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The Secretary
Standing Committee on Public Accounts
Legislative Assembly for the ACT
GPO Box 1020, CANBERRA ACT

Via email: committees@parliament.act.gov.au

INQUIRY INTO THE ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2011

Dear Secretary

NRMA Insurance is pleased to respond to the Inquiry into the *Road Transport (Third-Party Insurance) Amendment Bill 2011* ('the Bill').

NRMA Insurance has served the ACT community for over 50 years in the provision of insurance and is the only insurer to offer Compulsory Third Party (CTP) insurance to ACT drivers.

NRMA Insurance is part of the largest division of Insurance Australia Group (IAG), delivering general insurance products direct to customers across Australia (NRMA Insurance (NSW, QLD, ACT, TAS), SGIO (WA), SGIC (SA)). We are responsible for developing, underwriting, selling and managing claims for personal insurance products that are sold directly to customers. Our products include motor insurance, home and contents insurance, CTP, business insurance and home security. We offer lifestyle and leisure insurance products including veteran, vintage and classic car, boat, caravan and travel insurance.

Introduction

The Committee has requested comment on various matters relating to the *Road Transport (Third Party Insurance) Act 2008* ('the Act') and the effects of its amendment through the Bill (2011).

As the only insurer providing CTP insurance in the ACT, NRMA Insurance can offer experienced counsel on aspects of the operation of the scheme. Ultimately however, the design of the scheme is a matter for elected legislators. Our primary role is to provide sustainable personal injury insurance in response to the policy settings determined by elected legislators. In this setting, our focus is to provide the best outcomes for our customers, including the long-term sustainability of the business in the ACT.

Broadly speaking, CTP schemes incur long-tail liabilities that require significant reserves to ensure prudential obligations are met. A key objective therefore for any legislative body considering the policy settings of a CTP scheme is to ensure stability and predictability in the scheme. This reduces the risk associated with forecasting future liabilities for 'heads of damage' in the scheme. Increased risk in a scheme is ultimately borne by the consumer who pays their share of predicted liabilities incurred as a result of their participation in the scheme.

Another key objective of a statutory scheme should be a mechanism to adjust those areas of the scheme which may be underperforming over time. A statutory scheme is fixed and does not have the flexibility to respond rapidly to increasing costs and customer demands except by legislative

reform. Given this, we believe regular adjustments to the scheme may assist in achieving the objects of the Act.

To achieve both stability and ongoing reform, changes made to the scheme must be mindful of the long tail nature of the scheme, including that current liabilities are the result of policy settings from up to a decade ago.

1) Effectiveness of the Road Transport (Third Party Insurance) Act 2008

NRMA Insurance is supportive of the intent of the reforms made in 2008 through the Act. We believe a focus on early access to health treatment and rehabilitation is a key principle that should underpin statutory schemes.

NRMA Insurance has a strong interest in a number of objectives of the Act, including:

I. promoting recovery of injured people (5A(f));
II. keeping the costs of insurance at an affordable level (5A(c));
III. improving road safety outcomes (5A(h));
IV. competition (5A(b)); and,
V. encouraging the speedy resolution of claims (5A(e)).

I. Recovery

NRMA Insurance believes that schemes which seek to maximise health outcomes (even within a compensable environment) will provide better outcomes for the injured person than schemes that entrench or create a disability mindset.

There is sufficient, published medical research to provide guidance on maximising health benefit structures for statutory schemes, with common themes including: fast access to medical treatment; appropriate treatment strategies that focus on health and recovery; and, reducing the focus on compensation ahead of treatment.

The degree to which access to common law compensation is restricted or otherwise is a matter for state and territory governments to determine. However, a number of factors have been identified[1] within a compensable environment that may inhibit recovery or result in poorer health outcomes which the Committee may wish to consider. Some of these correlations include:

- delay in the length of claims when the case is litigated;
- increased reporting of pain, disability, psychological disturbance, unemployment and length of time off work, for compensable injuries compared to non-compensable injuries;
- tendencies for financial incentives to increase abnormality and disability in injured persons despite less severe injuries; and,
- the management of expert testimony, the delay in finalising civil cases, and the effect of the adversarial system upon the plaintiff (particularly the number of medical examinations) were all identified as being relevant to poorer health outcomes for compensable injured persons.

