

10 June 2014

Competition Policy Review Secretariat  
The Treasury  
Langton Crescent  
Parkes ACT 2600

Submitted online at [www.competitionpolicyreview.gov.au](http://www.competitionpolicyreview.gov.au)

Dear Sir/Madam

The Insurance Council of Australia (ICA) is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. ICA members, both insurers and reinsurers, are a significant part of the financial services system.

Australian Prudential Regulation Authority statistics<sup>1</sup> show that the private sector insurance industry generates gross written premium of \$41.4 billion per annum and has total assets of \$111.5 billion. The industry employs approximately 60,000 people and on average pays out about \$111 million in claims each working day.<sup>2</sup>

ICA members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, commercial property, and directors and officers insurance). ICA members also underwrite various mandatory, statutory insurance schemes across Australia.

The ICA contends that the Competition Policy Review (Review), as part of its deliberations, needs to be mindful of other government reviews designed to improve economic efficiency and thereby enhance living standards. To this extent, the ICA refers the Review Panel to the ICA submission to the Financial System Inquiry<sup>3</sup> which submits that, with the appropriate regulatory and policy settings, a greater allocation of risk can be intermediated through general insurance, including that risk currently borne by governments. As the ICA submission states:

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<sup>1</sup> APRA, *Quarterly General Insurance Performance Statistics*, March 2014 (issued 29 May 2014).

<sup>2</sup> The average amount paid in claims each working day is calculated by the ICA, according to APRA data for outstanding claims liabilities and claims incurred over the year.

<sup>3</sup> Insurance Council of Australia, "Submission to the Financial System Inquiry", March 2014 - available at [www.insurancecouncil.com.au](http://www.insurancecouncil.com.au)

*“In general, risks will be spread among various parties, including financial institutions like general insurers, but also financial markets, governments and individuals. General insurers specialise in bearing insurable risks. Although some risks may be more efficiently borne through other mechanisms (including being underwritten by governments through the tax and transfer system), insurers are well placed to provide insurance tailored to individual circumstances and to encourage appropriate management of the risks by individuals...”*

*Everyone is risk-averse to some extent – even governments. But some parties are better placed to mitigate, manage or absorb particular risks. An efficient allocation of risk-bearing requires that the parties bearing the risks – in part or in whole – are those best placed to bear such risks. Distortions to this efficient pattern of risk-bearing will impose unnecessary social cost, and hence reduce economic welfare and living standards.”*

The ICA submits that, in the context of the Competition Policy Review, there exists a strong case that statutory insurance schemes are well served by private insurance markets, and that the risk of injury, particularly arising from losses from employment or motor accidents, can be transferred from the public sector with the attendant allocative efficiency gains.

The ICA acknowledges that the Review has a wide remit to make “broad-ranging recommendations to promote competition across the Australian economy and to deliver benefits to Australians.”<sup>4</sup> Within that remit, the ICA submission focuses on competition aspects of statutory insurance. In the context of the Review’s consideration of Competition Laws, it also provides background for two industry self-regulation Codes supported by the general insurance industry.

## **1. GOVERNMENT-PROVIDED GOODS AND SERVICES AND COMPETITIVE NEUTRALITY: STATUTORY INSURANCE**

General insurance is a financial service.

General insurer member companies of the ICA are directly involved in “statutory” classes of insurance - whereby a specified form of insurance is mandatory for a class of policyholders, in accordance with the laws of the Commonwealth, States or Territories.

During the twentieth century, Australian governments (Commonwealth, State and Territory) responded in various ways to the need to provide guaranteed access to compensation or benefits for people suffering loss in certain circumstances. Some jurisdictions have relied on general insurers to underwrite compulsory statutory insurance. In other jurisdictions, governments have underwritten or insured the compensation or benefits.

Two main examples of statutory insurance are workers compensation schemes, and personal injury motor accidents schemes.

These schemes may be fault based, or no fault, or a hybrid. They may be first party schemes (policyholder insures against own risk of loss or damage), or third party (policyholder insures against liability arising as a result of damage or loss caused to a third party).

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<sup>4</sup> Issues Paper, page iii.

### **a) Workers compensation schemes**

Workers compensation schemes are third party – as the employer insures against the risk of an employee being injured.

