

Mr Neil Singleton
Insurance Commissioner
Motor Accident Insurance Commission
GPO Box 2203
BRISBANE QLD 4001

16 September 2016

Dear Mr Singleton

RE: CTP SCHEME REVIEW

I write on behalf of Taxi Council Queensland (“TCQ”) in relation to the *Discussion Paper: A review of Queensland’s Compulsory Third Party Insurance Scheme*.

TCQ has long advocated for substantial reforms with respect to the scheme in order to bring about a greater level of affordability for operators of taxis and equity compared to other road users.

The following submission seeks to answer the questions set out throughout the discussion paper as clearly and succinctly as possible in order to inform the CTP Scheme Review Team.

Before addressing the specific questions however it is timely that this review is underway given the Queensland Government’s proposed reforms to passenger transport¹.

Specifically, with rideshare having been removed as an offence as a result of changes to the *Transport Operations (Passenger Transport) Regulation 2005*, there is now an increased number of vehicles operating as passenger transport. In order to ensure that community safety and the viability of the CTP scheme is not compromised all passenger transport should be profiled as existing taxis and placed into Class 3. The reason for this is that, in the absence of any claims data on this new passenger transport, reference can only be made to existing claims data on other services that operate on-demand 24/7, that is, taxis.

While TCQ understands that this is not determined by the Motor Accident Insurance Commission (“MAIC”), it would be appropriate, as part of the CTP Scheme Review to strongly suggest that the licensing and registration branch of the Department of Transport and Main Roads (“TMR”), that a new category of registration be formed to enable for claims data to be captured so that, over time, a fulsome analysis of the risk can be made. It is suggested that the current registration for a taxi be changed to be consistent with the Booked Hire / Taxi Driver Authorisation as set out in TMR’s *Queensland’s Personalised Transport Horizon: Five Year Strategic Plan for Personalised Transport Services 2016-2021*.

The following answers, where applicable, the questions posed in the discussion paper:

1. *Do the guiding principles as outlined represent an appropriate framework to underpin the Scheme? Do you have any comments on how they should be assessed?*

The guiding principles are an appropriate framework to underpin the Scheme. TCQ has no further comments on how they should be assessed.

* ¹ ‘passenger transport’ in this context excludes buses, trains, ferries and aircraft as they are assumed to have their own unique legislative frameworks

2. *Is the current Affordability Index still an appropriate benchmark for deciding when a scheme review needs to be undertaken? Do you have any suggestions of alternative approaches for assessing affordability?*

The Affordability Index is still an appropriate benchmark for deciding when a review needs to be undertaken. TCQ offers no alternative for assessing affordability.

3. *On balance, which underwriting model do you believe best meets the guiding principles and why?*

The Risk Pool model may be a way to accommodate the proposed changes to passenger transport in Queensland. As noted above, until sufficient new claims data has been collected over time, all passenger transport vehicles must be assumed to have the same risk profile as existing taxis and placed into Class 3.

4. *Do you believe there is fair price competition in the current Scheme? If not, why not? What changes do you think need to be made to achieve fair price competition if this is seen as a desirable objective?*

TCQ does not believe there is fair price competition. There is incentive for insurers to price below the ceiling, especially when considering the switch rates. Competition in this space is not really a desirable objective especially given the "...The Queensland CTP Scheme is first and foremost beneficial legislation designed to protect injured people." (see 3.3 Fairness, p. 11)

5. *In your view, what are the main reasons why motorists do not actively switch CTP insurers? Are there any perceived costs and barriers to switching? Would more active switching lead to increased price competition between insurers?*

There is no effective competition with pricing and habit – too much effort is required for no perceived benefit. Time taken to switch is unlikely to reduce costs and therefore it is unlikely that switching would force change.

6. *Are there any other features of the current Vehicle Class Filing Model that need to be changed to improve the Scheme outcomes?*

There may be an opportunity to move from a community profile to a risk profile within a particular class. This would result in less experienced drivers, in less safe (older) vehicles to pay more for CTP insurance and cross-subsidise those vehicles using more experienced / better trained drivers in safer (newer) vehicles. New South Wales currently uses risk profiling within a class and MAIC may wish to consider something similar to create improved equity for passenger transport.

