (\$510 - \$560)	Nil	Unlimited. \$500k limit for General Damages
B	12 months	\$510 (\$480 - \$540)	Nil	Unlimited. \$500k max for General Damages with ISV scale
C	2-5 years	\$475 (\$440 - \$510)	Up to \$350k. 5% WPI threshold	Unlimited. 10% WPI threshold for General Damages with \$500 max
D	5 years	\$425 (\$385 - \$465)	Up to \$350k. 5% WPI threshold	10% WPI threshold for all common law claims

In March 2018, the Citizens' Jury selected **Model D**.

Model D provides five years of cover for all injured people and quality of life payments (scaled) for all those with 5% Whole Person Impairment (WPI) or more (around 42 per cent of claims).

It will reduce premiums by **approximately 24 per cent** (from \$556 to \$425), potentially by as much as **31 per cent** (to \$385).

This modeling strongly indicates that extending no-fault statutory benefits to people injured on NSW roads would both expand coverage and reduce premiums. It would increase efficiency and fairness.

ACT Citizens' Jury reports and modelling: <https://yoursay.act.gov.au/ctp>

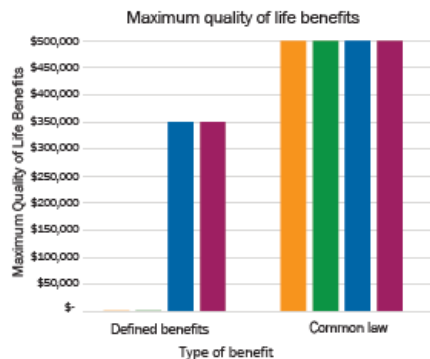
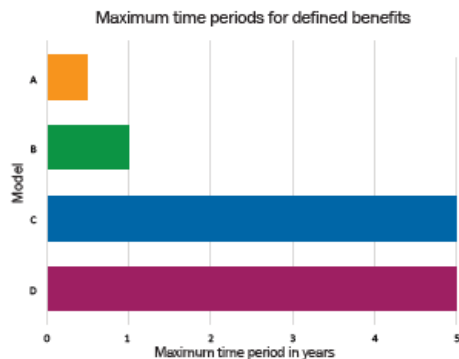
CTP CITIZENS' JURY— MODELS

Models A+B: Some benefits for everyone and access to common law compensation for those injured by the negligence of someone else.

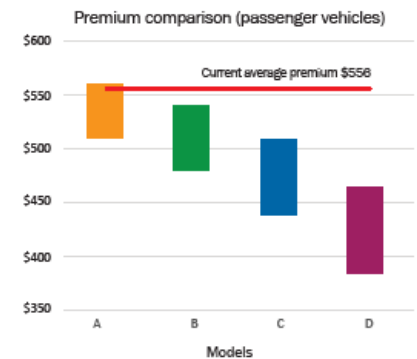
Models C+D: Greater benefits for everyone and access to common law compensation for those who are more seriously injured by the negligence of someone else.

	MODEL A		MODEL B		MODEL C		MODEL D	
	DEFINED BENEFITS	COMMON LAW BENEFITS	DEFINED BENEFITS	COMMON LAW BENEFITS	DEFINED BENEFITS	COMMON LAW BENEFITS	DEFINED BENEFITS	COMMON LAW BENEFITS
	Treatment up to 6 months	Treatment longer term	Treatment up to 12 months	Treatment longer term	Treatment up to 5 years	Treatment longer term	Treatment up to 5 years	Treatment longer term Only if at least 10% WPI
	Care up to 6 months Paid care only	Care longer term including gratuitous care	Care up to 12 months Paid care only	Care longer term including gratuitous care based on 6/6 rule	Care up to 5 years Paid care only	Care longer term including gratuitous care based on 6/6 rule at minimum wage	Care up to 5 years Paid care only	Care longer term Only if at least 10% WPI. No gratuitous care. Paid care only.
	Income up to 6 months 95% for 3 months, then 80%. Low income adjustment	Income longer term	Income up to 12 months 95% for 3 months, then 80%. Low income adjustment	Income longer term First 12 months limited to defined benefit amount	Income up to 5 years 95% for 3 months, then 80% up to 2 yrs or up to 5 yrs if at least 10% WPI. Low income adjustment	Income longer term First 12 months limited to defined benefit amount	Income up to 5 years 95% for 3 months, then 80%. Low income adjustment	Income longer term First 12 months limited to defined benefit amount. 5 yr limit if less than 10% WPI
	Death benefit Funeral up to \$15,000	Death benefit Funeral costs plus dependant claim	Death benefit Funeral up to \$15,000 plus dependant support up to \$50,000	Death benefit Funeral costs plus dependant claim	Death benefit Funeral up to \$15,000 plus dependant support up to \$250,000	Death benefit Funeral costs plus dependant claim	Death benefit Funeral up to \$15,000 plus dependant support up to \$350,000	Death benefit Funeral costs plus dependant claim
	Quality of life benefit unavailable	Quality of life benefit up to \$500,000 Use ISV scale for amount	Quality of life benefit unavailable	Quality of life benefit up to \$500,000 Use ISV scale for amount	Quality of life benefit up to \$350,000 Only if at least 5% WPI	Quality of life benefit up to \$500,000 Only if at least 10% WPI and use WPI scale	Quality of life benefit up to \$350,000 Only if at least 5% WPI	Quality of life benefit up to \$500,000 Only if at least 10% WPI and use WPI scale
	PREMIUM COST RANGE: \$510 to \$560		PREMIUM COST RANGE: \$480 to \$540		PREMIUM COST RANGE: \$440 to \$510		PREMIUM COST RANGE: \$385 to \$465	

COMPARE THE TRADE-OFFS



- Access to common law for those injured through someone else's negligence
- Model A:** Access available to common law regardless of injury severity
 - Model B:** Access available to common law regardless of injury severity
 - Model C:** Injury severity threshold of 10% WPI to access quality of life benefits. No threshold for other benefits
 - Model D:** Injury severity threshold of 10% WPI to access all benefits



Notes: In all models, a person with a common law claim can be paid defined benefits for longer. Model C has a threshold of 10% WPI for income benefits between 2 and 5 years.

This summary does not include all the detail and should be read in conjunction with the Finity Report on Model Designs.