The workers compensation schemes of Western Australia, Tasmania, the Northern Territory, and the Australian Capital Territory are underwritten by general insurers.<sup>5</sup>

General insurers act as scheme or claims agents for the workers compensation schemes of New South Wales, Victoria and South Australia. These schemes, as well as the Queensland scheme, are underwritten by the State governments.

The Commonwealth's Comcare scheme is underwritten by the federal government for Commonwealth public sector employees, with the availability of self-insurance under the scheme now to be extended to all private corporations that are "national employers".<sup>6</sup>

In Australian workers compensation schemes, there is also a variety of arrangements for self-insurance for certain entities, or for specialised insurance schemes for certain industries.

The State and Territory governments have various arrangements in place for their own employees. Some states, such as New South Wales and Western Australia operate a whole of government self insurer program. Others such as Victoria and Queensland are prevented from self insurance by their legislation. In some states, such as South Australia, Tasmania and the majority of the Northern Territory, government agencies are deemed to be self insurers and pay contribution fees each year towards the cost of claims. Comcare covers claims by Commonwealth and ACT public sector employees.<sup>7</sup>

### **b) Personal injury motor accident schemes**

The personal injury motor accident schemes of New South Wales, Queensland and the Australian Capital Territory are underwritten by general insurers.

The equivalent schemes of the other States and Territories are underwritten by the relevant government.

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<sup>5</sup> "General insurers" are defined as any entity authorised to undertake insurance in Australia in accordance with the prudential and other requirements of the *Insurance Act 1973* (Cth).

<sup>6</sup> Minister for Employment, Senator the Hon Eric Abetz, *Media Release*, "Private corporations to access Comcare scheme", 2 December 2013.

Further, on 19 March 2014, the Prime Minister, the Hon Tony Abbott MP, stated in his Ministerial Statement on Deregulation that "...national businesses will be allowed to operate under one workers' compensation scheme right around our nation rather than have to operate in up to eight."

<sup>7</sup> Full details of the various arrangements can be found in SafeWork Australia's *Comparison of Workers Compensation Arrangements 2013* at pages 60-61.

A general insurer acts as the claims agent for the South Australian scheme, but this insurer does not underwrite this scheme.

**c) *Government monopolies, competition principles***

It is clear from the above that there is a variety of public and private sector insurance arrangements in place for statutory insurance schemes of the Commonwealth, States and Territories.

The workers compensation schemes of NSW, Victoria, Queensland and South Australia are (principally) government monopolies. These governments are providing a financial service to the employers and employees of their jurisdiction, and they are not subject to competition.

The personal injury motor accident schemes of Victoria, Western Australia, South Australia, Tasmania and the Northern Territory are government monopolies. These governments are providing a financial service to the motorists and road users of their jurisdiction, and they are not subject to competition.

The Competition Policy Review's Issues Paper (Issues Paper) poses three questions that are relevant to the matter of competition in statutory insurance schemes.

- Are there unwarranted regulatory impediments to competition in any sector in Australia that should be removed or altered?
- Are government-provided goods and services delivered in a manner conducive to competition, while meeting other policy objectives?
- Would there be a public benefit in encouraging greater competition and choice in sectors with substantial government participation...?<sup>8</sup>

In relation to statutory insurance schemes, for those jurisdictions with government monopolies, the ICA's answers to the three questions above are respectively yes, no and yes.

The ICA believes that the ongoing existence of government monopolies in the provision of statutory insurance is contrary to the framework for reforms of government services under the National Competition Policy (NCP) that was designed to:

- Separate regulatory and commercial functions;
- Effect structural separation of contestable from non-contestable activity;
- Apply cost-reflective pricing; and
- Commercialise, corporatise and in some cases, privatise government businesses.<sup>9</sup>

The NCP framework is also supported by the concept of competitive neutrality – so that if a government retains ownership of a business, it provides the goods or services subject to the same commercial and regulatory requirements as private sector competitors<sup>10</sup>.

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<sup>8</sup> Issues Paper, page 7

<sup>9</sup> Ibid, page 18.

<sup>10</sup> Ibid, page 21.

As stated in 2005 by the then Executive Director of the Institute of Public Affairs, and now Western Australian Treasurer, the Hon Dr Mike Nahan MLA, the NCP was put in place “to reduce the anti-competitive activities of the states” and that the federal system has provided a “...a refuge for monopolists...”<sup>11</sup>

In considering the application of competition principles to government monopolies for statutory insurance schemes, the ICA strongly submits that governments providing insurance should do so in a competitive market - in accordance with the principles of competitive neutrality.

