

Review of Queensland's Compulsory Third Party Insurance Scheme December 2016

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Committee Letter

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

Dear Mr Singleton

Review of Queensland's Compulsory Third Party Insurance Scheme

We are pleased to present to you our report on the review of Queensland's Compulsory Third Party Insurance Scheme.

The Committee would like to thank key stakeholders and interested parties for their engagement and contribution to this Review. The Committee received 54 submissions in response to its discussion paper which was publicly released on 22 August 2016. The Committee met with representatives from the insurance industry on numerous occasions as well as the legal profession, relevant Government departments, the Motor Accident Insurance Commission's (MAIC's) consulting actuary and interstate CTP scheme administrators. All stakeholders participated in good faith and were open and forthright in their interactions with the Committee thus ensuring topics were thoroughly canvassed and fully considered.

The affordability and stability of the current scheme was emphasised by the majority of stakeholders and some expressed caution in making significant changes to a scheme that is already seen to be working well. The Committee was mindful of the need to appropriately recognise the core strengths of the existing scheme. On that basis this report does not propose fundamental scheme reforms. However, the Committee does believe there is scope for improvement and the report outlines recommended changes to improve the affordability and efficiency of the current scheme.

In total the Committee makes nineteen recommendations that it believes have the capacity to maintain or further improve scheme experience.

The Committee believes MAIC could immediately adopt seven recommendations to improve scheme affordability and efficiency as well as a range of opportunities associated with consumer awareness, scheme monitoring and prudential supervision.

Five recommendations will, if adopted, require legislative change and/or IT system changes. These will require more detailed analysis and consultation by MAIC and therefore a longer time frame for delivery should these recommendations be considered further.

Seven recommendations endorse retention of existing scheme features to preserve the overall stability and performance of the scheme. While no action is recommended now, these aspects warrant ongoing monitoring in case scheme circumstances or performance change.

The Committee is confident that the recommendations will ensure Queensland road users continue to enjoy one of the most affordable, efficient and fair CTP schemes in Australia that remains sufficiently flexible to deal with future needs.

Importantly, the immediate opportunities will deliver savings to motorists and can be implemented at no additional cost.

Finally, in commending this report to you, the Committee would like to thank those MAIC officers who in providing secretariat and other support throughout the review, performed well above what might reasonably have been expected of them. Their contribution was invaluable to the Committee.

Yours sincerely

PURPOSE AND SCOPE OF REVIEW

A review of Queensland's Compulsory Third Party (CTP) insurance scheme was announced in Parliament on 19 April 2016 by the Honourable Curtis Pitt MP, Treasurer, Minister for Aboriginal and Torres Strait Islander Partnerships and Minister for Sport with the introduction of the National Injury Insurance Scheme.

As per the Terms of Reference, the scope of the CTP Scheme review was to inquire into:

- A. Options to improve the efficiency and affordability of the Queensland CTP scheme for Queensland motorists (as premium paying funders of the scheme) and ensuring the scheme continues to deliver fair and timely compensation for injured people.
- B. Without limiting the scope of the above, the Review Committee is requested to -
- 1. Explore the relative merits of private or government (public) underwriting of the CTP scheme

a. For private underwriting identify and recommend any improvements that could be made in relation to insurer licensing or allowances for delivery costs, operating costs and profit margin and mechanisms to encourage and promote competition to the benefit of the average motorist

b. For government underwriting identify the respective costs, benefits and implications of adopting this model.

- 2. Examine whether existing CTP Scheme arrangements can be improved including:
 - a. vehicle class filing system
 - b. quarterly premium determination process

c. sales and distribution of CTP insurance via motor dealers and other entities

d. setting the existing Affordability Index at 45% of Average Weekly Earnings

e. insurer licensing and prudential supervision requirements having regard to the current APRA prudential supervision regime for general insurers

- f. MAIC functions.
- 3. Examine whether improvements in scheme coverage are warranted having regard to ensuring the scheme remains contemporary, fair and affordable in providing benefits to people injured in road crashes.
- 4. Explore mechanisms to provide transparency of claimant and insurer legal costs, including solicitor and barrister costs, disbursements and administration charges, to enable better monitoring of scheme efficiency.

A discussion paper was released on 22 August 2016 to canvass stakeholder and community feedback on whether the scheme was meeting its objectives or whether reforms to the scheme were required.

The review did not include:

Opportunities for Personalised Transport

This issue is being considered separately by the Motor Accident Insurance Commission (MAIC) as part of the Department of Transport and Main Roads' (DTMR's) *Queensland's Personalised Transport Horizon – Five Year Strategic Plan for Personalised Transport.*

Claimant Benefits

The Committee has not explored in any detail options for the reform of claimant benefits. As outlined in the discussion paper and reiterated by many submissions, the Queensland CTP scheme is seen as operating in a fair manner. This is evidenced by stable claims cost, very limited evidence of fraud and generally positive claimant satisfaction with the scheme. One submission did suggest that there may have been value in looking at low severity claims less than \$100,000. However there was no substantive evidence to support any change.

National Injury Insurance Scheme Queensland (NIISQ)

The NIISQ commenced on 1 July 2016. Given the comprehensive review undertaken as part of the legislative process, including consideration by a Parliamentary Committee, it was not necessary for the Committee to consider any aspect of the NIISQ.



EXECUTIVE SUMMARY

In approaching this review, the Committee was aware of the need to ensure that regulation remains appropriately targeted to the issue or problem that it is intended to address. In particular, any proposals for change that would increase the level of regulatory intervention by Government in a market need to be in response to an identified source of market failure. This requires an evidence-based approach, having regard to the benefits, costs and risks of the proposed change and consideration of the intended and unintended consequences. The Committee has sought to apply this approach in this Review.

In conducting this review, the Committee released a discussion paper and consulted widely with stakeholders. What was most notable from the feedback received was the majority of respondents highlighted the strength and good health of the scheme.

As per the Terms of Reference, the risks and benefits of private and public underwriting models were explored by the Committee. Public underwriting was identified as a viable solution, but was not the Committee's preferred solution. The Committee found that the potential benefits of private underwriting remain attractive, although not necessarily present in the Queensland scheme. The Committee recommends that Queensland retain private underwriting, noting the need to pursue a number of other recommendations to achieve greater efficiencies.

Market dynamics were closely scrutinised to identify areas for improvement. It was noted that the Queensland scheme has in recent times been quite profitable for insurers, and the absence of new insurer entrants is unexpected. Consideration was given to what actual or perceived barriers to entry could be deterring new insurers. Feedback suggested that the motor dealer channel has proven to be a barrier to entry however further investigation showed some insurers had made inroads in this channel. The Committee was not presented with adequate information to identify a market failure that required addressing and no actions are recommended.

The persistent filing of premiums at or close to the upper limit in a healthy scheme leads to considerations around why the Queensland scheme lacks competition. Insurer input asserted that the various incentives offered with CTP provides evidence of competition. Given the lack of evidence of market failure in the motor dealer channel and the absence of price competition, the Committee recognised a different strategy was required to encourage price competition. The Committee recommends some form of limited risk rating be explored further with stakeholders to determine whether this would generate price competition and lead to more affordable premiums for motorists.

The Committee notes the need for reasonable profits to attract insurers to the scheme, however persistent insurer profits was identified as an issue that requires immediate action. Consideration was given to a profit clawback mechanism to target future excess profits. While this method provided some benefits, these were outweighed by the challenges in implementation.

Consideration was also given to adjusting the premium setting methodology to target excess future profitability, and some scope was identified to adjust the assumptions used to set premiums. While not being prescriptive, the Committee does recommend immediate action be taken to address future high insurer profits.

A number of opportunities on how the delivery of the scheme could be improved were presented during the course of stakeholder engagement. The bundling of CTP with registration, the motorist's ability to change insurer and the current CTP renewal process were investigated. Potential efficiency gains were identified with moving more of the renewal process online and improving consumer awareness of choice of CTP insurer. The Committee considered further change however this risked complicating current processes to the detriment of motorists.

The majority of respondents highlighted the strength and good health of the scheme.

It is important for the scheme regulator to have the ability to accurately and consistently assess scheme performance, and the Committee considered how best this could be achieved and the merit behind the current benchmarks. While the Affordability Index provides a review trigger, the Committee challenges whether it provides an actual representation of what would be considered affordable.

On this basis, it is recommended the Affordability Index and measures relating to average weekly earnings be removed from the legislation and that MAIC develop appropriate benchmarks to enable assessment of scheme health, particularly around affordability, efficiency and motorist and claimant satisfaction.

It is not recommended that these benchmarks be set in legislation, to allow MAIC scope to review the merits of these benchmarks as scheme conditions change, ensuring their ongoing relevance. The introduction of five yearly CTP scheme reviews in the legislation is considered prudent scheme management and provides assurance the scheme is responding to emerging opportunities.

Efficient use of the premium dollar is integral to a healthy CTP scheme and understanding where premium dollars are directed is important to measure this. Stakeholders from both the legal and insurance industries agreed there was an information gap that could be addressed through greater transparency of legal costs. The Committee consider that implementing a legal fee reporting model would address this gap and provide greater transparency of scheme efficiency. MAIC's role as scheme regulator involves ensuring the financial viability of the scheme's insurers. Areas of overlap were identified between MAIC and APRA's prudential supervision roles and the Committee recommend these be eliminated to ensure role boundaries are clear. It is noted that MAIC currently lacks sufficient powers to respond to compliance breaches therefore an amendment of the legislation to introduce an appropriate hierarchy of responses is recommended to address this.

Additional aspects of Queensland's CTP scheme were investigated however based on the evidence presented no further changes are recommended at this time. It is noted that the Nominal Defendant Scheme functions well and it provides the Queensland Government with a valuable insight into the CTP scheme. Areas of scheme coverage relating to the inevitable accident defence and allowing nofault claims for children were considered. While there was stakeholder support, the Committee found the potential risks to the scheme of moving away from the need to establish fault suggests these options should not be pursued at this time.

Finally, through the course of its deliberations the Committee identified a number of emerging opportunities that have the potential to greatly impact the CTP industry. While Queensland has already experienced the effects of some of these disruptions, continued technological advancements require the scheme to be capable of responding as further innovations reach the market. While no specific recommendations are made at this time, the Committee encourages MAIC to keep a watching brief on these issues.



RECOMMENDATIONS

The Committee recommends that:

	R1	A private underwriting model be retained, noting opportunities for improvements outlined in Recommendations 9 to 12.
Scheme	R2	A public underwriting model should be further examined in the event of significant adverse change in scheme circumstances.
design and delivery	R3	The community rating model and vehicle class filing system be retained.
	R4	MAIC further investigate limited risk rating to identify potential opportunities for improving price competition and affordability.
-0	R5	As a matter of priority, MAIC take action to address the issue of high insurer profits in the scheme.
	R6	The current CTP premium collection model be retained.
	R7	The CTP renewal process be moved online as soon as practicable noting the practical limitations associated with the current system.
	R8	Action be taken to improve consumer awareness of choice of CTP insurer both at renewal and when purchasing a vehicle.

The Committee recommends that:

Scheme performance	R9	To enhance governance, the <i>Motor Accident Insurance Act</i> 1994 be amended to require a review of the scheme at least every five years.
	R10	The <i>Motor Accident Insurance Act 1994</i> be amended to remove reference to the Affordability Index and Average Weekly Earnings (AWEs) as a measure of scheme affordability.
	R11	Appropriate benchmarks be developed to enable enhanced assessment of scheme performance particularly around issues of affordability, efficiency, and motorist and claimant satisfaction.
	R12	MAIC implement a legal fee reporting model to allow for greater transparency of scheme efficiency.

The Committee recommends that:

Scheme coverage and regulation	R13	Areas of overlap and lack of clarity in the current prudential supervision arrangements be eliminated.
	R14	The <i>Motor Accident Insurance Act</i> 1994 be amended to establish an appropriate hierarchy of regulatory responses to licence compliance breaches.
	R15	Insurer performance monitoring, benchmarking and reporting be strengthened.
	R16	Information on scheme trends and performance be made more readily available to all stakeholders.
	R17	The current Nominal Defendant scheme be retained.
	R18	The common law defence of inevitable accident be retained.
	R19	A no-fault cover for children not be introduced at this time.



SCHEME DESIGN AND DELIVERY

UNDERWRITING MODEL

Queensland is one of four Australian jurisdictions that have a privately underwritten CTP scheme. Insurer competition is often cited as a key benefit of privately underwritten schemes. Other potential benefits are that it offers consumers more choice, encourages greater innovation in service provision, drives cost efficiencies and ensures the financial risks are largely borne by private insurers rather than governments.

