

Current factors and trends influencing the cost of insurance under Queensland's CTP insurance scheme

Submission to the Motor Accident Insurance
Commission, Queensland

29 November 2024

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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 people of the Eora Nation.

¹ www.lawyersalliance.com.au

Introduction

1. The ALA welcomes the opportunity to provide this submission to the Motor Accident Insurance Commission's (MAIC) ongoing series of consultations with stakeholders on current factors and trends influencing the cost of insurance under Queensland's Compulsory Third Party scheme ('CTP scheme').
2. The ALA has made numerous submissions in these ongoing consultations over the years – including most recently on 26 February 2024, 3 June 2024 and 4 September 2024.² We note that this submission largely replicates our position made at the time of those submissions.
3. Many of the factors we have identified historically are still in progress and developing. Those factors include:
 - a. The macroeconomic climate of higher inflation and interest rates (although this seems to be abating slowly);
 - b. Prior to RACQ's exit from the CTP scheme in Queensland they were lobbying, first for fundamental CTP scheme design change, and later for a premium equalisation model ('PEM');
 - c. More recently Suncorp has been seeking the implementation of a PEM, although at the time RACQ lobbied for this they were vehemently opposed to a PEM; and
 - d. A comprehensive review of the CTP scheme occurred in early 2023 – the ALA notes this review was then halted and so, with the election a new Government in Queensland, we call for a roundtable discussion to progress the review.

² Australian Lawyers Alliance, Submission to the Motor Accident Insurance Commission, Queensland, *Current factors and trends influencing the cost of insurance under Queensland's CTP insurance scheme* (26 February 2024) <www.lawyersalliance.com.au/documents/item/2703>; Australian Lawyers Alliance, Submission to the Motor Accident Insurance Commission, Queensland, *Current factors and trends influencing the cost of insurance under Queensland's CTP insurance scheme* (3 June 2023) <www.lawyersalliance.com.au/documents/item/2756>; Australian Lawyers Alliance, Submission to the Motor Accident Insurance Commission, Queensland, *Current factors and trends influencing the cost of insurance under Queensland's CTP insurance scheme* (4 September 2024) <www.lawyersalliance.com.au/documents/item/2782>.

The fundamentals of Queensland's CTP scheme

4. The ALA maintains our long-held view that RACQ exiting the CTP scheme will not affect the fundamentals of the CTP scheme. It has now been in excess of 12 months and the scheme remains sustainable and fair for Queenslanders and the CTP insurers.
5. Queensland's CTP scheme, we submit, will remain efficient, affordable and well-run, including with regard to the following:
 - a. Claims farming activity has been significantly disrupted, through effective legislation and investigation by MAIC;³
 - b. CTP premium affordability has been stable, in fact slightly trending down with FY 2023 being 21.1% and FY 2024 being 20.4% when compared to Queensland average weekly wages;⁴
 - c. Claimant benefits are 73% versus delivery costs of 27%. With claimant benefits being 2% higher in FY 2023 and 2024 than the five-year average;⁵
 - d. Claim frequency has reduced and is expected to remain lower than historical averages;⁶
 - e. Average claim size is expected to be slightly lower than initially projected in March 2024, which demonstrates no risk to the CTP scheme;⁷ and

³ Motor Accident Insurance Commission, *Annual CTP scheme insights: 2023-24* (Web Page, 5 November 2024) <<https://maic.qld.gov.au/publications/annual-ctp-scheme-insights-2023-24>>.

⁴ Motor Accident Insurance Commission, *Annual CTP scheme insights: 2022-23* (Web Page, 15 August 2023) <<https://maic.qld.gov.au/publications/annual-ctp-scheme-insights-2022-23>>; Motor Accident Insurance Commission, *Annual CTP scheme insights: 2023-24* (Web Page, 5 November 2024) <<https://maic.qld.gov.au/publications/annual-ctp-scheme-insights-2023-24>>.