II. Premiums

The CTP scheme in the ACT has 'community rated' risk premiums. This means that 'good risks' provide a cross subsidy for so called 'bad risks'. It is recognised that some level of cross-subsidisation is necessary to ensure that CTP premiums are affordable for all motorists, however, allowing a price signal for lower risk profiles may serve to encourage lower risk behaviours.

In simple terms, this could be achieved by allowing each insurer to select rating factors and determine the premium for each factor and class of vehicle. This would allow an insurer to charge a lower premium for good risks and a slightly higher premium for others. In this scenario, the premiums paid by vehicle owners would better reflect their risk. We would advocate for an upper limit on premiums to ensure that CTP is affordable for all.

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[1] In 2001 The Australasian Faculty of Occupational Medicine (AFOM) and The Royal Australasian College of Physicians (RACOP) published a comprehensive investigation to identify whether people with compensable injuries have poorer health outcomes than those with similar but non-compensable injuries.

It is recognised that this would require system changes to administer however the cost incurred would be outweighed by the benefits to motorists and the encouragement of better driving behaviour in general.

*III. **Reducing Accidents***
NRMA Insurance is a strong advocate of road safety initiatives to reduce the severity and number of motor accidents in the ACT and across Australia, where we insure over three million vehicles. We are the only insurer in Australia to own and operate a physical vehicle research centre in which we undertake research into the effects of automotive design and engineering on the safety, security and repair costs of motor vehicles. We have a long history of working with community groups such as KidSafe and the broader industry to change behaviour and reduce incidents on the road.

We believe that a road safety culture, implemented at all levels of our society will help reduce collisions, injuries and damage to vehicles. This can in turn lead to a reduction in the frequency of claims which is ultimately in the best interest of our customers, the community and our business.

NRMA Insurance invested $10m in the initial development of the NRMA Road Safety Trust in 1992 and since 1998, has equally matched the contributions of ACT motorists, who pay a $2 Road Safety Levy on every ACT registered vehicle.

The Trust has spent $20m on over 350 innovative road safety projects since 1992.

*IV. **Competition***
NRMA Insurance has served the ACT community for over 50 years in the provision of general insurance and we welcome the entrance of new insurers into the market. We expect improvements to the stability of the scheme would encourage other insurers to enter the market.

*V. **Claims Resolution***
Since the introduction of the Act in 2008, there has been a reduction in the time taken for injured people to make a claim from an average prior to 2008 of 112.5 days to an average of 73.3 days after the reforms. This has facilitated earlier access to treatment and rehabilitation which is one of the objects of the Act.

For claims made after the 2008 reforms, the period of limitation for litigation of these claims has not yet expired and as such early trends in this area are not able to be fully realised.

2) Review effect of Road Transport (Third Party Insurance) Bill (2011) on provision of CTP
The Bill seeks to amend the Act to introduce a Whole Person Impairment (WPI) test for those seeking damages for non-economic loss (NEL), whilst maintaining the right to appropriate health treatment and economic loss damages for those who have a WPI of less than 15 per cent.

NRMA Insurance is not opposed to the Bill. This Bill offers a response to the increased costs arising from litigation of non-economic loss damages for relatively minor injuries. This, however, is a matter for policy makers to determine.

In respect of the likely impact of the Bill on CTP in the ACT, it is probable that there would be some downward pressure on premiums if overall claims costs are lowered. These reforms may enhance the predictability of future liability in the scheme which could serve to make this market more attractive to other insurers.

3) Schemes in other states
CTP schemes are not uniform across Australia. A different scheme operates in each state and territory with different benefit structures and restrictions in each state. Similarly, premiums are different in each state, reflecting the particular design of the scheme. A simple comparison is provided in the table below.