Given that some Australian jurisdictions do operate forms of publicly underwritten schemes, a key task for the Committee was to explore the relative merits of alternative underwriting models to see if greater benefit could be delivered to Queensland motorists. The Committee explored the risks and benefits of private versus public underwriting models as well as the option of a risk pool. To aid its analysis, the Committee commissioned advice from MAIC's consulting actuary to help understand the factors influencing private and public models and to better understand the expected deliverables of the private models. Using the October 2016 Class 1 CTP premium as a 'base', various ways were identified in which this premium could be reduced under either a publicly underwritten scheme or a more efficient privately underwritten scheme.



PRIVATE UNDERWRITING





Analysis and feedback

One of the key objectives underpinning the design of the current scheme was to stimulate price competition for the benefit of motorists. Under the vehicle class filing system, insurers determine and file their premiums for each of the 24 vehicle classes every three months within a regulated ceiling and floor premium band determined by MAIC having regard to an assessment of current and expected scheme performance and other factors. When the current scheme was first introduced in 2000, the expectation was that it would encourage more market participants and therefore sharpen premium offerings and provide other benefits for motorists as insurers competed for market share. Following its introduction, and through until around 2007-2008, the scheme experienced various levels of price competition, however since that time there has been little evidence of price competition.

Despite the opportunity for insurers to compete within a premium band that has typically been between \$40 and \$50 for a Class 1 vehicle, barring a few exceptions, insurers have mostly filed at or close to the regulated ceiling price. This lack of price competition, coupled with high levels of assessed profits for insurers indicates that the current premium setting regime is not working as well as it could be. Against this backdrop, the Committee has considered alternative models.

Risk pool

In its discussion paper, the Committee canvassed the option of a risk pool. Under this model the Government would assume the role of underwriter and all CTP premiums would be collected, pooled and reinsured in the private sector. Insurers and reinsurers wishing to participate in the pool would submit for a percentage of the pool on a policy year basis and receive profits and losses commensurate with their percentage share. This was previously considered in the 2010 scheme review and was not supported by stakeholders at that time.

There continues to be limited support for this concept, with only one submission in support of a risk pool. This respondent from the taxi industry supported the risk pool model on the basis it could potentially accommodate the current reform of personalised transport in Queensland.

On the other hand, one insurer who responded to this issue did not believe the risk pool model would deliver the best outcomes for motorists or insurers. It was submitted that risk pooling would sever the relationship between the insurer and consumer, inhibiting the insurer from providing further value to motorists in the form of bundling with other products. The Committee initially introduced the idea of risk pooling to ensure all possible options for delivery of the scheme were made available for discussion. However, as there was little support for this model the Committee did not obtain further actuarial input into this option.

Public underwriting

The Committee received a number of submissions that supported public underwriting either in theory or as the preferred model for Queensland's scheme. A private submission suggested that given the government is ultimately responsible for the risk (citing the government's requirement to assume responsibility for claim liabilities of an insurer collapse as justification for this), the government should run the scheme. Another respondent agreed that a government underwritten scheme would be capable of delivering on the guiding principles, however, this should only be considered in the event that a privately underwritten scheme fails to deliver the potential benefits.

Supporters of government underwriting suggest that public monopolies have increased capacity to identify fraud. This is because adverse behaviours may be easier to detect and remedy than in a private model where experience is divided over multiple insurers. There is also the potential to produce economies of scale and increased buying power in a single monopoly provider through the management of a single information system and the ability to coordinate all claims. It is suggested this would deliver reduced operating and claims expenses.

Furthermore, publicly underwritten schemes do not operate under the same requirements as private schemes in terms of Commonwealth regulation and capital requirements. While a publicly underwritten scheme does not offer motorists the capacity to choose or switch insurer, there may be instances where a publicly underwritten scheme is warranted.

The NIISQ is a recent example of a newly established publicly underwritten personal injury scheme where private insurers indicated a lack of appetite to underwrite the very long-tail liabilities. In such a case the rationale for public underwriting was both logical and necessary.

A key disadvantage of public underwriting is that the risks that are currently borne by private sector insurers are transferred to the State. A major risk of publicly underwritten schemes is ensuring it is adequately funded - that is, ensuring that the premiums collected are adequate to cover the costs of claims made on the scheme. This is because there is a financial risk to the state if premiums turn out to be too low. This in turn could have a material financial consequence for the State's balance sheet, including the State's credit rating. There are however oversight mechanisms for premium pricing that could be put in place to reduce this risk.

Private underwriting

The majority of submissions favoured the private underwriting model offering a number of supporting arguments and benefits. A recurring theme was that the private model gives motorists the freedom to actively select their insurer. In addition to consumer choice, insurers also highlighted the additional benefits made available to motorists through bundling of insurance products.

Private underwriting it was suggested also generates scheme competition which encourages innovation and delivers better outcomes for motorists. This leads to improved service standards and innovation in products, providing motorists with choice based on pricing, product, performance and customer services.

Consistent with submissions there is strong evidence suggesting brand management is a key driver that influences private insurers' actions. While private insurers may have a strong incentive to reduce claims costs, they also value their reputation and brand. Being perceived as unfair or harsh in their treatment of CTP claimants is an operational risk that can have implications for their brand. This pressure encourages insurers to self-moderate their own behaviour.

As noted in the discussion paper, a further rationale for private underwriting is that the assessment and management of risk is left in the hands of private organisations that have specialist skills, resources and expertise in structuring and delivering insurance products, as well as managing the consequent risks on their balance sheet. The private market is well placed to innovate and respond more quickly to changes in technology and consumer preferences.

Reductions in average costs can be realised in the CTP market by insurers writing insurance in other jurisdictions and for other lines of business. Three of the four insurers offering CTP cover in Queensland have a significant presence in other markets – both in related personal lines business and as participants in other Australian CTP schemes. Similarities in IT systems, distribution channels and other support functions may amount to significant cost savings. These would not be enjoyed by a publicly-underwritten scheme. MAIC's consulting actuary notes that there exists a large variation in disclosed claims handling expense between Queensland insurers with the nation-wide insurers experiencing lower filed claims handling expenses.

Public compared to private underwriting

As previously stated, a number of Australian State and Territory jurisdictions operate publicly underwritten CTP schemes. The Committee notes that these schemes operate at generally lower cost to privately underwritten schemes however the ability to make direct comparison of schemes is limited given the different scheme structures and extent of claimant benefits.

In looking at the history of CTP scheme structures across Australia it is notable that very few schemes transition between private and public underwriting. Aside from the South Australian scheme's recent transition from public to private underwriting in 2016 there has been no other transition in the past twenty five years. Provided schemes remain well managed in terms of affordability and efficiency, the rationale for change is not strong.

The limited history of fundamental change in scheme design is informative. Moving between private and public underwriting is not simple or straightforward and may have unintended risks and consequences. As such, given the opportunities to improve the current privately underwritten scheme identified in this review, implementation of such improvements is seen as a better course to follow.

Public Underwriting	Private Underwriting	
Risk is borne by the State	Risk is borne by private insurers	
No consumer choice of insurer	 Provides motorists with the capacity to choose or switch insurer 	
Potential to produce economies of scale and increased buying power	 Provides additional benefits to motorists through bundling of insurance products 	
Greater capacity to smooth volatility in premium pricing over time	 Delivers stronger drive for innovation in customer service and superior claims management 	
Does not operate under the same capital requirements or shareholder profit expectations	Requires a return on investment	

Conclusion: Underwriting Model

A well-managed public monopoly underwriting model and a competitive private underwriting model can both perform well and deliver effective and efficient CTP schemes for motorists. A publicly underwritten scheme could potentially deliver lower premiums for motorists but this would need to be weighed against the disadvantages of such a model and the increased financial risk to government and ultimately taxpayers. Transitioning from a private to a public scheme would be a fundamental shift which would need to be carefully managed to avoid any unintended consequences and increased costs.

Having regard to actuarial analysis and the feedback received during this review, the Committee acknowledges the merits of the arguments that support retention of a private underwriting model in Queensland. Despite the lack of price competition, Queensland's CTP scheme is stable and performing reasonably well and there is no 'crisis' to warrant such a fundamental change at the current time. Rather, the focus should be on improving the existing model to ensure the scheme delivers the benefits that should be expected from a privately underwritten scheme. The Committee has identified a number of improvements which, if implemented, should bring improved outcomes for motorists without reducing claimant benefits.

The Committee notes that a public model could deliver savings to motorists and be a viable alternative if scheme conditions were to deteriorate. Identified risks that would justify moving to a publicly underwritten model would be where insurers were unable to deliver affordable premiums or where a limited number of licensed insurers was not in the best interests of the scheme. The Committee believes the Nominal Defendant has the capability to step into the role of underwriter on behalf of the state should these circumstances eventuate.

RECOMMENDATION: UNDERWRITING MODEL

The Committee recommends that:

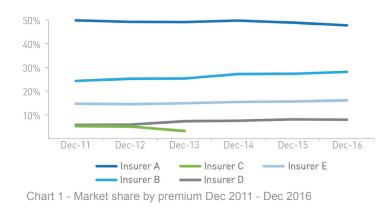
R1. A private underwriting model be retained, noting opportunities for improvement outlined in Recommendations 9 to 12.

R2. A public underwriting model should be further examined in the event of significant adverse change in scheme circumstances.



MARKET DYNAMICS

Queensland operates a stable CTP scheme that has provided persistent profits to insurers, however, as Chart 1 illustrates, there have been no new insurer entrants in the scheme since 1999 (and indeed one insurer exited the CTP market in this period). This suggests the existence of actual or perceived barriers to entry discouraging new insurer entrants and impeding competition. It is important to understand the nature and extent of any entry barriers in the scheme for two main reasons. First, it could cause limited price competition, as the threat of new entry should encourage insurers to more actively review their product offering, both in terms of price and non-price features. The second is that it is important to have a sufficient number of competitors in the market in order to maximise the benefits that a privately underwritten scheme can deliver to motorists.



There are a number of natural entry barriers into the insurance market. Insurers are in the business of assuming responsibilities for risks over which they tend to have limited control. Further, the failure of even a single insurer can have significant ramifications, not only for the customers of that insurer but the wider insurance and financial markets (as experienced following the HIH collapse). The Australian Prudential Regulation Authority (APRA) requires insurers to maintain significant capital requirements under Australia's prudential standards. These requirements are higher in CTP insurance given that there can be a long period of time between the lodgement and settlement of a claim.

Insurers must also be licensed under the *Motor Accident Insurance Act 1994 (*MAI Act). Only general insurers licensed by APRA may apply to MAIC for a CTP licence in order to underwrite CTP insurance in Queensland. Licensed insurers must comply with a range of legislative requirements including those set out in the Industry Deed. Insurers also need to obtain appropriate market share in order to establish and maintain a position in the market. The larger the size of the insurer's portfolio the lower the average risk profile as risk is diversified across a larger number of customers. However, an insurer also needs to be able to build and maintain a portfolio of risks that is financially sustainable and aligned with that insurer's risk appetite and commercial objectives. The ability of an insurer to sustainably operate in this market can therefore not necessarily be expressed only in terms of market share – it is likely to very much depend on the average risk of the portfolio. This is particularly important given the long tail nature of the scheme.

As previously noted, achieving this optimal risk profile is difficult for the insurer to control in a compulsory community rated scheme where the insurer is not allowed to refuse business. An insurer may have a limited ability to influence this by leveraging its existing customer base and targeting the 'better risks' via switching incentives.

A further factor that can deter entry as well as impact competition between incumbents, is access to the new motor dealer channel. This was identified as an issue in the previous review and was raised by a number of stakeholders in the consultation as a continuing issue for this review.

It is reasonable to expect that new cars are likely to present a more favourable risk profile to an insurer than older vehicles because of their superior safety features, such as collision avoidance systems and airbags, which can reduce both the likelihood and severity of motor vehicle accidents.



This leads to a reduction in the cost of insurance claims. Analysis undertaken by MAIC's consulting actuary confirms that there is a clear relationship between:

- vehicle age and claim frequency, with evidence that the newer the vehicle the lower the claim frequency
- the age profile of vehicles in an insurer's portfolio and insurer profitability.

Establishing relationships with motor dealers can be an important source of competitive advantage for an insurer. Information gathered as part of this review confirmed that some insurers have established stronger ties with motor dealers and others have had difficulties making inroads into this market.

Among the reforms implemented following the 2010 review, amendments were made to include a prohibition on the payment of commissions and inducements by CTP insurers to motor dealers and other intermediaries for directing CTP insurance business to an insurer¹ (such as staff salaries, entertainment or discounted business insurance premiums). In essence the amendments were aimed at increasing competition and ensuring consumer choice at point of sale. The amendments do not prohibit the insurer from paying an inducement directly to a policy holder if they do not treat the cost of the inducement as an expense against their CTP business.

