



# Auto Insurance in Newfoundland and Labrador

Submission to the Board of Commissioners of Public Utilities (PUB)

Aviva Canada Inc.

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# 1. Introduction

Aviva Canada Inc. (“Aviva”) thanks the Government of Newfoundland and Labrador for the opportunity to participate in its review of auto insurance. Aviva is very concerned about the state of the auto insurance market in Newfoundland and Labrador.

This review presents an opportunity to take a step back from a system that has not received the attention it requires for a number of years and is challenged on many fronts. We invite a creative and fresh-eyed examination beyond “the way it is”, to instead look at solutions that will best serve the consumer and allow the auto insurance market to take advantage of current innovations.

It would be a wasted opportunity to merely look at what other provinces have done – particularly since most jurisdictions are still dealing with many of the issues that are present in Newfoundland and Labrador, just less severely. On a global level, Canada is not a leader – even the provincial “leaders” still lag behind many successful international jurisdictions that have found product and market solutions that still deliver lower premiums, stability, competition, innovation and consumer choice.

We implore the Government of Newfoundland and Labrador to become a leader in Canada and look beyond tweaks to transformational change that will really make a difference. The recommendations we have presented in this report are created from an evidence-based and jurisdictional analysis. Aviva also commissioned MQO to conduct a consumer poll in order to better understand what’s important to our customers in Newfoundland and Labrador.

What’s best for consumers in Newfoundland and Labrador is at the center of all of the recommendations in this paper, and you’ll find a highlighted note under each recommendation that outlines the specific benefits for our customers.



## 2. About Aviva Canada Inc.

Aviva Canada is the second largest property and casualty insurance group in the country providing home, automobile, leisure/lifestyle and business insurance to 2.8 million customers. Aviva Canada has more than 4,000 employees in 27 locations across Canada.

Automobile insurance is a cornerstone of our business. In 2016, Aviva insured 60,000 private passenger vehicles or 22% of the total Newfoundland and Labrador market. Aviva also insured 31,000 homes and 3,000 businesses. In the same year, we collected \$70.4 million in premiums, handled 7,163 automobile-related claims and paid \$5.9 million in taxes to the government. Aviva Canada is a successor to Cabot Insurance and purchased RBC General Insurance in 2016. Aviva distributes its products directly in a partnership with RBC Insurance and through independent brokers: Munn Insurance, Wedgwood Insurance Limited, South Coast Insurance Agency Ltd., Crosbie Job Insurance, Aon, Marsh Canada Limited and Steers Insurance.

Aviva Canada is a wholly-owned subsidiary of Aviva plc. Aviva is one of the world's largest insurers, with 33 million customers worldwide, £490 billion in assets under management and businesses in 15 countries across North America, Europe and Asia. As a global company, we have experience with many different auto insurance systems and products, and among the stakeholders commenting, we bring a unique, international perspective.



### 3. Aviva's objectives, recommendations and the benefits

Aviva aspires to achieve the following objectives through this review. Our recommendations follow for how to achieve each objective. We have also summarized the impact of recommendations on the auto insurance marketplace. The elements of the auto insurance marketplace are discussed in detail in the following section.