7. *Have the changes made to the Scheme in 2010 achieved their intent in ensuring that motorists are aware of their ability to choose their CTP insurer and exercise that choice in the market? Are further changes required, and if so, what?*

The 2010 changes have had little or no effect on CTP options in Class 3.

8. *Should CTP insurance be unbundled from vehicle registration? If not, why not? If yes, what would be the perceived benefits?*

There does not appear to be any compelling reasons for unbundling CTP insurance from vehicle registration. From a business perspective doing so would simply add more red tape to operating.

9. *Do you have any comments on the approach used to estimate the economic parameters? Are there alternatives that should be considered?*

TCQ does not have the expertise to comment on this particular issue.

10. *Does the current CTP Scheme create barriers to entry that are preventing or deterring new insurers from entering the market? If so, what do you perceive these to be and how should they be addressed?*

There is no incentive in the current scheme for new entrants, especially in Class 3. All players will price at or near the ceiling, effectively negating any competitive advantage, as this price point best reflects the perceived risk of insuring such a small class with a disproportionately large exposure.

11. *Should the approach used to determine the allowance for insurer profitability be amended and if so, in what way?*

Efforts by industries, such as taxis, to reduce frequency of claims by improving training and vehicle standards simply serve to create greater short-term profits for insurers. The reason for this is that the actuarial modelling is premised on long-tail trend data meaning that relativities move more slowly than the frequency of claims leading to greater profits for insurers. This mismatch would likely see insurers seeking no change in order to protect profitability at the expense of the industry and thereby the consumer. The approach needs to be amended to direct unreasonable profits for insurers back to industries and consumers.

12. *Should the MAI Act be amended to:*

a. *introduce a provision to remove the legal defence of inevitable accident?*

No, there needs to remain a valid defence where it would be inequitable to regulate away such a defence.

b. *allow children aged 16 years and under the ability to access compensation entitlements under the CTP Scheme even if he or she was at-fault?*

There should be equitable access to compensation irrespective of age or circumstance.

13. *Do you have any other comments in relation to Scheme coverage?*

No.

14. *Should Queensland legislate to require lawyers to disclose details of their fees and the final settlement received by the claimant after all expenses and statutory refunds have been paid? What are the potential implications?*

Yes. By improving transparency in the way that fees are being charged a proper analysis can be made of whether the amount claimed was appropriate for the loss or damage sustained or whether it may have been motivated by profiteering on behalf of legal representatives. The potential implications include a reduction in the size of claims over time as negotiated outcomes are sought rather than litigated outcomes. This in turn may lead to a reduction of premiums over time as administration costs trend downwards and the time to finalise claims reduces.

15. *What other options would improve the transparency of claimant and insurer legal costs under the Scheme?*

Reducing the quantum of claim size before seeking legal representation and using Government approved experts to assess injuries and damages. Where the minimum level of claim size before involving legal representatives is higher the result is simply to incentivize increased claims benefiting “no win, no fee” legal models.

16. *Should the role, structure and functions of MAIC be amended in any way, and if so, how and why?*

MAIC needs to have a greater influence over TMR's licensing and registration branch rather than simply being a slave to the registration process. Given the critical importance of CTP insurance and the stated primary objective of the CTP scheme (refer Question 4), MAIC should wield more influence on the designation of registration categories, albeit if this results in additional administrative burden.

17. *Should Queensland's Nominal Defendant (or 'insurer of last resort') Scheme be amended in any way and if so, how?*

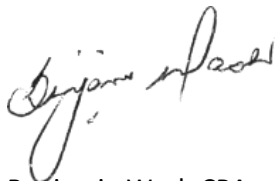
TCQ does not have the expertise to comment on this particular issue.

18. *Based on your experience with the Queensland CTP Scheme, do you have any other suggestions as to how the objectives of this scheme review could be achieved?*

The discussion paper outlines the concerning excess profits that have been earned in recent years by insurers participating in the CTP scheme. Other than addressing this trend and having regard to the opening comments and the answers provided, TCQ has no further suggestions as to how the objectives of this scheme review could be achieved.

Should you require any further information, or wish to discuss in person, please do not hesitate to contact me.

Yours faithfully



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