Analysis and feedback

Feedback received in this review was that lack of access to the motor dealer channel can serve as a barrier to entry, as well as impacting competition between the existing insurers in the scheme. At the same time, while it is recognised that establishing a presence in this channel has proven difficult for some insurers, no evidence has emerged to suggest that an insurer is prevented from seeking to enter the channel.

The existence of a barrier to entry does not automatically warrant action by Government to remove it. The key issue for this review is whether there is a clear identified source of market failure to warrant government intervention. It could be argued that having strong relationships with motor dealers is an important source of competitive advantage that has been legitimately derived, noting that the insurers have had to make investment (and assume some risk) in pursuing this particular strategy. Consideration has been given as to whether competition could be increased in the motor dealer channel and if so, how this might be achieved. Taking into account stakeholder feedback, options that have been canvassed include:

- Removing the CTP insurance decision point from the buyer's interaction with the motor dealer, with this function completed away from the dealership as part of the process of finalising/transferring ownership. The risk that a buyer fails to nominate their insurer could be minimised by allowing the Department of Transport and Main Roads (DTMR) to randomly select an insurer.
- Retaining the CTP insurance decision point with the motor dealer however the insurer is initially nominated by way of random allocation by DTMR. The buyer then has the option of changing the nomination to their preferred insurer.
- Retaining the CTP insurance decision point with the motor dealer, however the Nominal Defendant is automatically instated as the insurer for the first three months. At the end of this period the motorist would be prompted to select their preferred insurer.
- Allowing insurers to offer a reduced price to secure policies for new vehicles (noting that offering discounts on CTP insurance is currently prohibited under the MAI Act).

There are potential benefits, as well as issues, with each of the above options including making the process more difficult for the vehicle owner. Instead, changes could be made to increase consumer awareness of their ability to select their CTP insurer.

Conclusion: Market dynamics

As outlined previously, increased regulation should only be introduced to address a clear identified source of market failure. The Committee has not seen sufficient evidence that barriers to entry are causing a market failure, or that there is a need for legislated intervention in what is considered a functioning market.

Some insurers have made a strategic business decision to invest in the motor dealer channel to create a source of competitive advantage in the CTP insurance market. The Committee was not presented with adequate information to conclude that this competitive advantage has not been legitimately secured, nor is it evident that other insurers, including potential new entrants, are prevented from accessing that channel, even though establishing and growing that presence might be difficult. Noting the 2010 amendments, the Committee does not support further legislative intervention at the current time.

Accordingly, the Committee has not made any recommendations for further changes in this area. This will continue to be monitored by MAIC.

¹ "Directing CTP insurance business" includes obtaining CTP insurance business for a CTP insurer and giving any form of advice, encouragement or suggestion intended to direct CTP business to an insurer.

SCHEME COMPETITION

One of the key issues identified for this review is the absence of active price competition between insurers. While there have been instances where different premiums have been filed by insurers in Class 1 and Class 6, on balance, the more consistent experience has been that premiums have been filed at, or within \$3 of, the ceiling limit. Chart 2 illustrates how closely licensed insurers have tracked to the ceiling since 2001. Furthermore, no insurer has ever filed below the ceiling for any other vehicle class in the last 28 quarters. This has also been occurring in an environment where insurer profits have remained well in excess of the eight per cent allowance provided for in premiums.

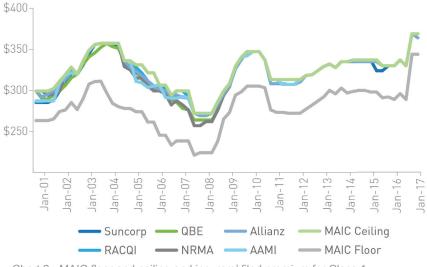


Chart 2 - MAIC floor and ceiling and insurers' filed premium for Class 1

Over the past ten years, the probability that the owner of a Class 1 motor vehicle will switch insurer at registration renewal has fallen from 5 per cent to 3 per cent, which has corresponded with reduced price competition. To the extent that a motorist does switch insurer, this is more likely to occur when a vehicle is purchased. It is unclear if the low switching rates reflect customer satisfaction with their choice of insurer, a lack of incentive to switch or other structural barriers that deter some customers from switching insurer. Market research conducted in 2016 by MAIC indicates that motorists wanting a cheaper price is the most common reason for switching insurer. It could be argued therefore that if motorists come to expect that CTP premiums from different insurers will largely be equivalent, there is no incentive to actively shop around for the best deal.

In conducting this review, the Committee has sought to address the question of why price competition has not been observed particularly in recent years and what can be done to create a competitive environment for the benefit of motorists.

Analysis and feedback

In response to the identified lack of price competition, insurers submitted that there is a level of competition in the CTP scheme given that a number of incentives are offered to encourage motorists to switch between insurers. These incentives include multi-product discounts, discounted club membership, fuel vouchers, donations to charities or at-fault driver protection, although not all insurers offer the same incentives. However, analysis presented to the Committee by an independent consultant found that in the context of overall price, these incentives are not material. Further, incentives that are in the form of upfront discounts to switch insurers tend to be one-off benefits rather than providing any form of sustained price reduction. While this confirms that insurers can and do compete to secure new policies, these upfront incentives are not seen as a more favourable alternative to ongoing price competition that delivers affordable premiums for motorists over time.

A number of insurers have suggested that challenges exist in a community rated scheme such as the Queensland scheme where an insurer is not allowed to either levy a different price depending on the risk of the customer or refuse business. While a community rated scheme is designed to spread the cost of CTP insurance across motor vehicle owners, it also means that insurers have limited ability to 'risk select', or build and maintain a portfolio of customers with an appropriately diversified risk profile that is consistent with that insurer's commercial objectives. Insurer feedback suggests that when an attempt is made to offer a price that is lower than the price offered by competitors, the insurer is more likely to attract customers with a less favourable risk profile. The insurer *may* secure more business in response to the price reduction but increase the overall risk within its portfolio. A number of insurers suggested that introducing some ability to price differentiate for risk – even based on limited risk factors – could be an effective way of encouraging price competition within the scheme. The Committee notes that this is likely to lead to price competition for the more favourable risks rather than generally across the scheme.

Options considered to stimulate price competition

Through engagement with stakeholders and the Committee's own analysis, a number of options to stimulate price competition were considered. These included:

- increasing the ceiling limit
- introducing risk rating
- further regulation of the motor dealer channel.

While all the options presented to the Committee had varying levels of merit as well as risks, the Committee had to consider the potential implications of altering a scheme that is performing well. The Committee was also mindful that the market research undertaken in 2016 found that 84 per cent of registered motor vehicle owners want a CTP scheme that focuses on affordable premiums for the majority of the community and that this is more important to them than a scheme where the focus is on promoting greater price competition between insurers. However, the Committee considers that amending the scheme to allow insurers to price based on limited risk factors, warrants further investigation.

Introducing risk rating

The community rating philosophy has significant merit and has underpinned a stable and affordable Queensland CTP scheme. At the same time, the Committee has identified a need for improvement in order to maximise the benefits of a privately underwritten scheme, including improved price competition. The market also continues to evolve and change, with the introduction of technology such as telematics presenting opportunities to further improve efficiency. The information gathered in this review highlights the inability of insurers to vary premiums based on individual risk profiles could be serving to deter price competition. The lack of control that the insurer has over the CTP risk profile they acquire potentially discourages them from implementing strategies to attract more favourable risks, as this could lead to an insurer acquiring a higher number of riskier motorists. This lack of control could also deter new entrants or see an insurer exit the scheme if their portfolio of risk is not sustainable or consistent with their commercial objectives.

Allowing insurers to differentiate price based on certain risk factors allows insurers to set premiums based on factors that are directly correlated with claim size and frequency. For example, the CTP premium could be linked to motorists' driving records and/or demerit points. In theory, this should incentivise improved driving behaviour, which could lower the probability of accidents occurring, reducing the risk to the individual and other motorists.

Telematics could serve as an important future enabler of risk rating as it will allow more accurate measurement of driver behaviour and vehicle usage. It also provides the motorist with access to technology that enables them to actively demonstrate to the insurer that they are a safer driver which warrants them receiving a lower premium (which in turn could further incentivise improvements in driver behaviour). While this technology is still developing, it is likely that it will become more accessible and affordable for all motorists in the future.

Another risk factor is the age of the vehicle. As noted above, this has become more important given the continued advances in technology that have seen significant improvements in vehicle safety. Insurers are more likely to actively compete for insurance policies on newer motor vehicles, as newer vehicles have lower claims experience. Providing cheaper CTP premiums provides an incentive for motorists to drive safer cars thereby lowering the incidence of motor vehicle accidents, which would be of benefit to the entire community.

While the Committee does not favour unlimited risk rating, allowing insurers to differentiate based on a limited number of risk factors is an appropriate first step towards stimulating price competition in the scheme. The risk factors could be linked to information that is already available in DTMR's motor vehicle registration system and is therefore independent, accessible and verifiable.



What are the potential benefits?

Allowing insurers to engage in some form of price differentiation based on certain risk factors could see more price competition between insurers as they have greater ability to influence the type of business they secure and hence the overall risk profile of their portfolio. It may also attract new entrants into the scheme, which will further promote competition. Providing insurers with some ability to control their risk profile should lead to a more sustainable scheme in the long run.

It can also be more economically efficient as it means that the price of the insurance product is more reflective of the risk that has been transferred from the insured to the insurer, which can provide an incentive that influences driver behaviour.

It can also eliminate or reduce the significant cross-subsidy that currently occurs between low risk drivers and high risk drivers.

What are the potential issues?

A move to risk rating could be viewed as a departure from the community rating model, which sees a uniform price paid by all motorists in the same vehicle class. By reducing the extent of the current cross-subsidy between motorists, allowing prices to reflect risk factors will see some motorists paying more for CTP, while others may pay less. Some motorists may experience such a material increase in premiums that they may be unable to afford insurance. This could lead to an increase in the number of unregistered vehicles on the road which would increase the burden on the Nominal Defendant.

Risk rating could lead to undesirable social and economic outcomes for the community. For example, if CTP premiums were differentiated by age (which in practice, proves to be a significant and consistent factor in motor vehicle accidents), younger drivers could experience significant increases in premiums. Noting young drivers already face very high comprehensive car insurance premiums, this could place them at a material disadvantage.

As noted above, incentivising motorists to drive vehicles with better safety features (i.e. newer vehicles) could result in desirable outcomes for the community if it led to an overall improvement in road safety. A counterargument is that motorists on lower incomes are less likely to be able to afford a new vehicle, which could entrench a source of disadvantage for lower socioeconomic groups.

The other issue is that risk rating may not incentivise better driving behaviour, which means that one of the benefits of this change is not realised. It is difficult to predict the extent to which the level of CTP premiums would directly influence driver behaviour, noting that the evidence on this is limited.

Limited risk rating		
Benefits	Potential issues	
Could lead to more price competition	Some motorists may be disadvantaged with higher premiums	
May attract new scheme entrants and more competition	Could increase unregistered vehicles on the road	
Could incentivise safer driving behaviour	Premium may not reflect risk profile of all drivers of a vehicle	

Based on the timeframes and information available for this review, it has not been possible to comprehensively investigate the introduction of risk rating, including conducting thorough consultation on design options with relevant stakeholders, identifying and assessing all relevant implementation issues (including the cost) and understanding any potential unintended consequences. Some of the key issues for further consideration are identified below.

The Committee notes that an important feature of the current model is the vehicle classification system. As the current vehicle classifications reflect differences in risk, consideration would need to be given to any necessary revisions to the classification system. There is also a need to set timeframes for implementation and the monitoring of outcomes, noting that one of the more significant issues will be the time and cost of implementing necessary changes to DTMR's Transport Registration and Integrated Licensing System (TRAILS).

A key issue in implementing limited risk rating is which risk factors should be allowed – or excluded. This requires detailed consideration having regard to evidence linking the various risk factors to claim frequency and cost. It also requires further consultation and market research. It will also be influenced by social and economic policy considerations and the potential impacts on motorists.

As noted above, one option is to base the risk rating on information that is collected by DTMR, the implications of which would need to be further investigated.

Another important issue is whether any constraints continue to be imposed on the actual level of the premium charged, that is, should a ceiling limit or maximum price continue to be imposed. One option is for no constraints on the level of premium charged. The advantage of this is that it would allow for a more direct and accurate price signal to each motorist based on their risk rating, which if sufficiently material, may positively influence driver behaviour. However, this would likely result in material increases in premiums for some motorists, which could render them unaffordable. It could also increase the incentive to drive the vehicle unregistered. The people that are most likely to be adversely impacted will be those in lower socioeconomic groups.