In particular, governments providing insurance in a competitive market must be subject to the prudential and other requirements of the *Insurance Act 1973* (Cth). This is essential for the greater security and consistent protection for all policyholders, and third party claimants.

#### **d) Public and private underwriting of statutory insurance**

The ICA also proposes that the Competition Policy Review specifically consider the advantages of private sector underwriting of statutory insurance.<sup>12</sup>

The Australian insurance industry is a highly competitive, well regulated and well capitalised market. Ongoing exclusions of general insurers as underwriters of workers compensation and personal injury motor accidents schemes have a significant effect on the scope of the insurance market in Australia. If general insurers were underwriters of all of these schemes, the size and strength of the insurance market would increase, and improved economies of scale could be achieved.

Statutory insurance schemes underwritten by general insurers are supported by the strong prudential regime in place under the *Insurance Act 1973* (Cth).

In contrast, it is submitted that government monopoly schemes for statutory insurance are not subject to any *consistent* prudential regulatory oversight. The table attached at the end of this submission demonstrates the significant variations in the solvency ratios, financial position and investment strategies of government monopoly statutory insurance schemes. It is submitted that:

- The financial positions of these schemes can be volatile;
- Such volatility can be driven by underpricing or overpricing of risk for political reasons, and investments in assets that can be subject to significant volatility such as equities, listed

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<sup>11</sup> Dr Mike Nahan, “Federalism, National Competition Policy”, *Institute of Public Affairs Review: A Quarterly Review of Politics and Public Affairs*, Volume 57, Issue 2, June 2005.

<sup>12</sup> The ICA acknowledges the developing framework for the National Injury Insurance Scheme (NIIS).

The website of The Treasury notes that “The Australian Government is currently working with States and Territories to develop the NIIS as a federated model of separate, state-based no-fault schemes that provide lifetime care and support for people who have sustained a catastrophic injury.” In concert with the arrangements for the NSW Lifetime Care and Support Scheme for people who are catastrophically injured in NSW in a motor accident, NIIS arrangements in other jurisdictions may also be underwritten by the relevant government.

property trusts and infrastructure projects (without the overlay of the prudential requirements that apply to general insurers)<sup>13</sup>;

- Where a scheme is in deficit, this can create inter-generational inequities between the policyholders of today, and future policyholders;
- Where a scheme is in surplus, some State schemes deliver a “dividend” to the government, which is effectively a tax on the relevant class of policyholders (employers or motorists)<sup>14</sup>.

While it is acknowledged that there are arguments to be made in support of private and public underwriting of statutory insurance, particularly in relation to catastrophic injuries<sup>15</sup>, it is the ICA’s strong submission that general insurers are best placed to underwrite well designed statutory insurance schemes<sup>16</sup>, to avoid:

- Financial risk to governments, taxpayers and future policyholders;
- Inherent volatility in the financial performance of government monopoly schemes;
- Political interference with pricing of risk; and
- Government reliance on premiums collected for a mandatory, personal injury insurance scheme - as a source of general revenue.

It is also acknowledged that government monopoly schemes can, at times, perform well financially. However, the volatility of such schemes and the financial exposures for governments and taxpayers is well illustrated in the following quote from the 2013 Annual Report of the Insurance Commission of Western Australia (the monopoly compulsory third party insurer for motor vehicle personal injuries in Western Australia).

*“Our Compulsory Third Party Insurance (CTP) Division and its Third Party Insurance Fund (TPIF) recorded an underwriting profit of \$98.4 million for 2013 compared with a 2012 loss of \$225 million. This is the first time in eight years that the Insurance Commission’s Compulsory Third Party Insurance Division has not made an underwriting loss.”<sup>17</sup>*

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<sup>13</sup> For example, general insurers are required (among other prudential standards) to comply with APRA’s GPS 114 – *Capital Adequacy: Asset Risk Charge*. This Prudential Standard requires a general insurer to maintain adequate capital against the risks associated with its activities. The Asset Risk Charge is the minimum amount of capital required to be held against asset risks. The Asset Risk Charge relates to the risk of adverse movements in the value of a general insurer’s on-balance sheet and off-balance sheet exposures. Asset risk can be derived from a number of sources, including market risk and credit risk.