Objective/recommendation	Benefit
<p><b>1. Refocus the system on care not cash and stabilize insurance premiums</b></p> <ul style="list-style-type: none"> <li>a) Reduce Bodily Injury claims costs               <ul style="list-style-type: none"> <li>i. control the cost of Minor Injury claims</li> <li>ii. improve litigation efficiency</li> <li>iii. review contingency fees</li> </ul> </li> <li>b) Expand Accident Benefits coverage and improve health outcomes               <ul style="list-style-type: none"> <li>i. make Accident Benefits coverage mandatory and increase limits</li> <li>ii. introduce programs of care</li> <li>iii. adopt the Health Claims for Auto Insurance (HCAI) system</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>↑ value</li> <li>↑ affordability</li> <li>↑ availability</li> </ul>
<p><b>2. Take care of customers and their cars</b></p> <p>Adopt a Direct Compensation Physical Damage (DCPD) settlement model for physical damage claims.</p>	<ul style="list-style-type: none"> <li>↑ value</li> <li>↑ affordability</li> </ul>
<p><b>3. Be tough on fraud</b></p> <ul style="list-style-type: none"> <li>a) Revise the regulator's mandate to include responsibility for fighting fraud.</li> <li>b) Mandate insurers to report fraud to the regulator.</li> <li>c) Eliminate root causes of fraud by prohibiting referral fees and prohibiting the practice of service providers asking consumers to sign blank work orders.</li> <li>d) Prohibit the practice of service providers charging different amounts based on whether costs will be covered by insurance.</li> </ul>	<ul style="list-style-type: none"> <li>↑ value</li> <li>↑ affordability</li> </ul>
<p><b>4. Modernize regulation and facilitate competition and innovation</b></p> <ul style="list-style-type: none"> <li>a) Eliminate rate regulation for fleets, snowmobiles and motorcycles.</li> <li>b) Replace prior approval rate regulation with use-and-file regulation.</li> <li>c) Refocus regulatory resources and revise the superintendent's mandate to include responsibility for maintaining a healthy auto insurance marketplace with a corresponding duty to act.</li> <li>d) Create insurance products for ride-hailing and car-sharing.</li> <li>e) Undertake a review of the Insurance Act with the objective of modernizing it. This review should include a specific focus on accommodating electronic and digital communication.</li> </ul>	<ul style="list-style-type: none"> <li>↑ value</li> <li>↑ affordability</li> <li>↑ competition</li> <li>↑ profitability</li> <li>↑ adaptability</li> </ul>
<p><b>5. Address socially unacceptable issues</b></p> <ul style="list-style-type: none"> <li>a) Reduce the number of uninsured drivers.</li> <li>b) Campaign against distracted driving.</li> </ul>	<ul style="list-style-type: none"> <li>↑ value</li> <li>↑ affordability</li> <li>↑ profitability</li> </ul>

## 4. Achieving a healthy auto insurance market

The actions resulting from this review need to improve the health of the auto insurance market in Newfoundland and Labrador (NL). At present, the market is neither healthy nor sustainable. The current trajectory left unchecked exposes Newfoundlanders to an unacceptable level of personal and financial risk, unnecessarily in our view. The following table sets out the criteria for a healthy auto insurance market and provides an overview of the current state of the market. Each component is important and taken together – not in isolation – produces the best-case scenario for consumers.

Ideal state	Current state
<p><b>Affordability</b> – Premiums are stable and affordable.</p>	<p><b>Affordability</b> – NL has the highest premiums in the Atlantic Region. Aviva’s premiums in NL have increased by 25.7% from 2008 to 2017, and a further increase of 10.5% has been approved for 2018. Loss trends and rate indications remain high for NL, signaling that premiums will continue to rise. The high premiums remain insufficient to cover claims and other insurance costs. According to Oliver Wyman, average premiums in 2016 were 16.2% lower than what they should have been.<sup>1</sup></p>
<p><b>Value</b> – Customers receive value for their premiums. A balance is struck between affordable premiums paid by all drivers and the total cost of claims incurred by a small subset of premium payers.</p>	<p><b>Value</b> – Auto insurance is mandatory in order to drive a motor vehicle. A total of 323,023 cars were insured in NL in 2016. Just 11% of drivers had a vehicle damage claim, while only 0.5% had a Bodily Injury claim. Claims payments are expected to account for 85% of total premiums for accident the year 2016.<sup>2</sup> A large number of drivers don’t have claims but are paying increased premiums due to claims.</p>
<p><b>Competition</b> – Insurance can be purchased from a number of different insurers through different methods of distribution (agents, brokers or direct from the insurer).</p>	<p><b>Competition</b> – NL has the most concentrated auto insurance market in Canada, with the top four insurers comprising 87% of the market. The province is at risk of being just one withdrawal away from having no market at all.</p>
<p><b>Availability</b> – There is sufficient product for the demand.</p>	<p><b>Availability</b> – 3.2% of consumers have to buy insurance from the Facility Association, compared to 2.0% in other provinces.<sup>3</sup></p>
<p><b>Profitability</b> – The industry is profitable enough to be able to continuously invest in the product and the province.</p>	<p><b>Profitability</b> – From 2010 to 2016, the industry’s profit levels were lower than the PUB’s profit guideline.<sup>4</sup></p>
<p><b>Adaptability</b> – The industry is able to adapt, innovate and leverage technology to provide new products to customers at fair prices.</p>	<p><b>Adaptability</b> – NL has a strict regulation regime that’s slow to respond to new ideas. Many jurisdictions globally have moved to more flexible regulation that produces stable and competitive rates and allows for innovation in products and price.</p>