The alternative is to therefore implement risk rating while retaining a ceiling limit on premiums in each vehicle class. This may (or may not) require the ceiling limit to be increased in order to provide insurers with adequate scope to engage in meaningful price differentiation. While this provides an important means of ensuring premiums remain within affordable limits for all motorists, it could practically dilute the effectiveness of the pricing mechanism. That is, it still may not be sufficient to allow insurers to better influence their own risk profile, which may mean it will lead to no improvements in price competition. Small price differences are also less likely to incentivise changes in behaviour.

Further consideration is also required on how best risk rating can be implemented without incentivising motorists to defraud the system. For example, if the CTP premium is linked to individual driver behaviour, it will reflect the record of the person who has registered the vehicle. However, there may be other people using the vehicle that have different poorer driving records. Without careful considerations, the risk rating system may allow motorists to intentionally align their registration to people with better records, providing for a cheaper premium than that actual risk.

Finally, in the short to medium term, one of the key constraints in implementing risk rating in the Queensland CTP scheme is DTMR's TRAILS. The necessary system changes could take some years to develop and implement. It would not be feasible to implement any form of risk rating until it can be effectively supported by the IT systems.

Conclusion: Stimulating price competition by introducing limited risk rating

The Committee considers that sufficient evidence has emerged from this review to enable it to conclude that the introduction of limited risk rating has merit. It ultimately has the potential to drive better outcomes for motorists, including by providing incentives for improved driver behaviour, which not only allows the motorist to have some influence over their premium but more importantly, improves road safety.

The Committee is of the view that this can be implemented in a way that does not compromise the fundamental principles of a community rating model, which is by only enabling price differentiation based on a limited number of factors. This can either be achieved by stipulating those factors or prohibiting certain factors, having regard to the potential social and economic outcomes, including equity considerations. Affordability concerns may be managed by continuing to set a ceiling limit.

The Committee suggests further investigation by MAIC, encompassing targeted consultation with insurers, motorists, DTMR and other relevant stakeholders. The Committee recommends only proceeding with implementation of limited risk rating if further investigations conclude that the expected benefits will outweigh the costs and that it be implemented as a phased approach. Depending on the outcome of the first phase, which would stipulate a limited number of factors, the range of factors could be subsequently expanded. Alternatively, if limited risk rating proves ineffective having regard to the objectives of the scheme, the ability to risk rate could be removed.

RECOMMENDATION: SCHEME COMPETITION

The Committee recommends that:

R3. The community rating model and vehicle class filing system be retained.

R4. MAIC further investigate limited risk rating to identify potential opportunities for improving price competition and affordability.



INSURER PROFITABILITY AND THE PREMIUM SETTING PROCESS

In order to maintain a viable and sustainable privately underwritten scheme, fair and reasonable profit needs to be available for insurers. If profits are negatively disproportionate to the risks that insurers bear they may exit the market. Inadequate profits also impact the scheme's ability to attract new entrants, noting that an ongoing and credible threat of new entry assists in maximising the competition in a market where there is only a comparatively small number of potential providers.

In setting the central estimate premium an insurer profit of eight per cent per annum of premiums is currently allowed. This is intended to provide compensation for the capital provided and the risk that actual claims costs and expenses may be different to that assumed in premiums. Over the last ten years, insurers have priced at or close to the ceiling and achieved a profit margin substantially above the eight per cent allowance in all underwriting quarters. The central estimate premium still achieved a positive profit margin in all quarters, only dipping below the eight per cent allowance in 2007-08.

Analysis by MAIC's consulting actuary reveals that actual insurer profitability has remained well in excess of the eight per cent allowance, being in the range of 25 per cent to 31 per cent over the last five years. The Committee acknowledges the risks inherent in such a long tail scheme and that past profitability is not an indicator of future profitability. It is also recognised that insurers will experience 'good' and 'bad' years depending on the extent to which the key assumptions underpinning premiums differ from expectations. While the Committee does not expect insurers to make consistent losses, it is concerned about persistent excess profits while motorists have been seeing little if any price competition.

Analysis and feedback

Scheme Experience

Across the entire scheme individual insurer profitability has varied, which is a reflection of a number of factors including differences in claim frequency, average claim size and filed premiums. While stakeholders expressed concern about the levels of profitability in the scheme, insurers emphasised that past experience is not a predictor of future experience and noted the recent increase in the frequency of low severity claims.

MAIC's consulting actuary has suggested a number of drivers of insurer profitability, including:

- average claim size being lower than advised at underwriting;
- insurers charging at the ceiling rather than at the central MAIC estimate (with the central estimate reflecting the eight per cent profit allowance);
- · lower wage inflation than anticipated; and
- the absence of scheme superimposed inflation.

One insurer asserted the requirement to achieve a level of return expected by management and shareholders. Insurers that derive inadequate rates of return risk losing shareholders and constraining their opportunities to participate in the market.

The feedback received included that boards and management are continuing to expect the same level of returns that have been earned historically and that profits are currently being squeezed.

There was also a suggestion that the current ceiling price consistently represented a price position that provides the minimum return on capital on a prospective pricing basis. No specific feedback was provided by insurers on the level of excess profits that have been observed, what the drivers of this might be or why it might be justified. Very limited feedback was received on setting the economic parameters.

The premium setting process

Key drivers of the premium setting process include expected claims frequency and size. In a long tailed scheme this is particularly difficult to predict, noting that claims experience can vary unexpectedly from quarter to quarter. The allowance for the profit margin is intended to compensate the insurer for the exposure to increases in claims costs above the forecast reflected in premiums, which could be a function of higher frequency and/or higher claim size. Included in the premium is also a superimposed inflation allowance, which is included to compensate insurers where claims costs grow unexpectedly faster than the rate of inflation. This potentially creates a degree of overlap between the risk that is intended to be addressed by the superimposed inflation allowance and the risk reflected in the profit margin.

There are a number of other economic inputs into the setting of the premium. As the premium is intended to reflect the forward-looking cost of claims, forecasts of these parameters are required including:

- the risk free rate, which is measured using a benchmark Commonwealth Government bond yield; and
- average weekly earnings (AWE).

The risk free rate is measured at a point in time prior to the commencement of the relevant quarter. It is based on the prevailing Commonwealth Government bond yield as this is considered to provide the best indication of the market's forecasts of expected future short-term rates².

²This approach is also applied in other regulatory regimes, such as price regulation of monopoly infrastructure such as energy, water and transport. (although yields are typically averaged over a short period to reduce the risk of the estimate being influenced by temporary perturbations in the market).

We are also in a protracted phase of historically low bond yields and it remains very difficult to predict the timing and extent of any future uplift in yields, noting the pervasive effects of global economic and financial market conditions on domestic bond yields.

Another variable in the premium setting process is the 'competition margin', which is the difference between the ceiling limit and central estimate. This provides insurers with headroom to engage in meaningful price competition within the floor and ceiling band. Compressing the competition margin would reduce the scope for insurers to earn higher profits, and reduce the band within which price competition can occur.

Options to address insurer profitability

The Committee notes that providing insurers with the opportunity to earn adequate profits is essential to maintaining a viable and sustainable privately underwritten scheme. It also needs to be attractive to new entrants. If there is an insufficient number of licensed insurers participating in the scheme, the benefits expected from a competitive privately underwritten scheme will dissipate and government may need to revert to public underwriting.

Through the course of stakeholder feedback and the Committee's deliberations, a number of options were considered to address excess insurer profitability. Of the options presented the Committee identified two that justified in-depth consideration, the outcomes of which are detailed below.

Profit clawback

An option that could be applied in a situation where there is a high risk of forecast error is to review and adjust based on actual performance on an ex post (or after the event) basis. The Committee therefore gave consideration to a profit clawback mechanism, which would look at recovering a proportion of excess profits made by insurers over an agreed period.

Some of the key features of this could include:

- The ex post review would be based on an independent actuarial assessment.
- The mechanism could be triggered when profits reached a certain threshold above the eight per cent allowance, and then only a proportion of the profits would be clawed back. This is considered important to ensure that insurers remain incentivised to participate in the scheme and improve their efficiency and performance. These assumptions would be subject to review over time.
- It would apply over a period, for example five years past the underwriting period.

An aspect of a profit clawback model that would require further consideration is whether it should be symmetric or asymmetric. An asymmetric measure claws back excess profits only. A symmetric measure would also provide for payments to insurers if they made losses.

The key issue of a profit clawback is how the excess profits would be recovered from the insurers. If it is deemed to be in the form of a tax it is likely to be beyond the State's current taxing powers. It cannot be extracted as a scheme 'dividend' as the State is not a shareholder. Further consideration would need to be given as to how this could be implemented in practice, noting that this is likely to require legislative change. It could also require a tax ruling from the Australian Tax Office. The other important question is what to do with the excess profits that are recouped. The preferred option would be to return these to motorists, particularly in the absence of price competition.

Alternatively, uses for the funds could include road safety research and programs or, where a symmetric model has been applied, the funds would be kept in reserve in order to provide any future payments that need to be made to insurers following a period of very difficult market conditions. The Committee notes that these two options do not see any monetary benefit directly for the motorist.

The Committee notes that ex post adjustment mechanisms are features of other regulatory regimes, such as revenue regulation of natural monopoly infrastructure (for example, network energy regulation). While it is recognised that the regulation of insurance premiums is quite different to regulating the prices charged to use natural monopoly infrastructure, some of the key principles and challenges are similar.

While a profit clawback mechanism provides obvious benefits, given the inherent challenges in forecasting premium assumptions, it does present a number of issues and risks, including the potential for unintended consequences.

Further investigation is needed in order to fully work through the potential implementation issues, including legislative changes and tax implications, as well as systems requirements. The likely outcomes of such an arrangement, including any unintended consequences, also need to be fully explored. As such, the Committee does not recommend introducing a profit clawback mechanism at this time.

Reviewing the assumptions underpinning the premium setting process

To the extent actual experience has been consistently better than the forecasts that have underpinned the setting of premiums, the Committee has given consideration to whether the assumptions in the premium setting process have been too conservative.

In the first instance, consideration needs to be given to the allowance provided for superimposed inflation, as well as the competition margin. As noted above, an allowance for superimposed inflation is based on an assessment of the risk that future claims costs will grow at a rate that exceeds inflation. If this does not eventuate it leads to increased insurer profits. The Committee also notes that if no allowance was provided, the appearance of superimposed inflation in the scheme would adversely affect insurer profitability.

The introduction of the competition margin was intended to incentivise price competition around the central estimate. Reducing or eliminating the competition margin while reducing the scope for price competition also reduces the extent to which insurers can generate additional profits above the eight per cent allowance.

There is also scope to review the approach used to estimate the economic parameters. In the case of AWE, it has proven difficult to source robust, unbiased and up to date forecasts of Queensland AWE inflation. In addition to the quality of the forecast itself, with any infrequently updated forecast there is a potential problem if the variables move after the date of the forecast.

There is evidence of some correlation between inflation and risk free rates so one would expect an updated forecast, if available, to change in response to the movement in risk free rates although by how much is not clear. One way to ensure consistent risk free rates and inflation forecasts is to base the inflation forecasts on the prices of index-linked bonds at the same date as risk free rates. However, this approach is not without its own difficulties. These include that the prices of index-linked bonds may be affected by scarcity in addition to economic conditions and that the index used for these bonds is Australian CPI which may not be as closely linked with Queensland CTP claim payments as Queensland AWE.

The parameters are also reviewed on a quarterly basis, informed by the prevailing market outlook at the time of the review. It may also be more appropriate to take a longer term view, which could also see more stable outcomes over time.

Conclusion: Insurer profitability and premium setting process

No evidence has emerged from this review to enable the Committee to form the view that there has been some form of fundamental shift or change in the market that would result in excess profits being a thing of the past. There is nothing to suggest that after an extended period of persistent excess profits, insurers are now entering an extended phase of very low profitability or even losses. The Committee therefore considers there is some scope to review the pricing approach in order to achieve a better balance between affordable premiums and a viable and sustainable privately underwritten scheme.

The Committee considers there is merit in reviewing the methodology used to set the quarterly premium. Assumptions regarding claim frequency and average claim cost are subject to a robust actuarial assessment that is consistent with the approaches generally applied across the industry. The Committee therefore does not propose to change this methodology. However, there is scope to review the methodology used to set the other parameters with a view to limiting future excess insurer profitability. The overall objective is to arrive at an outcome that achieves an appropriate balance between affordability and the maintenance of a viable and efficient privately underwritten scheme.

RECOMMENDATION: INSURER PROFITABILITY AND THE PREMIUM SETTING PROCESS

The Committee recommends that:

R5. As a matter of priority, MAIC take action to address the issue of high insurer profits in the scheme.