<sup>14</sup> Indeed, the Insurance Commission of Western Australia (ICWA) is now required by law to provide a dividend to the Western Australian Government. It is noted on page 2 of ICWA’s 2013/2014 *Statement of Corporate Intent* that: “At an operational level the Insurance Commission is: implementing an appropriate dividend policy in response to legislation requiring the Insurance Commission to pay a dividend to State Government, similar to those paid by other Government Trading Enterprises in Western Australia.”

<sup>15</sup> See footnote 12.

<sup>16</sup> Scheme design principles for general insurers underwriting a statutory insurance scheme include: a long-term commitment by government to private underwriting (due to the significant allocation of capital required); an opportunity to earn a reasonable (but not excessive) return on capital; full funding and proper pricing of risk; and a regulated pricing framework that is free from political interference.

<sup>17</sup> Insurance Commission Western Australia, *Annual Report 2013*, page 8.

A further well known example of the financial volatility and risk that can occur in a government monopoly scheme is the position of the NSW workers compensation scheme at the end of 2011.

As the then Premier of NSW, the Hon Barry O'Farrell MP, stated in the NSW Legislative Assembly on 28 March 2012:

*"WorkCover is a vital scheme for the State's three million workers. There are 270,000 WorkCover policies across the State. Earlier this month the New South Wales Government received an update on the New South Wales Workers Compensation Scheme from PricewaterhouseCoopers, and it made for alarming reading. By the end of last year the deficit was \$4.1 billion – a deterioration of \$1.7 billion negative turnaround in just six months. That debt is the equivalent of \$15,000 for every employer in the State and just over \$1,300 for every employee. The scheme's deficit between June and December 2011 increased at an alarming rate of \$9 million a day."<sup>18</sup>*

In the period leading up to the end of 2011, it is clear that the premiums being paid by NSW employers were not sufficient to meet the outstanding liabilities of the workers compensation scheme. Quite simply, the scheme was not being fully funded.

A government monopoly scheme carrying a significant deficit could be taken into account by international ratings agencies when determining the respective government's credit ratings. The importance of a strong government budget balance sheet and international credit ratings was emphasised by the then Treasurer of NSW, the Hon Mike Baird MP, in February 2013, when he said: "losing the top credit rating would increase borrowing costs and a downgrade could drain \$3.75 billion from the state coffers over 10 years."<sup>19</sup>

It is possible that this risk for the NSW Government's finances was considered when it made major reforms to the NSW workers compensation scheme in 2012. These reforms have, in part, been responsible for the scheme's significant improvement in its financial position. On 28 April 2014, it was advised that the updated position for this scheme is a \$1.36 billion surplus<sup>20</sup> (compared to a \$4.1 billion deficit at the end of 2011).

In addition to the removal of taxpayers' exposure to the volatile returns of a government monopoly scheme, a privately underwritten scheme must appropriately price risk to fully fund the liabilities of the scheme, and to support the general insurers' prudential requirements under the *Insurance Act 1973* (Cth).

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<sup>18</sup> NSW Legislative Assembly Hansard and Papers, Wednesday, 28 March 2012.

<sup>19</sup> Wade, M, "Keeping AAA rating could save \$3.75b – Baird", *The Sydney Morning Herald – Business Day*, 4 February 2013.

<sup>20</sup> NSW Treasurer, the Hon Andrew Constance MP and the Minister for Finance and Services, the Hon Dominic Perrottet MP, *Media Release*, "Strong investment returns deliver a boost to workers comp scheme", 28 April 2014.

A leading analysis concerning public or private sector provision of workers compensation is set out in the Productivity Commission's Report of 2004 for its inquiry into National Workers' Compensation and Occupational Health and Safety Frameworks. On page 323 of this Report, it is noted that:

*'The literature does not provide a powerful case for either public monopoly or competitive private provision of workers' compensation insurance. However, the Commission considers that, on balance, private provision is preferred on grounds that: private capital is directly at risk; competition in the marketplace is likely to generate incentives for efficiency and innovation; and there is greater transparency of any governmental influence over premiums. Further, the risk of private insurer failure can be reduced by prudential regulation. However, even in competitive schemes, the Commission notes that pressure can be applied to governments as funders of last resort in the case of significant market failure.'*

In response to the final comment in the paragraph quoted above, it is worth noting that this report of the Productivity Commission was released only three years after the collapse of HIH. Since 2001 (when HIH collapsed), the prudential regime for general insurers in Australia has been significantly strengthened. The prudential regime was further strengthened again with significant new requirements in effect from 1 January 2013.

