

Review of Maximum Towing Fees
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office NSW 1230

30 June 2014

Dear Sir/Madam

REVIEW OF MAXIMUM TOWING FEES (LIGHT AND HEAVY VEHICLES)

The Insurance Council of Australia (ICA) is pleased to make this submission to the Independent Pricing and Regulatory Tribunal (IPART) following the release of the Transport Issues Paper (Issues Paper) in May 2014. The Issues Paper seeks feedback on a range of matters concerning the maximum fees charged and the regulation of the tow truck industry generally under the *Tow Truck Industry Act 1998* (Act).

The ICA supports initiatives which will enhance the effectiveness of the regulation of tow truck businesses in NSW. In preparing this submission, the ICA has worked with the members of the ICA's National Motor Insurance Committee comprising a number of insurers that underwrite motor vehicle insurance. As some of our ICA members may provide individual submissions directly to IPART, the ICA will comment broadly on some of the topics raised.

The Act was introduced in 1998 and ushered in a comprehensive restructure of the tow truck industry following the review into the tow truck industry by the Hon. Peter Anderson.¹ The ICA supports continued price regulation for all accident towing services to ensure:

- Improved safety by the fast and efficient clearance of accident scenes, particularly in metropolitan areas where traffic is disrupted;
- consumer protection from unreasonable or unnecessary costs;
- a sustainable towing industry; and
- ethical industry behaviours.²

We believe that regulated fees should apply to clearly defined services to prevent additional charges for "secondary services" which may fall outside the regulations.

The ICA supports appropriate red-tape reduction and self-regulation where there are other adequate safeguards in place to protect consumers. However, we submit that the tow truck licensing regime is required to minimise ongoing risk to consumers. We submit that continued tow truck operator licensing will maintain the consistency of the degree of skill, equipment and expertise required within the NSW tow truck industry.

We support the retention of the licensing of tow truck businesses in NSW that includes appropriate provisions and sanctions for the enforcement and cancellation of licences to protect consumers from unethical behaviours, high costs and delayed vehicle repairs. We

¹ Referred to by the Hon. Carl Scully during the second reading speech for the *Tow Truck Industry Bill 1998*, NSW Parliament, Legislative Assembly, 14 October 1998.

² IPART Review of Maximum Towing Fees (Light and Heavy Vehicles) Transport Issues Paper (Issues Paper) May 2014, p 12

believe that strong enforcement is an important aspect of the licensing regime to ensure the regulation achieves its consumer protection objectives. The ICA and our members also support increased transparency regarding sanctions, enforcement and cancellations to ensure all market participants are aware of the potential penalties imposed if the Act is breached.

Our members report receiving feedback from customers in relation to instances of certain operator behaviours including the direction of the vehicle to the tow truck providers preferred destination. We submit that continued regulation would minimise this type of issue in addition to any excessive charges by operators to the consumer following an accident.³

We submit that ongoing licensing and enforcement will ensure consumer protection and also protect the majority of the tow truck operators that provide high quality and ethical service from the impact of unacceptable operator behaviour. The ICA's members are happy to provide IPART with more detailed information in relation to their experience. The ICA would also like to take this opportunity to raise with you an issue which has not been canvassed in the Issues Paper. Our members report that they have recently encountered problems in moving towed cars from some NSW repairer premises where the customer chooses to have their car repaired elsewhere (or the insurer wishes to obtain an alternate quotation).

Our members advise that some repairers are charging additional fees to the usual towing and storage charges as provided within the current legislative regime. We understand at this stage, some insurers have refused to pay this additional repairer fee as they do not believe it is a legitimate cost. Others have had difficulty in seeking a recovery of these fees after the customer's car has been repaired. Either course of action may cause delays and inconvenience to customers and increase claims costs. Our members can provide you with greater detail in relation to their experience of the issue.

As you are aware, the Act and supporting Tow Truck Industry Regulation 2008 set out what tow truck operators can charge for towing and storage. These provisions are not mirrored in the *Motor Dealers and Repairers Act 2013* and we submit that this seems to be allowing some repairers to circumvent the operation of the Act. We believe that similar provisions concerning repairers should be contained in the Act or the *Motor Dealers and Repairers Act 2013* (and/or their supporting regulations) to ensure consistency of towing and storage costs in this regard.

One purpose of the legislative regime and the review is identified in item 4.1.1 of the Issues Paper, namely to protect the individual consumer following an accident from excessive fees for accident towing services. As identified above we believe that there is a gap in the legislation when the vehicle is delivered to a repairer. We submit that this gives rise to not only to the potential for excessive fees but could also result in;

- The provision of private and personal information by the tow truck operators to the repairer which may be without the consent of the consumer. This may raise issues under the Act and the National Privacy Principles.

³ Issues Paper, p 29

- The detainment of the consumer's vehicle until these additional fees is paid to the repairer. This leads to delays in the repair of the vehicle and greater inconvenience to the consumer.

Again our members can provide you with greater details in relation to their experience of these issues.

The ICA encourages IPART to consider the interactions between the accident towing and smash repair industries to ensure any gaps are addressed through regulation and enforcement activity.

We look forward to working with IPART on the issues raised. If you have any questions or comments in relation to the above please do not hesitate to contact Vicki Mullen, General Manager Consumer Relations & Market Development on (02) 9253 51220 or on vmullen@insurancecouncil.com.au .

Yours sincerely



Robert Whelan
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