SCHEME DELIVERY

A number of suggestions on how the delivery of the scheme could be improved were presented to the Committee during the consultation process. In analysing the feedback received, a key focus of the Committee's deliberations was on identifying opportunities to improve the efficiency, flexibility and competitiveness of the scheme without increasing overall scheme delivery costs or inconveniencing motorists.

Bundling CTP insurance with motor vehicle registration

In Queensland, as in all other Australian jurisdictions, CTP insurance is integrated with motor vehicle registration. In some states, vehicle owners are required to buy CTP insurance separately from a private insurer prior to completing the registration process. However, in Queensland, the CTP insurance premium for each vehicle is collected by DTMR with the registration fee. This system provides significant cost efficiencies, reduces the number of uninsured vehicles on the road and provides a convenient, one step process for motor vehicle owners.

While acknowledging this method of premium collection minimises scheme administration costs, in its discussion paper, the Committee questioned whether this approach limits the extent to which motor vehicle owners were actively exercising their choice of CTP insurer, providing little incentive for insurers to actively compete on price³.

Analysis and Feedback

Market research commissioned by MAIC in 2016 suggests the simplicity and convenience of the current process is strongly valued by motorists, with the majority (73 per cent) indicating they would prefer to pay their CTP premium with their vehicle registration. This finding was confirmed by DTMR, who suggested that splitting CTP from vehicle registration would cause disruption and inconvenience for motorists and add complexity to what is currently a simple process – all for potentially uncertain benefit. One industry group submitted that, from a business perspective, separating vehicle registration and CTP insurance into discrete transactions would simply add more red tape and therefore increase operating costs.

On the other hand, some insurers favoured decoupling on the basis that it would promote competition by enabling insurers to develop a more direct relationship with their customers. It could also further enable the future introduction of risk rating (although this could still be implemented without needing to unbundle registration and CTP insurance). One insurer suggested insurers should be able to collect registration on behalf of DTMR, which would encourage motorists to actively choose their preferred insurer as the first step in registering a vehicle.

However, there was recognition by all stakeholders of the need to maintain a low cost and efficient method of delivery given motorists would ultimately bear the cost of any subsequent increases to scheme delivery expenses. One insurer suggested an additional transaction required by motorists to seek and separately acquire a CTP policy would increase the prospect of motorists driving without the necessary insurance coverage, resulting in more claims on the Nominal Defendant scheme.

The Committee agrees this would be an undesirable outcome and together with the substantial implementation costs and system changes imposed on insurers and DTMR, would only add to scheme delivery costs.

Conclusion – Bundling of CTP insurance with motor vehicle registration

From the Committee's perspective, there is no compelling reason to unbundle CTP insurance from vehicle registration. The increased scheme delivery costs and inconvenience for motorists that would arise from such a change is likely to far outweigh any potential benefits. Directly linking CTP and registration also combats the level of uninsured vehicles and reduces the likelihood of consequential claims upon the Nominal Defendant.

The Committee supports retention of the existing arrangement whereby CTP insurance is linked to vehicle registration renewal. The Committee also notes that the current system of linking CTP insurance with vehicle registration also involves the initiation of CTP policies by automotive dealers at the time of new vehicle acquisition. There is no evidence to suggest this service is not working effectively. It is also considered to be cost efficient and convenient for motorists and in the Committee's view should be retained.



³Discussion Paper – A Review of Queensland's Compulsory Third Party Insurance Scheme, p23.

Motorist Choice of CTP insurer

While vehicles cannot be registered in Queensland without having a CTP policy in place, motor vehicle owners do have the option of choosing their preferred insurer. Motor vehicle owners may nominate a change of insurer at any time while the vehicle is currently registered, although the actual change of insurer will only come into effect from the commencement date of the next registration renewal.

Changing CTP insurer can be done in a number of ways such as over the phone⁴, online through DTMR, completion of the nomination on the back of the renewal notice or by submitting a written CTP insurance nomination form which is available from DTMR and all licensed CTP insurers.

A change of CTP insurer nomination must be received by DTMR either on or before the expiry date on the registration renewal notice to be effective for that renewal. Once the registration renewal has been paid, the CTP insurer at the time of payment must remain the insurer until the end of the registration period covered by the renewal.

Motorists also have the option of choosing their preferred insurer when purchasing a new vehicle from a motor dealer. Following a review of the scheme in 2010, changes were made to the authority form used by motor dealers to register new vehicles on behalf of their customers to alert motorists of their ability to choose their CTP insurer.

Analysis and Feedback

Although feedback was limited, improving consumer awareness of their ability to choose their insurer and facilitating more frequent switching was raised. Feedback received from DTMR during the consultation process indicates that switching insurer on a same day basis rather than at the next renewal is not a viable option using the current technology platform and operating system.

As summarised in the discussion paper, the 2016 market research undertaken by MAIC revealed that most new car buyers were aware of their ability to choose their preferred CTP insurer. However, 24 per cent of respondents felt that the motor dealer tried to persuade them to choose a particular insurer, suggesting that there is still room for improvement.

Market research indicates that when purchasing a new vehicle, a motorist's interest in CTP insurance is at its lowest. This has been attributed to the number of other decisions being made and the comparably low cost of CTP insurance. 'Drive away' prices that bundle CTP insurance and other add-ons into the price can also reduce the transparency of this purchase decision and the motorist's ability to exercise choice. Analysis by MAIC's consulting actuary indicates that if a customer is to switch insurers, this is most likely to occur at the first renewal following the vehicle purchase.

Conclusion: Motorist Choice of CTP insurer

The Committee believes there are sufficient opportunities for motorists to change insurer should they elect to do so and makes no recommendations in this regard. Increasing consumer awareness of choice of CTP insurer both at renewal and when purchasing a vehicle is considered below.

Renewal Process Improvements

To the extent that further improvements could be made to the CTP renewal process, there were a number of suggestions submitted to the Committee. At present, the current insurer is shown on the Certificate of Insurance. One insurer suggested removing this 'default option' to promote active decision-making by the motor vehicle owner and encourage more competitive pricing between insurers. However, this could be a source of friction for motorists who would like to retain their existing insurer.

Analysis and Feedback

Stakeholder feedback, together with market research conducted by MAIC in 2016, suggests there is a need to review the information and educational material provided to consumers about CTP insurance, and that more should be done to provide motorists with greater clarity and insight into insurer offerings and their ability to switch CTP insurers⁵. The Committee suggests additional information could be provided on the registration renewal about the insurance options available. One insurer suggested the communication brochure that presently accompanies the vehicle registration renewal notice could also be enhanced to show not only each licenced insurer and their contact details, but also the relevant CTP premium for the vehicle by insurer.

Another stakeholder also suggested that more detailed information provided at the time of renewal could be supplemented by the creation of a comparison website administered by MAIC. This would allow consumers to compare and select their CTP insurer at any time. With respect to premium comparison, the Committee notes that a CTP premium calculator is already available on the MAIC website. The calculator web-page provides motor vehicle owners with easier access to CTP premium information and highlights to motorists that insurers may offer some addon products or other incentives with their respective CTP insurance product. Motorists are encouraged to contact individual insurers directly and find out more about these. A move to an on-line renewal process would also enable insurers to be more flexible and competitive in how they promote and present their CTP premium offering.

⁴Commentary at consultation meetings with insurers was that nominating a change of insurer over the phone could be confusing for some motorists. ⁵According to 2016 market research conducted by MAIC – 54% of respondents surveyed favoured information printed on the registration renewal, while a flyer inserted with registration renewal was favoured by 59% of respondents. Online channels were favoured by younger drivers.

The Committee believes increasing consumer awareness of CTP insurance at the time of renewal is warranted, however, given the current system utilised by DTMR, there are limits to the amount of information that can be presented on the current renewal notice. Details regarding each insurer's premiums and alternative payment numbers for varying registration periods are not easily accommodated. DTMR advised that currently many customers respond negatively to the amount of information on the paper renewal notice and have found the various options currently available confusing. Including an additional information page in the registration pack currently sent to motor vehicle owners will also increase postage costs with more than 6 million renewals distributed each year. However, over time, the paper renewal process is likely to become redundant as customers opt to complete the registration renewal process online.

The more effective solution is to move more of the registration process online (recognising that not all motorists have online access). An online platform provides considerably greater flexibility to do this than the existing paper-based renewals process. Moving this process to an on-line regime may not be viewed by some as a momentous change given the range of transactions now conducted in this manner. But, with over 4 million registered vehicles in Queensland and over six million renewal transactions each year (including 3, 6 and 12 month renewals) there would be a range of efficiency savings that could be achieved as well as greater flexibility in how on-line renewal services functioned.

A move to an on-line renewal process would also enable insurers to be more flexible and competitive in how they promote and present their CTP premium offering. The move to online transactions will not only reduce scheme administration costs but will provide greater flexibility for insurers as well as the scheme's regulator in terms of the information that can be provided to motorists. Online transactions could also enable some separation of the CTP renewal process and facilitate the introduction of limited risk rating by insurers.

Conclusion: Renewal process improvements

The move to online transactions will not only reduce scheme administration costs but will provide greater flexibility for insurers as well as the scheme's regulator in terms of the information that can be provided to motorists. Online transactions could also enable some separation of the CTP renewal process and facilitate the introduction of limited risk rating by insurers.

The Committee is therefore of the view that enhancements to the TRAILS technology platform are urgently needed in order to facilitate improvements to the registration renewal process and that MAIC should continue working with DTMR as a matter of priority to deliver more of the registration/CTP renewal process online.

RECOMMENDATION: SCHEME DELIVERY

The Committee recommends that:

R6. The current CTP premium collection model be retained.

R7. The CTP renewal process be moved online as soon as practicable noting the practical limitations associated with the current system.

R8. Action be taken to improve consumer awareness of choice of CTP insurer both at renewal and when purchasing a vehicle.





SCHEME PERFORMANCE

MEASURING SCHEME PERFORMANCE

Affordability is a fundamental principle of Queensland's CTP scheme. Given CTP is compulsory, it needs to be at a price motorists can afford and at a level that is the minimum necessary to achieve the scheme's objectives. In order to evaluate how well the current scheme is performing against this objective, and where there may be room for improvement, the Committee sought stakeholder and community feedback on whether the Affordability Index, a key feature of the current scheme, is still an appropriate benchmark for measuring scheme performance.

The Affordability Index is defined by the MAI Act as 45 per cent of Queensland's full-time average weekly earnings (AWE). The purpose of the Affordability Index was to measure scheme affordability, a breach of which would trigger a review and possible changes to the scheme in order to ensure the cost of CTP remained in line with the community's capacity to pay. When introduced in 2000, 45 per cent of AWE was a relevant benchmark to measure affordability against. However, the

Committee queries whether the relationship between the measure and community expectation on what is affordable continues to be aligned.

From 1 January 2017, the highest annual Class 1 premium is \$368.80, which is around 25 per cent of AWE and well below the Affordability Index. By this measure alone, the Queensland CTP scheme is performing well, is affordable for motorists and compares favourably with other CTP schemes around the country. As shown in Chart 3, affordability has trended favourably over time. In addition to affordability, the Committee also sought feedback on whether an effective CTP scheme should also encompass the guiding principles of efficiency, fairness and flexibility and whether a more comprehensive approach to assessing scheme performance is required.

Analysis and Feedback

Feedback received during the course of the review was that the guiding principles of affordability, efficiency, fairness and flexibility represent an appropriate framework to underpin the scheme. However, there were varying views on what 'affordability' and 'fairness' means and how they should be measured. The taxi industry suggested Class 1 affordability should not be the sole focus of assessing whether the cost of CTP insurance is affordable for motorists. The legal industry was supportive of the overarching objectives and further submitted that maintaining common law rights was consistent with the guiding principle of 'fairness'. One respondent suggested a focus on sustainability and health outcomes should also be measured. Another submission supported scheme efficiency being measured so that a benchmark can be set and improvements guantified and to ensure legal and administration costs are minimised.

The Committee also sought feedback on how best to measure the scheme's performance against these objectives. While there was general stakeholder support for the Affordability Index, it was no longer seen as an appropriate trigger for a scheme review.



Chart 3 - Scheme Review Index vs Highest Filed Class 1 Premium

Scheme efficiency was also suggested as a key indicator of scheme performance. Scheme efficiency is defined as the proportion of the premium dollar that ultimately reaches claimants in the form of compensation versus how much is spent on scheme delivery costs. The higher the proportion of premiums paid as claimant benefits - rather than as service delivery costs or insurer profits - the greater the efficiency of the scheme. In its Annual Report, MAIC currently reports on scheme delivery, breaking down the Class 1 premium into claimant benefits and delivery costs. MAIC is unable to determine what proportion of claim benefits actually were received by the injured person and what was retained by lawyers as solicitor-client costs. This detail is regarded as confidential by lawyers hence is not disclosed to insurers; as such, MAIC cannot assess or report ultimate scheme efficiency.