It is also well accepted by ICA members that statutory insurance schemes (as mandatory schemes) have strong policy objectives such as fairness, efficiency and affordability - that must be achieved for the public benefit. The public policy objectives of privately underwritten statutory insurance schemes are supported by the regulatory framework for the scheme, with specific duties and obligations for general insurers that underwrite the scheme.<sup>21</sup>

#### **e) The pathway to a national workers compensation scheme**

The Issues Paper identifies that the Scope of the Review "...may consider...the findings of other reviews where appropriate, such as the National Commission of Audit..."<sup>22</sup>

It cannot be a matter of dispute that a competitively underwritten, national workers compensation scheme would serve the national economy and productivity by driving economies of scale, and by supporting operational efficiencies and significant compliance savings for any Australian employer operating beyond the border of a single State or Territory jurisdiction.

The matter of a national workers compensation scheme has been an issue of serious debate for many years.<sup>23</sup>

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<sup>21</sup> For example, see Chapter 7 of the *Motor Accidents Compensation Act 1999* (NSW). This section provides, among other things, for the licensing and supervision of scheme insurers.

<sup>22</sup> Issues Paper, page 4.

<sup>23</sup> For an informative discussion on this matter, and the history of workers compensation in Australia, see Purse, K and Guthrie, R, "Workers compensation policy in Australia: New challenges for a new government", *Journal of Applied Law and Policy*, 2008, pages 99-110.



In 1994, the Industry Commission recommended the establishment of a national workers compensation for corporate employers.<sup>24</sup>

In 2004, the Productivity Commission recommended a staged framework for national workers compensation that would develop an alternative national self-insurance scheme for corporate employers who meet prudential and other requirements, and, in the longer term establish:

*“...an alternative national premium-paying insurance scheme for corporate employers who so wish, including small to medium enterprises, which would be competitively underwritten by private insurers and incorporate the national self-insurance scheme...”*<sup>25</sup>

The National Commission of Audit has now recommended that: “Comcare’s claims management function be outsourced and private sector underwriting of Comcare’s workers’ compensation insurance scheme pursued”.<sup>26</sup>

This recommendation is particularly significant when considered alongside the recent announcement of the federal Government to allow any national employer to self-insure under the Comcare scheme. The combined effect of these two developments effectively replicates the staged framework for a privately underwritten, national workers compensation scheme for corporate employers, as recommended by the Productivity Commission in 2004.

Given the constitutional power of the federal Government to make laws with respect to corporations, as well as its exclusive power to make laws for the Australian Territories<sup>27</sup>, the pathway to develop a competitive national workers compensation scheme could be as follows:

- outsource Comcare claims management for Commonwealth public servants to private insurers [*National Commission of Audit recommendation 15*];
- open up self-insurance under Comcare to all corporate national employers [*as announced by federal Government*];
- introduce private underwriting to Comcare for those corporate national employers that may not be able to, or wish to self-insure [*National Commission of Audit recommendation 15*];
- Employers structured as partnerships and sole traders would remain in State workers compensation schemes. State governments could refer powers to the federal Government and the national workers compensation scheme could potentially have full coverage of all Australian employers and employees.

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<sup>24</sup> Industry Commission, “Workers Compensation in Australia”, *Report No 36*, 1994.

<sup>25</sup> Productivity Commission, “National Workers Compensation and Occupational Health and Safety Frameworks”, *Inquiry Report No 27*, 16 March 2004, page 149.

<sup>26</sup> *The Report of the National Commission of Audit*, “Towards Responsible Government”, Phase Two, March 2014, Recommendation 15 (Further action on principal government bodies), page xxvi.

<sup>27</sup> Section 51(xx) and section 122 respectively of the *Commonwealth of Australia Constitution Act*.

