

QUEENSLAND CTP INDUSTRY STAKEHOLDERS SUBMISSION

**Inquiry into current factors and trends
influencing the cost of insurance under the
statutory insurance scheme**

Submission to the MAIC CTP Premiums Team

21 February 2019

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Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal of the Eora Nation.

¹ www.lawyersalliance.com.au.

Our submission

1. The ALA welcomes the opportunity to provide this submission to the Queensland Motor Accident Insurance Commission CTP Premiums Team's ongoing series of consultations on current factors and trends influencing the cost of insurance.
2. We continue to believe that the scheme is operating in line with its stated principles of affordability, efficiency, fairness and flexibility. We believe that the long-term excellent performance of the scheme is attributable primarily to its design and oversight:
 - (a) The scheme is a 'short-tail' scheme with the primary basis for recovery being common law principles;
 - (b) The disputation rates are low. A majority of matters resolve through legislatively mandated alternative dispute resolution (ADR) processes; and of those which are litigated, a fraction of 1 per cent of claims are actually adjudicated to judgment in court. This reflects largely sensible behaviours of key stakeholders;
 - (c) The long-tail component of the scheme National Injury Insurance Scheme Queensland (NIISQ) is confined to those most deserving of an expensive no-fault safety net: those people catastrophically injured; and
 - (d) High-quality regulatory oversight by the regulator, MAIC.
3. We believe, generally, that the private underwriting model of the scheme is appropriate for the time being. The ALA is mindful, however, that previous reviews have revealed insurer profits far in excess of what the community would consider appropriate. This matter, evidently, has not been appropriately addressed. Should this trend continue, the ALA believes that alternative underwriting models will need to be considered.
4. The ALA has been unable to identify any new or developing factors and trends influencing the cost of insurance under the statutory insurance scheme, which have emerged since the previous consultation in November 2018. The ALA notes that while the behaviours of those who engage in claims farming do not (at this stage) appear to be influencing the cost of insurance, MAIC and the Government have informed stakeholders of an intention to legislate to proscribe certain behaviours associated with claims farming. The ALA strongly supports and commends the intention of the foreshadowed legislation.

5. The ALA reiterates its recommendations from our March 2018 and November 2018 submissions to this series of consultations. A copy of our input to both can be found attached to this submission. Additional commentary around each of the recommendations can be found within those submissions.
6. The recommendations from those submissions are as follows:
 - (a) The current scheme is one of the most successful in Australia, in part due to close stakeholder engagement. Stakeholder engagement should continue to underpin policy discussions in this area;
 - (b) Competition in the CTP market should be encouraged and the government should review potential barriers to entering the market;
 - (c) There should be closer monitoring between the anticipated 8 per cent profit margin and the profits in fact earned. Persistent excessive profits undermine the scheme and should be responded to by government;
 - (d) That MAIC explore the possibility of a stay on the increase in the ongoing yearly increase in cost thresholds for the recovery of costs.
 - (e) The ALA endorses Recommendation 4 of the Review of Queensland's Third Party Insurance Scheme (2016) (2016 Report), which recommends that: 'MAIC further investigate limited risk rating to identify potential opportunities for improving price competition and affordability'.
 - (f) We believe that this investigation should include researching similar risk rating schemes in other jurisdictions to ascertain whether a move to a limited risk rating system does indeed increase competition and reduce premium cost;
 - (g) We believe that this investigation should seek broad stakeholder opinion on the costs and benefits of any potential change;
 - (h) Given the highly regulated nature of legal costs, and the existing avenues for review that exist if consumers are unhappy with their legal costs, no further regulation should be implemented. The appropriate approach relates to consumer education rather than additional regulation. We support the Queensland Law Society's proposals regarding voluntary costs disclosure; and

(i) The problem of claims farming should be taken seriously, for which stringent rules and consequences should be developed.

7. The ALA would be happy to work with MAIC on any of the reforms discussed in this submission, and puts itself at MAIC's disposal in this regard.

Greg Spinda

A handwritten signature in black ink, appearing to be 'G. Spinda', written in a cursive style.

Queensland President
Australian Lawyers Alliance

Enclosed:

ALA submission to MAIC CTP Premiums Team on current factors and trends influencing the cost of insurance under the statutory insurance scheme (30 November 2018)

ALA submission to MAIC CTP Premiums Team on current factors and trends influencing the cost of insurance under the statutory insurance scheme (2 March 2018)