While MAIC also reports on a range of other statistical information in its Annual Report, for example insurer market shares, claim severity, rates of legal representation and litigation, claims duration and other heads of damage, fairness and flexibility are considerably more difficult to measure and may need to be assessed qualitatively. What is evident to the Committee is that a number of different measures and perspectives are needed in order to effectively assess the scheme's overall health. Ultimately, this needs to be distilled into an assessment of the extent to which the four key objectives or guiding principles are being met.

Ongoing scheme reviews

As mentioned previously, while the Affordability Index was considered an appropriate indicator when introduced, the relevance of a trigger at 45 per cent may now be questioned. There may be other important drivers or changes that warrant more urgent action or scheme reform.

The advent of driverless vehicles, ongoing improvements in safety features, as well as measurement technology such as telematics, are likely to bring about significant improvements in road safety in addition to fundamentally changing the nature and future pricing of risk.

People are also changing when and how they use vehicles. The introduction of ride sharing has had a significant impact on the industry and also has implications for the classification and pricing of CTP insurance. As noted at the outset of this report, while this issue is being considered separately from this review, ongoing monitoring will be necessary as the market continues to evolve.

While we are on the cusp of some of these more significant changes, the timing and extent of their adoption remains uncertain. The framework for regulating CTP insurance needs to enable and support such change, rather than impede it, noting that there is likely to be an extended period of transition.

This highlights the importance of ongoing scheme reviews, which should in any event be undertaken as a matter of good governance. In the Committee's view, a review should be conducted at least once every five years whilst recognising that a review could be triggered earlier than this if there was a compelling reason to do so. An example would be where there is a material and sustained increase in the cost of claims or where one or more insurers with significant market share elect to exit the scheme and therefore cease underwriting CTP insurance.

Conclusion: Measuring scheme performance

Affordability remains of fundamental importance to the CTP scheme, although other key principles, being efficiency, fairness and flexibility also need to be considered in evaluating the effectiveness of the scheme. The Committee therefore considers that a more comprehensive approach to evaluating scheme performance, at least on an annual basis, needs to be developed that gives appropriate regard to all four guiding principles. This should also encompass market research to gain targeted feedback from motorists and injured people who have made a recent claim under the scheme. Rather than enshrine any of these measures in legislation, it is proposed that MAIC continues to develop improved benchmarks that enable a more comprehensive assessment of scheme performance, including measures relating to affordability, efficiency and motorist and claimant satisfaction.

Further, while the statutory functions of MAIC include a requirement to monitor the efficiency of the scheme and to keep the scheme generally under review, the Committee's position is that a legislative requirement to review the scheme at more regular intervals is warranted. This not only provides a good governance mechanism to reflect on how the scheme is performing but will ensure the scheme is able to respond more readily to broader social, economic and technological change. It is proposed that this review be undertaken at least every five years.

This also means that the current review trigger contained in the legislation, which is based on the Affordability Index, has less relevance. Affordability will continue to be monitored as part of assessing scheme performance, along with other measures, noting that any material deterioration in scheme affordability could still trigger a partial or full scheme review. The Committee therefore proposes that references to the Affordability Index in the MAI Act be removed, replacing this with a mandated requirement to review the scheme at least once every five years.

RECOMMENDATION: SCHEME PERFORMANCE

The Committee recommends that:

R9. To enhance governance, the *Motor Accident Insurance Act 1994* be amended to require a review of the scheme at least every five years.

R10. The *Motor Accident Insurance Act 1994* be amended to remove reference to the Affordability Index and Average Weekly Earnings (AWEs) as a measure of scheme affordability.

R11. Appropriate benchmarks be developed to enable enhanced assessment of scheme performance particularly around issues of affordability, efficiency, and motorist and claimant satisfaction.

TRANSPARENCY OF LEGAL COSTS

Having regard to the premium cost imposed on motor vehicle owners, it is essential there is efficient use of the premium dollar - firstly, to ensure motorists do not pay more for CTP insurance than they should, and secondly, to ensure a fair proportion of the premium dollar goes to the injured claimant. MAIC's 2015-16 Annual Report shows that over the last five years, 60 per cent of premiums have been paid as claimant benefits. What is not known is the proportion of benefits the injured person actually receives 'in the hand' versus the amount expended on legal representation.

The Committee notes there are two types of legal costs – party/party costs (i.e. the legal costs which are recoverable under the MAI Act and which form part of the settlement) and solicitor/client costs (i.e. the costs which a solicitor charges the claimant for legal services rendered in acting on their behalf). While data is collected on party/party costs which are paid by the at-fault driver's CTP insurer, there is no readily available data on solicitor/client costs. These professional fees, together with any disbursements not paid by the insurer are payable by the claimant directly in accordance with a confidential cost agreement. Often these legal costs are deducted from the net proceeds of any settlement monies once any applicable statutory refunds have been made.

Analysis and Feedback

In submissions made to the Committee, and in subsequent meetings with key stakeholders, there was recognition by both the legal profession and the scheme's licenced insurers that transparency of legal fees is a justifiable concern. The Committee believes the lack of information available regarding what proportion of a claimant's lump sum payment goes towards legal costs impedes MAIC's ability's to fully assess the overall efficiency and effectiveness of the scheme in accordance with its obligations under the MAI Act.

As noted in the discussion paper, one way of addressing this issue is to amend the MAI Act 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 to the scheme regulator. This approach has been recently adopted in NSW where a cap on legal costs was also introduced. During the consultation process, there was strong support from insurers for similar legislative intervention in the Queensland scheme on the basis it would enable MAIC to make a more informed assessment of scheme costs.

Legal industry representatives also acknowledged the need for greater transparency and committed to working co-operatively with the scheme regulator to explore ways of enhancing transparency of legal costs within the scheme. However, they expressed significant concern over any attempts to introduce a mandatory disclosure regime. Reference was made to the fact that the legal profession is already heavily regulated and that claimants have available to them a number of redress options should they be dissatisfied with the legal services provided or wish to dispute the costs charged. In particular, it was submitted that:

- all clients are required to sign a formal costs agreement accompanied by a disclosure notice in which a reasonable estimate of fees is given and a cooling off period applies to contractual relationships with lawyers;
- the MAI Act contains provisions that require the lawyer to provide an updated statement of fees prior to any compulsory alternative dispute resolution process and an estimate of future costs likely to be incurred;
- there is a statutory cap on legal fees;
- additional consumer protection measures are in place for claimants under a legal or financial disability with the court and public trustee approving costs that have been incurred;
- the MAI Act already imposes limits on the legal costs recoverable under the scheme.

As an alternative to regulation, the Queensland Law Society (QLS) and the Australian Lawyers Alliance (ALA) put forward a joint proposal in which lawyers would be encouraged to participate in a voluntary cost disclosure regime. Under the proposal, MAIC would randomly select a sufficient number of claims and seek information regarding a breakdown of the lump sum settlement from the QLS. The QLS would contact the relevant legal representative seeking clarification of retained legal costs and the amount received by the claimant. Under this method the QLS would collate and submit the information to MAIC.

In assessing the feasibility of this approach, the Committee notes a sufficient sample size from a number of different law firms would be required to provide a reasonable insight into the percentage of compensation received and legal costs retained. The Committee is aware of Queensland motorists receiving interstate legal representation and notes that these lawyers would be unlikely to participate in the reporting regime. As this represents a relatively small number of claims, the Committee does not believe the inability to collect data on those claims would affect the integrity of the reporting model.

Some stakeholders suggested that MAIC should work closely with the Queensland Legal Services Commission and the QLS to encourage an amendment to the *Legal Services Commission Regulatory Guide 3* to impose stricter limits on the charging of professional fees as well as abolishing the 50/50 rule provided by section 347 of the *Legal Profession Act 2007* with respect to CTP claims. The Committee notes this is outside the scope of MAIC's authority.

A number of other measures aimed at containing legal costs within the scheme were also submitted by stakeholders. These measures included increasing claims thresholds for legal costs under the MAI Act and mandating caps on legal costs. The Committee is particularly mindful of introducing changes which may have unintended consequences, potentially resulting in increased legal costs for claimants and reducing scheme efficiency. The Committee does not believe there is sufficient evidence to support further investigation of these proposals at the current time.

Conclusion: Transparency of Legal Costs

In light of the consultation feedback received and the lack of data currently available, the Committee believes greater transparency of legal costs will allow MAIC to better monitor CTP scheme efficiency. The Committee endorses the proposal submitted by the QLS and ALA as a cost effective and non-intrusive way of gathering appropriate data, and supports MAIC working with these organisations to establish a voluntary regime process based on a sample of finalised claims. The disclosure regime should be reviewed 12 months after implementation to ensure it is producing the intended outcomes. The Committee suggests that if the collected data is not providing the required insight into legal costs, MAIC should consider opportunities to improve the reporting model or investigate alternative options for achieving transparency of legal costs.

RECOMMENDATION: TRANSPARENCY OF LEGAL COSTS

The Committee recommends that:

R12. MAIC implement a legal fee reporting model to allow for greater transparency of scheme efficiency.





SCHEME COVERAGE AND REGULATION

ROLE OF MAIC AS SCHEME REGULATOR

Established in 1994 to regulate Queensland's CTP personal injury scheme, MAIC plays a critical role in ensuring a prudentially sound CTP scheme which delivers affordable premiums for motorists and timely and fair compensation for injured claimants. MAIC's primary activities include licensing Queensland CTP insurers, monitoring scheme trends and the performance of CTP insurers based on scheme data and actuarial analysis, setting premium bands and recommending levies. Through its investment in research and other initiatives, it also aims to reduce the incidence and effect of road trauma on accident victims.

Prudential Supervision

One of the issues identified in the discussion paper was the current overlap between the prudential supervisory roles of MAIC and APRA. While ultimate responsibility for the prudential regulation and supervision of the general insurance industry rests with APRA, section 10 of the MAI Act empowers MAIC with certain supervisory functions, namely:

- supervising insurers operating under the statutory insurance scheme and issuing, suspending or withdrawing licences;
- establishing and revising prudential standards with which licensed insurers must comply;
- monitoring the management of claims by insurers under the scheme, and in particular, the insurers' compliance with their obligations under part 4 of the MAI Act⁶; and
- keeping the Industry Deed, and the statutory insurance scheme generally, under review.

In determining prudential standards for licensed insurers, MAIC must have regard to the prudential standards that apply to the insurance industry under Commonwealth legislation⁷. To date, MAIC has not approved any prudential standards for licensed insurers on the basis that it considers the APRA Prudential Standards for general insurers are adequate and do not need to be replicated.

APRA has significantly strengthened its prudential supervision regime of general insurers since the financial collapse of HIH and its subsidiaries in 2001. Given the enhanced oversight of general insurers by APRA, the Committee considers it appropriate to review MAIC's prudential supervisory function.

Analysis and feedback

Submissions received acknowledged that the State Government has a vested interest in the solvency of licensed CTP insurers. Being a compulsory statutory insurance scheme, it is incumbent on MAIC as regulator of the CTP scheme to ensure the financial viability of the scheme's licenced insurers. As MAIC has previously submitted:

"The failure of a general insurer has greatest impact, in social and dollar terms, on long tail personal injury insurance lines. In the case of third party cover, the impact is not only on the policyholder, but also the injured third party, who does not have a direct relationship with, or any choice in, the insurer providing the cover⁸."

Under the Queensland CTP scheme, there are already strong protections in place for policyholders (insured motor vehicle owners) and claimants. Firstly, only general insurers authorised by APRA under the *Insurance Act 1973 (C'th)* to conduct general insurance business may apply to MAIC for a licence to underwrite CTP insurance Queensland. Secondly, in the event a Queensland CTP-licensed general insurer fails, section 33 of the MAI Act provides that the State Government, through the Nominal Defendant, bears the financial risk of any outstanding liabilities by becoming the insurer of any CTP policies that may be in force at the time of insolvency⁹. Timely awareness of any financial strain or potential solvency issues is therefore critical to enable MAIC to prepare contingency plans and to safeguard the interests of policyholders and claimants.

The general consensus amongst the scheme's licensed insurers is that given the enhanced role of APRA in recent years, there is less need for MAIC's ongoing involvement in prudential supervision. One respondent commented:

"APRA already performs extensive monitoring and oversight and are well equipped to identify risks beyond the CTP line of insurance within a licensed entity. Rather than replicate the extensive prudential supervision already undertaken by APRA (which would increase complexity and cost to MAIC and licensed insurers), we believe that a mechanism whereby the Queensland Government can rely upon the oversight of APRA will ultimately provide a more robust assessment of an insurer's stability."