## **2. COMPETITION LAWS: INDUSTRY CODES OF CONDUCT**

The Review's Issues Paper specifically raises the matter of industry Codes of Conduct, noting the ACCC's position that "effective Codes potentially deliver increased consumer protection and reduced regulatory burdens for business".<sup>28</sup>

As a matter of background information for the Review, the ICA provides the following information on two voluntary, industry self-regulation Codes that are supported by the general insurance industry.

### **a) *General Insurance Code of Practice***

The ICA's members are signatories to a self-regulatory regime through the General Insurance Code of Practice (Code of Practice).

The Code of Practice was first introduced in 1994 and it has undergone various improvements to ensure it remains relevant and continues to meet its objectives. The Code of Practice has recently undergone a comprehensive external review, and a revised Code will come into effect from 1 July 2014.<sup>29</sup> Both the review process and the development of the revised Code involved extensive consultations with a broad range of consumer, government and industry stakeholders to ensure the Code works for all parties.

The Code of Practice is the instrument by which the general insurance industry sets standards for its own conduct and in particular its dealings with customers. It is binding on ICA member companies, and breaches are taken seriously.

The revised Code is supported by a transparent and independent governance framework to ensure Code compliance is effectively monitored and enforced. The body tasked with these duties is the Code Governance Committee, to be constituted through an association incorporated under NSW law, and comprising an independent Chair, a consumer representative and an insurance industry representative.

The ICA is responsible for ensuring that the content of the Code meets its objectives to commit insurers to high standards of service and to promote better and more informed relationships between insurers and their customers.

The Code administration and Code compliance monitoring is outsourced to the Code team at the Financial Ombudsman Service.

### **b) *Motor Vehicle Insurance and Repair Industry Code of Conduct***

The ICA and ICA members support the Motor Vehicle Insurance and Repair Industry Code of Conduct (Code of Conduct). This Code of Conduct came into effect in 2006.

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<sup>28</sup> Issues Paper, page 38.

<sup>29</sup> Further information in relation to the review of the Code of Practice can be found at <http://www.insurancecouncil.com.au/for-consumers/code-of-practice/2012-review>

Insurance companies, smash repair trade associations and individual smash repairers can be signatories to the Code of Conduct.

The content of this Code has been guided by the federal Government's response to the Productivity Commission's inquiry into Smash Repair and Insurance<sup>30</sup>, and the Terms of Reference for the Smash Repair and Insurance Industry Implementation Taskforce.

The Code of Conduct is intended to promote transparent, informed, effective and co-operative relationships between smash repairers and insurance companies. Code signatories agree to observe high standards of honesty, integrity and good faith in conducting their business with each other and in the provision of services to claimants.

The Principles of the Code note that:

*"There should not be any interference with the commercial relationships between individual insurers and repairers, other than as provided in this Code and in accordance with the principles of the Code."*<sup>31</sup>

In recognition of repairers' right to freely structure their business arrangements, the Code of Conduct provides for minimum, industry-wide, standards in matters such as:

- Transparency, disclosure and fairness in relation to insurers' Network Smash Repairer (NSR) schemes;
- Transparency, disclosure and fairness in relation to quotation processes, times and rates, repairer choice and use of parts;
- Responsibility for quality and safety, and warranties;
- Minimum terms of payment; and
- An independent external dispute resolution mechanism.

In recognition of insurers' right to freely structure their business arrangements, and as required by the Government Response to the Productivity Commission recommendations, there has been no attempt to specify, on an industry-wide basis, matters such as:

- Minimum hourly rates or prices;
- 'Standard' hours for repair jobs;
- Types of parts to be used;
- Industry-wide NSR selection criteria and/or weightings for NSR criteria;
- Compulsory choice of repairer;
- Requirements to spread work among repairers; and
- Particular conditions of guarantees.<sup>32</sup>

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<sup>30</sup> Productivity Commission, "Smash Repair and Insurance", *Inquiry Report*, No 34, 17 March 2005.

<sup>31</sup> Motor Vehicle Insurance and Repair Industry Code of Conduct, Revised March 2011, page 4.

<sup>32</sup> *Ibid*, page 3.

The Code of Conduct is a voluntary industry code in all States except NSW - where it was mandated in 2007. It provides for a nationally consistent approach to disputes between smash repairers and insurers.

The Code of Conduct is administered by the Code Administration Committee, comprising three appointees of the ICA, and three appointees of the MTAA.

