

28 November 2014

Submission to the Tow Truck Review
Essential Services Commission
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SUBMISSION ON ACCIDENT TOWING REGULATION ISSUES PAPER

Thank you for the opportunity to provide feedback on the Accident Towing Regulation Issues Paper. The Insurance Council of Australia (ICA) strongly supports effective regulation of accident towing fees, allocation and licensing.

Regulation of fees

It is the ICA's position that light vehicle accident towing fees must be regulated, both within and outside the controlled area, to ensure Victorian motorists are protected from unreasonable accident towing costs..

Regulation of towing fees within the Melbourne controlled area has been successful and should continue. The Geelong self-management area and the unregulated portion of the State should also be subject to fee regulation, as without effective regulation, fees can be charged well in excess of appropriate market rates. Our members are aware of exploitative pricing practices in Geelong and unregulated areas, with inflated charges by some operators in these areas that are two to three times higher than fees in the regulated Melbourne area.

Regulating fees across the State would also ensure consistency with the NSW regulations, which make a distinction in fees between metropolitan and non-metropolitan areas. There is also clear evidence that the accident towing market is prone to overcharging, with high costs consistently experienced across the country in areas without price regulation. The ICA supports pricing caps for all light-vehicle towing, provided these caps are carefully designed and regularly reviewed to ensure a sustainable accident tow truck industry.

The existing regulations apply an afterhours surcharge for towing occurring from 5pm to 8am Monday to Friday, 5pm Friday to 8am Monday, and all day public holidays. Our members believe this definition of "after hours" is not aligned with the normal working hours of accident towing drivers and operators. The definition of "after hours" should be reduced to 7pm to 7am Monday to Friday, 7pm Friday to 7am Monday, and all day public holidays. This would ensure that normal working hours not subject to the afterhours surcharge would accommodate morning and afternoon peaks.

Accident allocation schemes

Our members believe the allocation system in the Melbourne controlled area has been successful in stamping out poor practices previously used by some accident towing operators competing for work at an accident scene. As metropolitan Melbourne expands, it is important to review allocation boundaries to ensure zones match the regulatory need to manage towing competition at the scene of an accident. The ICA supports regular reviews of the allocation zones based on accident statistics and complaint information provided to VicRoads.

The Geelong self-management allocation scheme appears to be working well, with no allocation-related issues reported by our members.

Transparency of licensing

While the allocation process has improved practices for towing work at an accident scene, our members have seen examples of smash repairers purchasing towing operator licences for amounts far exceeding the value of the towing business. This suggests the licence is being acquired as a means of encouraging consumers to have their car towed to an affiliated repair shop for repair at an inflated cost to the insurer or at-fault driver.

Where a vehicle is delivered directly to a repairer, this can potentially result not only in excessive repair costs, but also:

- provision of private and personal information by towing operators to repairers, possibly without the consent of the consumer, raising issues under privacy legislation; and
- detainment of the consumer's vehicle until additional fees are paid to the repairer, which can lead to repair delays and greater inconvenience to the consumer.

Our members would be happy to provide you with specific examples on a confidential basis, upon request.

To address this, transparency of licence ownership could be improved through the publishing of the identity of licence-holders and details of licence transfers. This will help to identify any affiliations that could be used to exploit consumers.

Towing destination

The ICA also suggests that the scene of an accident is not an ideal place for consumers to make a repair decision. Although touting business at the scene of an accident is prohibited, this is difficult to enforce in practice and touting remains a common method of repairers capturing business – as demonstrated by the high resale value of towing licences described above. To provide consumers time to review their options, and reduce the practice of touting at the scene of an accident, the ICA suggests a reduced set of destination choices be applied to regulated accident tows. For example, the towing operator could offer three simplified customer-centric choices at the scene of an accident:

- returning to the owner's home (important for uninsured vehicles);
- storing the vehicle at the tow operator's independent holding yard awaiting further instructions from the owner or their insurer; or
- contacting the insurer to get instructions on the owner's behalf.

The default option would ideally be for vehicles to return to an independent holding yard within the zone to await further instruction from either the vehicle owner or insurer. This would provide consumers time to review their repair options, contact their insurer and seek advice from friends and family.

Importantly, this would eliminate the ability for accident tows to go directly from the scene of an accident to a repair facility, thereby removing the incentive to pressure or mislead consumers into selecting a repairer immediately after an accident. The reduced set of choices is also likely to improve traffic clearance, as less time will be spent at the scene of an accident waiting for drivers to make on the spot decisions. A regulated form to be used at the scene of an accident would confirm the instructions for both the consumer and the tow operator.

In NSW, accident tow truck operators are required to have a holding yard where accident-damaged vehicles can be temporarily stored if, at the time of the accident, the owner doesn't know where they want the vehicle towed, or the requested destination is closed.

Heavy vehicle towing

The ICA submits that heavy vehicle accident towing fees should continue to be unregulated. Our members operating in this sector report that fair and reasonable costs are negotiated with heavy vehicle towing operators, and are not aware of any negative feedback from repairers or assessors to suggest excessive towing fees are being charged.

Heavy vehicle accident allocations should also continue to be unregulated. There have been no reports of poor behaviour by towing operators at accident sites in the last three years, suggesting that the self-management scheme is working. Presently, any delay in clearing an accident is due not to the lack of an allocation scheme, but largely due to police investigation, vehicle load type, or site access issues.

The ICA recommends, however, that the licensing regime for heavy vehicle accident towing be regulated, in order to ensure that licence-holders are of good and proper character, and are not associated to criminal organisations.

Enforcement

Our members have expressed concern about the capacity of VicRoads to deal with the high number of complaints about towing operators, given their limited resources and competing priorities. Regulation of accident towing will only be effective if there is an ability to properly enforce those regulations. The ICA suggests that VicRoads could be better resourced to

address insurer and consumer complaints. A recent expansion of the NSW Roads and Maritime Services enforcement team is improving insurer and customer experiences.

If you have any questions or comments in relation to the above submission, 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



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