⁶ Part 4 of the *Motor Accident Insurance Act 1994* relates to claims management.

⁷ Section 10(2) of the *Motor Accident Insurance Act 1994*.

⁸ MAIC submission to the Study of Financial System Guarantees, January 2004, p2.

⁹ As occurred in 2001 with the collapse of HIH and its Queensland CTP-licensed subsidiary, FAI, leaving \$450M in outstanding CTP claim liabilities unfunded.

MAIC has a legislated function to set prudential standards having regard to Commonwealth legislation, but this does not specify how the arrangement should work in practice. APRA already has a robust prudential supervision framework and it is not necessary or efficient for MAIC to duplicate any or all of this framework if the MoU between MAIC and APRA operates effectively. Rather, MAIC's role and focus should be on licensing and supervision in relation to insurer performance and compliance as part of its focus on continually improving the scheme.

Conclusion: Prudential Supervision

A robust framework for the prudential supervision of licensed insurers is essential for the stability and health of the CTP scheme. The current overlap between the roles of APRA and MAIC creates inefficiency that can be readily addressed without adversely affecting the interests of the State.

MAIC has commenced work identifying potential options for its future role in the prudential supervision of the licensed insurers, having regard to the responsibilities of APRA. The Committee believes further consultation with APRA and the scheme's licensed insurers is necessary to eliminate any areas of overlap while minimising the risk the State carries in relation to the failure of a licensed CTP insurer. Based on these discussions it may then be necessary to amend MAIC's MOU with APRA, and/or amend the MAI Act to clarify MAIC's role as well as the prudential supervision and compliance obligations on licensed insurers.

Enforcement Powers

Related to the above is MAIC's ability to enforce compliance. Licensed insurers must comply with a range of legislative requirements including those set out in the Industry Deed such as:

- filing returns and other documents with MAIC as required by regulation;
- immediately informing MAIC of particular matters relating to the insurer or a related body corporate;
- providing MAIC with a range of information, including requests for information the insurer receives from APRA and the insurer's response.

Failure on the part of an insurer to comply with the above obligations may lead to the imposition of a penalty, and ultimately, withdrawal or suspension of the insurer's licence.

MAIC also has in place a targeted insurer compliance program to assess insurer compliance with claims management provisions of the MAI Act and its Regulation, as well as monitoring accuracy of insurer claims and payment data and reporting to the Personal Injury Register. In addition to insurers being required to submit the results of self-audits to MAIC every six months, MAIC meets regularly with licensed insurers to review claims management performance and to discuss financial health, strategic plans and annual results.

Analysis and Feedback

MAIC has expressed concerns that the provisions in the MAI Act are inadequate in terms of enabling a fair and balanced response to any regulatory breach by a licensed insurer. MAIC's powers currently involve two extremes i.e. either a letter requesting the insurer address an identified breach or MAIC applying to the Supreme Court seeking orders against the insurer or proceeding to suspend or withdraw the insurer's licence. There are presently no 'midground' responses available that MAIC could use that better reflect an appropriate response to the insurer's conduct or breach. In this context, MAIC has proposed a compliance hierarchy as outlined in the chart below.



Figure 1 Compliance Framework

Conclusion: Enforcement Powers

The Committee believes enhancements to the disclosure and enforcement regime are warranted. As it currently stands, MAIC's compliance framework has limited legislative authority. The Committee recommends the MAI Act be amended to provide MAIC with the requisite power to enforce appropriate responses to compliance breaches, based on the hierarchy as set out above. The Committee is supportive of MAIC working with APRA to establish a more efficient prudential supervision regime including a more robust insurer compliance framework. The ability to effectively implement such a framework requires access to adequate information.

Consideration should therefore also be given as to how insurer performance can best be monitored, benchmarked and reported. This should be examined once the nature of MAIC's future prudential supervision role has been determined, although it is noted that implementing an improved framework to enable insurer performance monitoring should be a priority regardless of any changes to MAIC's prudential supervision role.

Establishment of Medico-Legal Panels and Regulation of Medical Fees

In responding to the Committee's invitation to comment on any other possible reforms to the role of MAIC, there was one suggestion that MAIC establish medico-legal panels or in the alternative, set up a medical assessment tribunal similar to the Workers' Compensation Scheme in Queensland. It was also submitted that MAIC establish a regulated fee structure for medical expenses as a means of controlling medical costs.

Establishing a medical panel would be a significant exercise across a range of medical specialities without certainty that there would be sufficient referrals to make the panel process worthwhile either for the specialists or for insurers and claimants alike. Additionally, the MAI Act already provides for joint-medico legal assessments. In the context of the scheme's stable CTP claims costs, it is also uncertain what benefit would arise to the scheme.

In terms of scheduled costs, with less than 7,000 claims per year, the CTP scheme lacks sufficient 'buying power' to impose cost controls on medical service providers. There could in fact be significant adverse outcomes for claimants if medical providers either refuse to treat injured people at the scheduled rates or only do so on the basis the injured person pays a 'gap fee'. Medical treatment costs make up around 10 per cent of total claims cost - as such any marginal savings would not amount to a meaningful reduction in premiums. The Committee therefore does not consider it necessary to establish medico-legal panels, or seek to regulate medical fees at this current time.

Monitoring of scheme trends

Feedback received during the review included a suggestion for MAIC to strengthen its analysis of insurer data so as to enable earlier detection of scheme wide trends. The Committee recognises that in a rapidly changing environment, maintaining awareness of trends and sharing/ communicating data and insights on these trends with stakeholders becomes ever more important. The Committee consider that there would therefore be benefit in:

- strengthening insurer performance monitoring, benchmarking and reporting; and
- providing information to stakeholders on scheme trends and performance.

RECOMMENDATION: ROLE OF MAIC AS SCHEME REGULATOR

The Committee recommends that:

R13. Areas of overlap and lack of clarity in the current prudential supervision arrangements be eliminated.

R14. The *Motor Accident Insurance Act* 1994 be amended to establish an appropriate hierarchy of regulatory responses to licence compliance breaches.

R15. Insurer performance monitoring, benchmarking and reporting be strengthened.

R16. Information on scheme trends and performance be made more readily available to all stakeholders.



NOMINAL DEFENDANT SCHEME

The Nominal Defendant has been the insurer of last resort in Queensland since its introduction in 1961. Its role is to act as insurer where damages are claimed for personal injury arising from the liability of uninsured or unidentified motor vehicles. In the event an underwriting CTP insurer becomes insolvent, the Nominal Defendant also has a legislated role to meet the cost of claims against that insurer. To fund the Nominal Defendant, motorists pay a levy that is incorporated into their CTP premium and is based on actuarially assessed claim trends. The premise behind the Nominal Defendant is not unique to Queensland, with all other states and territories operating schemes with similar intent. However, there are various models used to achieve similar outcomes with variations to funding arrangements and claims management processes in each jurisdiction.

As the scope of the review includes considering the overall affordability and efficiency of the scheme, the Committee considered whether changes to the Nominal Defendant scheme were required in order to meet these objectives. The Committee asked stakeholders if Queensland's scheme should be amended, and if so, what changes should be made.

Analysis and Feedback

The majority of stakeholders responded that there was no perceived need to amend the Nominal Defendant. Respondents advised that the Nominal Defendant in its role acts well and should not be changed, with one insurer identifying the Nominal Defendant's benefit to government by providing "a firsthand account on how the CTP scheme is operating in practice, particularly on claims management where the Nominal Defendant is exposed to the same dynamics as a licensed insurer."

The Committee received one submission from a private stakeholder that suggested the Nominal Defendant should be amended. Although there was no assertion that the Nominal Defendant wasn't working, the respondent provided an alternate model where a sharing mechanism would distribute costs and claims management amongst the licensed private insurers in proportion to market share. As no evidence has been presented to this review to suggest that an alternative model should be pursued, this was not considered any further.

Conclusion: Nominal Defendant

The Committee does not believe there would be any benefit in changing the structure or functions of the Nominal Defendant. The Committee agrees that the Nominal Defendant provides the Queensland Government with a valuable insight into the CTP scheme that helps improve understanding of the operating challenges of licensed insurers in the scheme.

RECOMMENDATION: NOMINAL DEFENDANT

The Committee recommends that:

R17. The current Nominal Defendant scheme be retained.



SCHEME COVERAGE

The Terms of Reference for this review included a requirement for the Committee to examine whether improvements in scheme coverage are warranted having regard to ensuring the scheme remains contemporary, fair and affordable in providing benefits to people injured in road crashes.

Inevitable accident

The underlying principle underpinning Queensland's common law fault-based scheme is that in order to access compensation benefits, persons injured in motor vehicle accidents must first prove their injuries were caused (either totally or partially) by the wrongful act or omission of some other third party – usually, the driver of another vehicle involved in the accident. As negligence must be established, circumstances can arise where an injured person cannot bring a CTP claim because there is no fault on the part of any driver.

Inevitable accident is a defence at common law that may be relied upon by insurers to deny liability. Although it does not arise frequently, the defence of inevitable accident may be raised, for example when an animal unexpectedly jumps out in front of a car leaving insufficient time for the driver to take any evasive action to avoid a collision. It may also be argued when the driver of the at-fault vehicle, having no prior history or symptoms, suffers a sudden medical incapacity such as a heart attack or seizure and, as a result, is unable to prevent the accident occurring despite exercising reasonable care and skill.

The Committee sought feedback on whether, in certain circumstances such as those described above, the MAI Act should be amended to remove the legal defence of inevitable accident. This would have the effect of expanding CTP coverage by allowing persons injured in a blameless motor vehicle accident the ability to claim compensation for their injuries despite there being no finding of negligence.

Analysis and Feedback

Feedback received during the consultation process was that there are only limited circumstances where the defence of inevitable accident is available and the volume of claims where the defence has been successfully invoked was significantly low. While overall there was cautious support for the statutory removal of the defence, one submission received suggested the number of inevitable accidents may increase in line with the growing number of older drivers on Queensland's roads while another submission suggested it would be inequitable to regulate away a valid legal defence.

Having regard to the fact that very few claims are denied based on a finding of inevitable accident, the Committee queries the potential disparity in one cohort of potential claimants being treated differently from other potential claimants who must prove fault (either wholly or in part) in order to receive compensation for their injuries. All stakeholders agreed, and the Committee concurs, that any legislative change would need to be clearly drafted to avoid potential ambiguities, protracted disputes over statutory interpretation, increased scheme costs and unintended consequences that have arisen in other jurisdictions.

The Committee's attention was drawn to a number of New South Wales court cases involving an interpretation of the 'blameless' accident provisions contained in the *Motor Accident Compensation Act 1999 (NSW)*. These court decisions have led to the unintended expansion of the blameless accident provisions in NSW's motor accident legislation to drivers in single vehicle accidents who perceive a risk but have no opportunity to react to it.

It is understood that as a result, there has been an increase in these types of compensation claims which are adding costs to the New South Wales scheme beyond what was initially considered when the provisions were first introduced.

Conclusion: Inevitable Accident

On balance, and consistent with having a fault-based scheme, it is the Committee's view that no legislative action should be taken to remove the common law defence of inevitable accident at the current time.

No-fault cover for children

While the Queensland scheme is not unique in requiring those injured in a motor vehicle accident to establish negligence before being able to access compensation – a long-standing common law principle – Queensland is different from some other fault-based schemes that have introduced specific exceptions to the requirement of establishing fault.

In New South Wales for example, concurrent with legislating to remove the legal defence of inevitable accident in 2006, it extended limited benefits to children under 16 regardless of fault. In 2013, South Australia also introduced no-fault provisions for children into their primarily common law at-fault CTP scheme. Specifically, the South Australian scheme covers the necessary and reasonable treatment, care and support needs of children under the age of 16 regardless of whether the child, a South Australian registered motor vehicle, or an interstate registered vehicle was at fault.

In contrast, the *MAI Act* contains no such provisions, nor is any distinction made between a claimant who is an adult and a claimant who is a child. Consequently, there can be instances where some people, including children, do not receive any compensation at all, because they cannot establish fault on the part of another person.

Arguably, such legislative reforms support the view that mandating a requirement to prove fault is unfair and can be difficult, especially for children. Children may, from time to time, experience lapses in concentration and, depending on their age, can sometimes lack the awareness or ability to safely navigate every day hazards such as crossing a busy road. By removing the need to establish fault, this removes a level of uncertainty and provides a safety net for injured children who may not be compensated under existing arrangements.

Amending the Queensland CTP scheme to allow compensation to be paid where there has been no negligence on the part of a vehicle owner or driver would require legislative reform and represent a significant shift in the scheme's philosophy. This question was put to stakeholders in recognition of the potential inequity that can arise regarding the treatment of claims involving children injured on Queensland roads and those injured interstate in jurisdictions with no-fault coverage for children.