⁵ Ibid.

⁶ Peter Mulquiney, Danielle Ling and Soroush Amirabadi (Taylor Fry), *Queensland CTP Market Briefing: Review of the risk premium for the 2023Q2 underwriting quarter* (Report, 13 December 2022) <<https://maic.qld.gov.au/wp-content/uploads/2023/02/2023Q2-Queensland-CTP-Market-Briefing-Review-of-the-Components-of-Risk-Premium.pdf>>; Peter Mulquiney and Danielle Ling (Taylor Fry), *Queensland CTP Market Briefing: Review of the risk premium for the 2025Q1 underwriting quarter* (Report, 23 September 2024) <<https://maic.qld.gov.au/wp-content/uploads/queensland-ctp-market-briefing-2025Q1.pdf>>.

⁷ Peter Mulquiney and Danielle Ling (Taylor Fry), *Queensland CTP Market Briefing: Review of the risk premium for the 2025Q1 underwriting quarter* (Report, 23 September 2024) <<https://maic.qld.gov.au/wp-content/uploads/queensland-ctp-market-briefing-2025Q1.pdf>>.

- f. Queensland's CTP scheme continues to retain full access to common law rights, supplemented by the National Injury Insurance Scheme, Queensland (NIISQ).
6. The ALA considers that, as we approach the 12-month mark after RACQ's exit from the scheme, we will have seen the reallocation of a large portion – if not all – of RACQ's customer base to alternate insurers. The ALA considers that it would be timely to obtain an update on the market allocations and that all stakeholders be provided with an update on what, if any, impact there has been on the remaining three CTP insurers.
7. The ALA also assumes that the CTP scheme actuaries, Taylor Fry, have now factored into its risk premium scenarios the potential upwards or downwards pressure that the existing CTP insurers with the reallocation of RACQ's portfolio and if such information is available the ALA calls on that analysis to be shared.
8. Thus, the ALA remains unconvinced by Suncorp's rationale for its change in direction calling for a PEM on the basis of any risk to the Queensland CTP scheme. To be clear, the ALA does not make any observations as to the implementation or otherwise of a PEM, and the mechanics of a PEM. The ALA's position is simply that there are no current risks, or anticipated headwinds, for the CTP scheme in Queensland.
9. Claim duration remains excessively long, with FY 2024 being:⁸
 - a. Industry average – approximately 24 months;
 - b. Allianz average – approximately 26 months;
 - c. Suncorp average – approximately 25 months;
 - d. QBE average – approximately 20 months; and
 - e. RACQ average – approximately 21 months.
10. The ALA was pleased with the engagement between MAIC, the CTP insurers and the legal profession in the development of the *Claimant Experience Guidelines*, as well as on other innovation initiatives focused on decreasing claims duration. These are still relatively recent innovations and the ALA remains hopeful that, with genuine implementation by both CTP

⁸ Motor Accident Insurance Commission, *Annual CTP scheme insights: 2023-24* (Web Page, 5 November 2024) <<https://maic.qld.gov.au/publications/annual-ctp-scheme-insights-2023-24>>.

insurers and the legal profession, the *Claimant Experience Guidelines* will improve claim durations and reduce claim costs for insurers. In practice, the ALA is yet to see adequate adherence to the *Claimant Experience Guidelines*, both by the CTP insurers and legal professionals.