Comparison of CTP Schemes by State / Territory

	VIC	NSW	QLD	WA	SA	TAS	ACT	NT
i) States Applicable	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
ii) Definition of Accident	Indemnity - arising out of the use	Caused by fault in use or operation injury to arise from driving collision or out of control	Driving, running out of control, collision, action to avoid a collision, or defect causing loss of control	Directly caused by or by the driving of a motor vehicle	Driving vehicle running out of control, or person traveling on road colliding with vehicle when stationary, or action taken to avoid collision	Where personal injury results directly from the driving of, or collision with a motor vehicle	caused by or arising out of the use of the motor vehicle in any part of the Commonwealth	caused by or arising out of the use of a motor vehicle; resulting in death of or injury to a person.
iii) Benefits & Compensation								
• **Access**	Serious Injury	Pain & Suffering - >10%	Restrictions on legal costs and loss of consortium on smaller claims, and G v K payments)	Threshold for Pain and Suffering	Threshold for eco loss (see below). All reasonable treatment expenses paid. 1st week of eco loss not paid	Threshold for Pain and Suffering	No Restrictions	Non-NT residents only or NT residents injured interstate by an NT vehicle
• **Pecuniary Loss**								
Threshold	$47,230	None	None*	None	See above	None	None	None
Maximum	$1,063,160	2,834 net per week	3 times AWE	Unlimited	$2,281,400* (subject to CPI)	4.25 AW	3 times AWE	$188,406.40
• **Non Economic Loss**								
Threshold	$47,230	None	None	$13,000	See footnote 14	$4,000	None	None
Maximum	$472,500	$309,000	$250,000	$257,000	$241,500*	Unlimited	Unlimited	$170,060.80
• **Excess**	Nil	$500 excess on insured if ≥25% at fault	Nil	No	$300 excess on insured if > 25% at fault	No	$500 excess on insured if ≥25% at fault	No
iv) Discount Rate	6%	5%	5%	6%	5%	7%	3%	6%
iv) Limitation of Actions	6 years	3 years, unless leave of court given [15]	3 years (for adults)	6 years (for adults)	3 years (for adults)	3 years 6 years on application to court	3 years (for adults)	3 years

[13] deductible on awards up to $39,500; phased out from $39,500 to $52,500; no deduction after $52,500

[14] significant impairment for ≥7 days or ≥$2,850 medical expenses, subject to CPI (Note: Effective 1 January 2003, under a revised scheme, the max for P&S will be $241,500 subject to CPI

*for accidents occurring in 2003

[15] leave must not be granted unless full and satisfactory explanation is given and the total damages are likely to be over 25% of maximum for non-economic loss.

If a matter is going through assessment at Claim Assessment & Resolution Services (CARS), limitation period does not run until 2 months after a certificate of assessment or exemption is issued.

*Injury Scale Value applied to GD's on incidents post 2 December 2003

5) Consider alternative/innovative schemes in other states
As stated previously, NRMA Insurance supports a process of continual review of the scheme to make adjustments to underperforming areas.

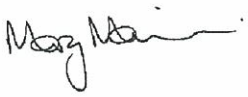
A table of scheme benefits and restrictions by state has been provided above. We would be pleased to share expertise from our operations in these states with the Committee.

7) Consider the long term viability of the scheme in ACT
NRMA Insurance is committed to the sustainable provision of home and motor and CTP insurance to ACT residents. We encourage legislators to seek stability and predictability in the scheme to enable insurers to provide sustainable and affordable insurance in the market.

Conclusion
NRMA Insurance is supportive of measures that will improve the predictability and stability of the scheme over time. We also support a continual review process in the scheme as a mechanism to adjust underperforming aspects of the scheme, the costs of which are inevitably borne by the consumer.

We would be pleased to appear before the Committee in relation to this submission with due regard for commercially sensitive information.

Yours sincerely



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