Analysis and Feedback

Many submissions expressed support for extending benefits to children under the age of 16 regardless of fault, but only to the extent that the medical treatment and rehabilitation needs of injured children are covered. One stakeholder cautioned against extending the provision of cover in isolation of a full no-fault scheme or in the absence of defined benefits and warned that it could open up opportunities for fraudulent behaviour as has been the experience in New South Wales. It was suggested that introducing a full no-fault scheme with defined benefits would help prevent a similar scenario in Queensland.

It was reported to the Committee that under the current scheme as presently structured, the vast majority of claimants, aged 16 years and under, would be able to demonstrate fault and would most commonly be passengers in motor vehicles. However, fault in relation to pedestrian cases involving children was more likely to be an issue of contention, leading to uncertainty and increased costs, all of which limits the amount children receive from any resolution of the claim. For this reason, the legal industry was supportive of amending the scheme so as to allow no-fault claims for children under the age of 16 years provided this was done by way of augmenting the current rights available to injured children and not by restricting access to the common law.

While the Committee was not tasked with examining the merits or otherwise of Queensland transitioning to a pure no-fault scheme, ensuring children have access to benefits even if they themselves have contributed to their injuries is desirable from a social policy perspective. While there is a level of community expectation that children, who are particularly vulnerable, should be supported in having their medical, rehabilitation and care needs met without the need to assign blame, the Committee notes that this has largely been achieved with the introduction of NIISQ. From 1 July 2016, children of any age (as well as adults) who sustain an eligible, serious personal injury as a result of a motor vehicle accident will receive necessary and reasonable treatment, care and support for as long as they need it, regardless of who may have caused the accident.

The MAI Act also imposes obligations on licensed CTP insurers to cover the cost of providing early access to reasonable and necessary rehabilitation where liability is not disputed. In many cases, particularly those involving children, an insurer may be prepared to pay for these services without accepting liability. Where there is a dispute regarding causation, the parties may attempt to resolve the dispute informally or take the matter to court. This applies equally to claims involving children where liability may be in issue. In most cases however, claims are resolved between the parties without the need for Court intervention.

The Committee notes that licensed insurers currently offer various forms of Driver At Fault coverage at no additional cost to motorists. There may be an opportunity for licensed insurers to consider exploring an extension to this cover to provide a specified benefit for an at-fault child.

An analysis of scheme data over the last five years reveals that there have been 2,257 finalised claims involving children, of which there were 370 claims where liability was in dispute. This suggests that the vast majority of child claimants under the current scheme are able to demonstrate fault and have their claims for compensation resolved. Even in cases where liability was in issue, settlement payments were found to be comparable across all injury cohorts. The data suggests very few claims lodged by children have liability denied completely.

Conclusion: No-fault cover for children

Reflecting on the submissions received and noting the effect expanding CTP coverage has had on other jurisdictions, notably increased scheme costs, the Committee is not convinced there is a pressing need to alter the scheme's overarching fault-based philosophy. The Committee agrees that the focus of an effective CTP scheme should always be on an injured child's recovery and optimising their health outcomes, and notes the introduction of NIISQ goes a long way to ensuring those seriously injured are protected. The Committee is of the view that Queensland's fault-based common law scheme should be preserved and a no-fault claims option for children should not be implemented as this time.

RECOMMENDATION: SCHEME COVERAGE

The Committee recommends that:

R18. The common law defence of inevitable accident be retained.

R19. A no-fault cover for children not be introduced at this time.



EMERGING OPPORTUNITIES

Advances in technology continue to transform the way we live and work. With the global nature of such changes, it is virtually impossible for any individual, region, or industry to be unaffected. How governments respond to changes in technology and their impacts on people and business models, is an issue worldwide. The emergence of sharing economies, for example, has called for a completely different approach to how some businesses are regulated.

The Committee is aware of a number of technological advancements and emerging industries with the capacity to disrupt the industry. These disruptions could fundamentally change the role of MAIC and the extent to which CTP is required. The following expands on some of the known disruptions, but this list should not be considered exhaustive. A number of these are considered on the horizon and while the required responses may currently be unclear, the Committee recommends the government keep a watching brief in these areas.

Autonomous Vehicles

Autonomous vehicles have the potential to fundamentally change how transport is perceived and utilised in society. It is likely this technology will improve road safety, mobility, productivity and environmental outcomes. However, current regulations do not adequately support automated road vehicles, creating uncertainty around how current policies and regulations will accommodate this technology.

The Committee is aware that MAIC has been contributing to the National Transport Commission's policy work to achieve nationally consistent regulation for autonomous vehicles in Australia. The Committee sees this partnership as an important one, with MAIC able to ensure eligibility for CTP and the NIIS is not unintentionally restricted by legislation.

In the longer term, autonomous vehicles will have a more significant impact on the CTP scheme. Work commissioned from PwC by MAIC suggests within five to ten years further automation of Queensland's vehicle fleet will reduce incidents of road trauma, and full vehicle automation will lead to a shift in liability from drivers to manufacturers. When this point is reached the relevance of a CTP scheme may need to be reassessed.

At this stage, the timing and true extent of impacts are unclear. The government should continue reviewing the scheme to ensure it can accommodate innovation and that it continues to provide the expected level of protections for Queenslanders.

Intelligent Transport Systems

While there has been much media coverage surrounding the emergence of autonomous vehicles, the road system on which they operate will also undergo potentially significant and comprehensive change. Intelligent Transport Systems (ITS) produce the capacity for a 'road system' to interact with all users – not just motor vehicles but also vulnerable road users such as cyclists and pedestrians. ITS technology may emerge where the road system 'guides' vehicles safely to their destination. ITS presents the opportunity for reduced crashes and resultant injuries. While initiatives connected to improving road systems would be led by DTMR, there is a justifiable role for MAIC to monitor and engage in this process and ensure that the potential benefits from improved outcomes for the Queensland CTP scheme are captured and appropriately factored into any ITS deliberations.



Ride Sharing

The Queensland Government, like many other jurisdictions in Australia, is currently undertaking a reform agenda brought on by the emergence of ride sharing platforms. While the Committee was not asked to provide input into the government's decision making, understanding how the scheme can adapt to accommodate disruptions was of interest to the Committee.

The Committee would be supportive of an approach where a separate ride share class is established to accommodate ride share vehicles. This would complement the current vehicle class filing models where vehicles with similar risk experience are grouped together. While this approach is appropriate for current system limitations, the Committee is also of the view that the Government needs to keep a watching brief on advances in telematics and how this technology could be utilised in the personalised transport CTP insurance.

As noted previously, telematics will provide future opportunities for risk rating within the scheme. This would allow for risk to be calculated to a degree not currently possible. This creates an opportunity for some motorists to receive reduced premiums that are based directly on their usage. A greater awareness of how drivers use their vehicles and how it impacts their insurance premiums could also lead to improvements in driver behaviour, which has wider community benefits by improving safety.

The Committee is aware current system limitations would inhibit the introduction of telematics-enabled pricing and it strongly encourages the government to undertake system upgrades that would accommodate a more dynamic pricing structure. This would provide an opportunity for insurers to provide targeted pricing and enable a greater degree of competition in the scheme.

Car Sharing

Through the hire vehicle industry, commercial car sharing has had a long standing in contemporary society. However, a recent development in car sharing that may impact the CTP scheme is peer-to-peer vehicle sharing enabled by digital technologies. This new platform allows car owners to capitalise on capacity (i.e. an idle car) by allowing other people to access their vehicles while the owner does not require it. For example, one of their strategies is to encourage travellers who normally park at long stay car parks at airports to make their vehicles available to other travellers who have arrived at the airport and need a car for a short time period.

The car sharing industry has made limited entry into the Queensland marketplace compared to other jurisdictions. MAIC has been contacted by interested parties looking to establish their businesses in Queensland. This has encouraged some commentary on how the current vehicle class filing system can accommodate innovation.

The emergence of new forms of car sharing, particularly peer-to-peer car sharing, will see some vehicles on the road more frequently and driven by different drivers. There may be a case for further investigation, however, there is currently insufficient need to warrant this, with a minimum number of vehicles required to establish a new class. As an interim approach the scheme has a class to accommodate hire vehicles, and the use of this for car sharing is appropriate.



DISCLOSURES

Two members of the Review Committee (Henry Smerdon and Rowan Ward) have long standing arrangements to provide independent expert advice to MAIC during the quarterly scheme performance review and premium determination process. These arrangements continued during the course of this review.

Ms Blades was appointed specifically for the purposes of this Scheme Review.

Each member of the Review Committee disclosed to MAIC that he or she had one or more shareholding in a licensed CTP insurer as well as private ownership of vehicles that are subject to the normal CTP insurance arrangements. The Insurance Commissioner noted the disclosures and advised that he had no concerns and that in his view the disclosures did not compromise the independence, conduct or outcome of the review.

APPENDICES

APPENDIX A: ORGANISATIONS CONSULTED AND SUBMISSIONS RECEIVED

Adrian Bonanno	John McRoberts
Agron Kello	Larriece Evans
Allianz	Mike Cameron
Amberyn Dargusch	Norman Powell
Andrew Francis	Paul McCarthy
Andrew Doughman	QBE
Australian Lawyers Alliance	Queensland Law Society
Australian Taxi Advisers	QUT
Carol Walker	RACQ
CARRS-Q	Ramazan Yildirim
Complete taxi management	Recover Injury Research Centre
David Walker	Stefan Przybysz
David Jame	Stephen Lacaze
David Thomas	Suncorp
Davina Thomas	Sunshine Coast Cabs
Debbie Norris	Taxi Council Queensland
Drive For You Pty Ltd	The Motor Trades Association of Queensland
Elaine Herold	Tully Taxis
Gary Pascoe	Western Suburbs Taxi Depot
Georgia Papoulias	Yellow Cab
Griffith Law School	Yvonne Grace
Insurance Council Australia	Ziron Build
Jason Steele	
John Rahily	

** This list does not include those who requested their submissions be confidential or duplicate entries in which more than one submission from a person was received.

APPENDIX B: MOTOR VEHICLE CLASSES

Vehicle class	Description of class
1	cars and station wagons
2	motorised homes, but not if the part of the motor vehicle designed for residence is detachable from the part providing the motive power
3	taxis—cars and station wagons only
4	hire vehicles that would otherwise fall into class 1, 2 or 6
5	motor vehicles, including cycles, for use only as vintage, veteran, historic or street rod motor vehicles
6	trucks, utilities and vans, including panel vans, with a gross vehicle mass of 4.5t or less
7	trucks, prime movers and vans with a gross vehicle mass of more than 4.5t
8	 buses that are— a. exempt or partially exempt from payment of vehicle registration fees on the basis of use for charitable or community service; or b. used only for driver tuition; or c. not used for or in connection with a business or commercial purposes
9	 buses used substantially for transporting- a. children, mature age students, teachers, other school employees and parents to or from school or school events; or b. persons of any age to or from centres for therapy, rehabilitation, or remedial or other special education; (but a bus is not taken to be used substantially for transporting passengers of these classes if it carries a number of passengers of some other class or classes that is more than 10% of its adult passenger seating capacity)
10a	buses that are- a. used within 350km of their principal base of operations; and b. not in class 8, 9 or 10B
10b	buses operating under an integrated mass transit service contract, other than buses used only for a school service or a restricted school service
11	buses that are not in class 8, 9, 10A or 10B
12	motorcycles with 2 wheels or 3 wheels, including motorcycles for hire, with seating only for the driver
13	motorcycles with 2 or 3 wheels, including motorcycles for hire, with either or both of the following— a. seating for a pillion passenger; b. sidecar
14	tractors, with or without attachment, that are conditionally registered with unrestricted access registration
15	a. self-propelled machinery, other than a vehicle of class 14, 19, 20 or 21; andb. fire engines, bush fire brigade vehicles and other emergency vehicles other than ambulances
16	ambulances
17	motor vehicles used only for primary production, other than motor vehicles for which a lower premium is prescribed
18	Abolished
19	motor vehicles that are conditionally registered with limited access registration
20	motor vehicles that are conditionally registered with zone access registration
21	self-propelled machinery, other than a vehicle of class 14, 15, 19 or 20, that is conditionally registered with unrestricted access registration
22	motor vehicles, other than trailers, for which unregistered vehicle permits have been or are to be issued
23	motor vehicles, other than trailers, to be driven with a dealer's plate attached in the course of a business for which the dealer's plate is issued
24	trailers registered under the Interstate Road Transport Act 1985 (Cwlth) or trailers with a GVM of more than 4.5t for which a supplementary policy within the meaning of s 31(5) of the Act is sought
25	Abolished