The Code of Conduct has recently undergone an external review in accordance with its provisions.<sup>33</sup>

The ICA would be pleased to provide any further detail in relation to the General Insurance Code of Practice or the Motor Vehicle Insurance and Repair Industry Code of Conduct as required for the purposes of the Review.

If you have any questions in relation to this submission, please don't hesitate to contact Vicki Mullen, General Manager, Consumer Relations and Market Development Directorate via email [vmullen@insurancecouncil.com.au](mailto:vmullen@insurancecouncil.com.au), or phone (02) 9253 5120.

Yours sincerely



Robert Whelan  
Executive Director & CEO

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<sup>33</sup> The Motor Vehicle Insurance and Repair Industry Code of Conduct, and the External Review Report are available at <http://www.abrcode.com.au>.

**ATTACHMENT – Financial information for government monopoly schemes for workers compensation and personal injury motor accident schemes**

<b>Government Monopoly Scheme</b>	<b>Solvency or funding ratio<sup>34</sup></b>	<b>Investment Mix</b>	<b>Deficit/Surplus</b>  <b>*Noting that the Scheme reports typically refer to equity/negative equity</b>	<b>Government Dividend</b>
<b>NSW Workers Compensation</b>	104% (2011-2012 Comparative Performance Monitoring (CPM) Report 15 <sup>th</sup> Edition, p 28 <sup>35</sup> )	Australian Equities, 11%; International Equities, 12%; International Equities - Emerging Markets, 5%; Australian Unlisted Property, 6%; Australian Fixed Interest, 19%; Australian Inflation-linked Bonds, 30%; Credit, 6%; Alternatives, 6%; Infrastructure Debt, 4%; Cash, 1% (NSW WorkCover Scheme 2012-2013 Annual Report, p6)	Surplus = \$308.5million (NSW WorkCover Scheme Annual Report, p15)  *Noting announcement by NSW Treasurer and NSW Minister for Finance on 28 April 2014 that the scheme's updated surplus is \$1.36 billion.	Nil
<b>Queensland Workers Compensation</b>	132% (CPM Report 15 <sup>th</sup> Edition, p 28)	A sound investment strategy and a strong performance in the Australian and International equities sectors have contributed	Surplus = \$1,054million (WorkCover Qld 2012-2013 Annual Report, p40)	Nil reported in 2012-2013 Annual Report. However, the WorkCover Board will make a recommendation to the Minister following certification of

<sup>34</sup> It is noted that schemes may have different methods for determining solvency or funding ratios.

<sup>35</sup> The Comparative Performance Monitoring (CPM) Report 15<sup>th</sup> Edition is prepared by Safe Work Australia based on data provided by each jurisdiction and is used for ease of comparison purposes for the workers compensation schemes. The CPM Report uses a standardised ratio of assets to net outstanding claim liabilities for comparison purposes. This may be different from the Annual Reports of the workers compensation schemes.

<b>Government Monopoly Scheme</b>	<b>Solvency or funding ratio<sup>34</sup></b>	<b>Investment Mix</b>	<b>Deficit/Surplus</b>  <b>*Noting that the Scheme reports typically refer to equity/negative equity</b>	<b>Government Dividend</b>
		to this positive result.  (WorkCover Qld 2012-2013 Annual Report, p12)		2012-2013 financial statements of any payment to be transferred to the consolidated fund.  (WorkCover Qld 2012-2013 Annual Report, p 6)
<b>Victorian Workers Compensation</b>	116% (CPM Report 15th Edition, p 28)	Cash, Australian equities, International equities, Private equity, Inflation linked bonds, Infrastructure, Property, Diversified fixed income, Insurance, Non traditional strategies, Overlays  (Vic Worksafe 2012-2013 Annual Report, p58)	Surplus = \$1,579million  (Vic Worksafe 2012-2013 Annual Report, p 40)	\$193 million paid to government  (Vic Worksafe 2012-2013 Annual Report, p 6)
<b>Victorian motor accidents scheme (TAC)</b>	84.9% funding ratio (TAC 2012-2013 Annual Report, p 3)	Cash investments, Australian equities, International equities, Private equity, Inflation linked bonds, Infrastructure,	Deficit (negative equity) 2012-2013 = \$607million (TAC 2012-2013 Annual Report, p 21)	2011-2012 - \$176million (TAC 2012-2013 Annual Report, p 16)