<sup>1</sup> Oliver Wyman NL PPA Profit and Rate Adequacy Review, page 23 <sup>2</sup> Oliver Wyman NL PPA Profit and Rate Adequacy Review, page 10

<sup>3</sup> Data from Facility Association <sup>4</sup> Oliver Wyman NL PPA Profit and Rate Adequacy Review, page 6

## 5. The issues

### i Oliver Wyman Profit and Rate Adequacy Review Report

The Government retained Oliver Wyman to review the profit and rate adequacy of the private passenger auto insurance market.

The report concluded:

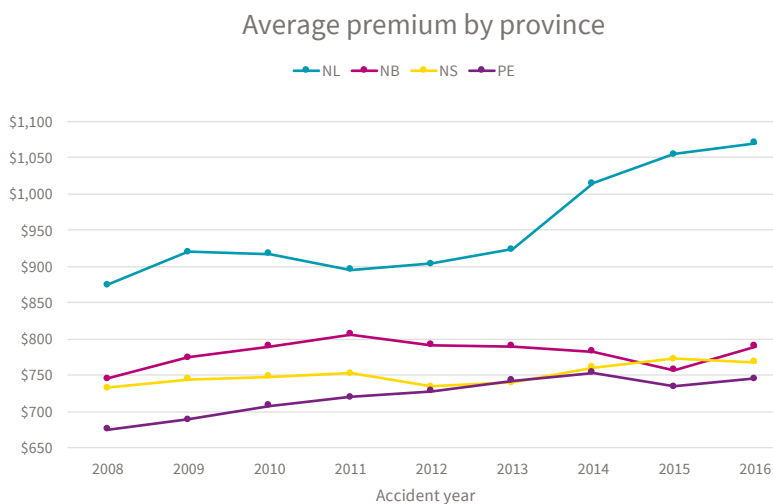
- The industry’s realized profit levels are lower than the PUB’s guideline from 2010 to 2016, with negative profit in 2013, 2015 and 2016. The industry was expected to suffer even larger losses in 2017 than 2016.
- From 2012 to 2016, the premiums charged by insurance companies were not adequate enough to cover claims costs, expenses and the Board’s guideline profit provision.
- With the exception of two years, loss ratios have increased every year since 2008, from a low of 67.9% in 2008 to a high of 86.7% in 2015.
- Current premiums are inadequate. An average increase of \$179 or 16.2% was required in 2016.



### ii Aviva’s data

Aviva’s data is consistent with Oliver Wyman’s findings and provides additional insights.

#### Premiums are increasing but still inadequate



Newfoundland and Labrador has the highest auto insurance premiums in the Atlantic region. From 2008 to 2016, premiums in Newfoundland and Labrador increased by 22.4%, while the other Atlantic Provinces saw increases of less than half that amount. High claims costs are driving the need for premium increases. Without action, claims costs and in turn premiums will continue to rise.

### Claims costs increased more than premiums

During the 2008 to 2016 time period, our claims costs increased more than premiums.

Bodily Injury claims costs increased more than other coverages. Premiums and claims costs increased more than inflation, measured by the Consumer Price Index.