11. The ALA considers the dominant focus, for all stakeholders, needs to be on claims management practices. This will continue to ensure Queensland's CTP scheme provides a good claimant experience, ongoing high levels of claimant benefits, more efficient claim management and reduced costs for insurers, whilst retaining common law rights and ensuring scheme sustainability.
12. However, the ALA also appreciates that there have been significant macroeconomic factors at play which have and continue to impact individual insurers. These factors ought to be considered by the scheme actuary, Taylor Fry, in the setting of the CTP premium. It is outside the scope of the ALA's expertise to comment further.
13. The ALA is pleased to see that the last few years has seen an adjustment in CTP insurer profit margins from the super-profits which lasted many years.
14. Whilst some CTP insurers may raise concern about their reduced margins, it must be borne in mind that this is a compulsory insurance scheme intended to operate at an 8% margin. The actual margins for a five-year average have been 9% and for an eight-year average have been 15%.⁹ As recently as 2016, the average CTP insurer super-profits were in excess of 20%.¹⁰
15. Looking at a single year's margin, on this background, is not appropriate. It must also be expected that there will be short-term adjustment to margins with the exit of RACQ from the market and the division of its portfolio among the remaining CTP insurers.
16. With a normalisation of profit margins, towards the scheme design margin of 8% is welcome. The setting of the floor and ceiling CTP premium rate now needs to be undertaken with care to ensure at least a three-year or five-year average 8% profit margin is achievable for CTP insurers. Knee-jerk responses to a single year's result or because of variations in margins between the insurers would not be conducive to CTP scheme stability.

⁹ Peter Mulquiney and Danielle Ling (Taylor Fry), *Motor Accident Insurance Commission: Retrospective profit study of Queensland CTP premiums as at 31 December 2022* (Report, 5 June 2023) <https://maic.qld.gov.au/wp-content/uploads/2023/06/MAIC_Retrospective_Profit_Dec22.pdf>.

¹⁰ Ibid.

17. Queensland has a proud history under governments of all stripes, of establishing and protecting the common law rights of its citizens. With one notable exception for three years from 2013, subsequently reversed, Queenslanders injured on the roads and at work have long had a suite of legal rights which allows them to obtain redress according to their unique circumstances. Those rights sit within, and are supported by, legislative and organisational frameworks which are efficient and affordable.
18. In the exceptional period referred to above, our organisation and other legal, community and health groups campaigned against the stripping of rights, and later successfully for the restoration of rights. This occurred at two by-elections and later at the Queensland State Election.
19. Queenslanders can be justly proud of our CTP scheme. It is stable, well-run, affordable, and fair. It is supported by both Federal and State no-fault safety-nets in the National Disability Insurance Scheme and in the NIISQ respectively. Structural change of the type advocated for by some insurers, if embraced, would be a fundamental alteration of the existing arrangements, and strongly resisted on both fairness and economic grounds by our organisation, amongst others.
20. The issue of effective rehabilitation is crucial to every compensation scheme. The governing legislation has a commendably simple mechanism, in section 51 of the *Motor Accident Insurance Act 1994 (Qld)* ('the Act'), through which injured claimants can receive reasonable rehabilitation.
 - a. The ALA notes that this is always contextual to the individual, their injury and often their geographic location.
 - b. The jurisprudence, which has developed over more than 20 years, on insurers' obligations under section 51 of the Act is also commended by the ALA. Those cases are particularly instructive on the need for insurers to act on the best rehabilitation evidence available, and to not adopt prescriptive and obstructive approaches to claimants' rehabilitation needs.
 - c. The legislative and jurisprudential approach to section 51 issues stands in contrast to the unhelpful, restrictive, prescriptive and short-sighted approach to rehabilitation commonly seen by ALA members in the operation of long-tail schemes throughout

Australia. Our members would be disappointed were any of those features to become part of Queensland's CTP scheme.

21. The ALA has historically called for mandatory reallocation of profits, above a specified ceiling, to road safety and rehabilitation initiatives. We continue to maintain that this is a reasonable manner in which super-profits can be sensibly utilised for the benefit of Queensland motorists.

Conclusion

22. The Australian Lawyers Alliance (ALA) welcomes the opportunity to provide this submission to the Motor Accident Insurance Commission.
23. The ALA is available to provide further assistance to the Motor Accident Insurance Commission on the issues raised in this submission.



Sarah Grace
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Australian Lawyers Alliance