Government Monopoly Scheme	Solvency or funding ratio <sup>34</sup>	Investment Mix	Deficit/Surplus  *Noting that the Scheme reports typically refer to equity/negative equity	Government Dividend
		Property, Diversified fixed income, Insurance, Non traditional strategies, Overlays  (TAC 2012-2013 Annual Report p 38)		
<b>Tasmanian motor accidents scheme (MAIB)</b>	"Scheme solvency of 31.9% achieved, exceeding the target range of 20-25%" (MAIB 2012-2013 Annual Report, p 2)	Listed equities, Listed unit trusts, Listed property, Unlisted trusts, Fixed interest bonds, Inflation linked bonds, Other financial instruments (MAIB 2012-2013 Annual Report, p 44)	Surplus = \$382million (MAIB 2012-2013 Annual Report, p 29)	The MAIB has recommended a dividend of \$23.2 million to Government in respect of this year's operations. (MAIB 2012-2013 Annual Report, p 2)
<b>South Australia Workers Compensation</b>	60% (CPM Report 15th Edition, p 28)	Cash, 2%; Fixed interest, 12%; Inflation-linked securities, 19%; Alternative income, 5%; Australian equities, 11.5%; Overseas equities, 23%; Property, 7.5%; Real return growth assets, 20%  (WorkCoverSA 2012-2013	Deficit = \$1,366 million (WorkCoverSA 2012-2013 Annual Report Financial Statements, p 3)	Nil

Government Monopoly Scheme	Solvency or funding ratio <sup>34</sup>	Investment Mix	Deficit/Surplus  *Noting that the Scheme reports typically refer to equity/negative equity	Government Dividend
		Annual Report, p 21)		
<b>South Australia motor accidents scheme (MAC)</b>	111% of gazetted sufficient solvency (MAC 2012-2013 Annual Report, p 6)	Cash 6.9%; Australian Equities 13.8%; International Equities 15%; MAC direct property 19.3%; Global Macro Absolute Return 0.9%;  Infrastructure 3.4%; MAC Fixed Interest Liability Matched Portfolio 19.9%; Inflation Linked Bonds 2.5%;  Diversified Strategies Income 18.2%  (MAC 2012-2013 Annual Report, p 13)	Surplus = \$768million (MAC 2012-2013 Annual Report, p 39)	MAC volunteered a one-off \$100 million contribution to the State Government for investment in road safety infrastructure. (MAC 2012-2013 Annual Report, p 5)
<b>Northern Territory motor accidents scheme (MAC managed by TIO)</b>	91.2% (for MAC, TIO 2012-2013 Annual Report, p 6)	Cash 6%; Fixed Interest 5%; Direct Property 6%; Listed Property Trusts 4%; Inflation Linked Bonds 20%; Government Bonds 20%; International	Surplus = \$248.2million (MAC (TIO) 2012-2013 Annual Report, p 12)	\$10.5 million paid by TIO as whole with no MAC breakdown to government (TIO 2012-2013 Annual Report, p 6)



Government Monopoly Scheme	Solvency or funding ratio <sup>34</sup>	Investment Mix	Deficit/Surplus  *Noting that the Scheme reports typically refer to equity/negative equity	Government Dividend
		Equities 24%;  Australian Equities 15% (MAC (TIO) 2012-2013 Annual Report, p 15)		
<b>Western Australia motor accidents scheme (ICWA)</b>	141.8% solvency ratio – assets divided by liabilities (Third Party Insurance Fund, ICWA 2012-2013 Annual Report, p 12)	Global Shares 28.8%; Australian Shares 26.9%; Property 10.4%; Global Fixed Interest 9.5%; Alternative Assets 9.1%; Australian Fixed Interest 5.6%; Cash 4.8%  (Reported across all businesses - ICWA 2012-2013 Annual Report, p 31)	Surplus = 871.4million  (ICWA 2012-2013 Annual Report, p 158)	Nil however in June 2013, government enacted legislation seeking annual dividends. (ICWA Annual Report, p 6)
<b>Comcare</b>	75% (CPM Report 15th Edition, p 28)	Cash and cash equivalents, trade and other receivables and other financial assets  (Comcare 2012-2013 Annual Report, p130)	Deficit = \$928million  (Comcare 2012-2013 Annual Report, p 130)	Nil