Premiums	Overall claims costs	Bodily Injury claims costs	Inflation (consumer price index)
↑ 22%	↑ 67%	↑ 74%	↑ 15%

### A small number of claims result in big costs

The table below illustrates the significant impact of claims. In 2017, 11% of our customers had a physical damage claim, only 0.65% had a Bodily Injury claim and 0.72% made a claim for Accident Benefits. However, the cost of claims accounts for 86% of premiums. A small number of drivers have claims, but those claims result in big costs borne by all.

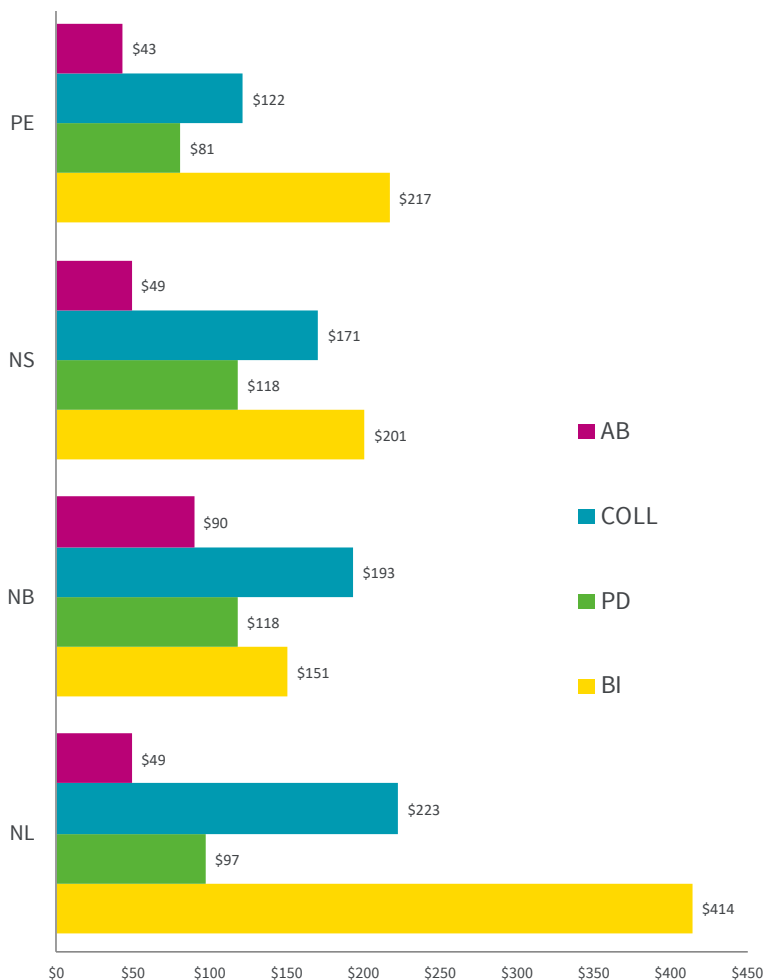
In 2017, Aviva insured:

Total customers	Claims	Total premiums	Claims incurred
<b>58,592</b>	<b>6,382</b> physical damage claims	<b>\$73</b> million	<b>\$22.6</b> million
	<b>379</b> Bodily Injury claims		<b>\$33.2</b> million
	<b>427</b> Accident Benefit claims		<b>\$6.4</b> million



### Bodily Injury costs are the highest in Newfoundland

Claims costs per vehicle for traffic collision – related coverage 2016



Bodily Injury claims costs are significantly higher in Newfoundland and Labrador than in the other Atlantic Provinces. In 2016, Newfoundland and Labrador Bodily Injury claims costs per vehicle were 175% higher than New Brunswick, 106% higher than Nova Scotia and 91% higher than Prince Edward Island. The other three Atlantic provinces adopted Minor Injury caps in 2003. This has been effective in controlling Bodily Injury claims and stabilizing premiums.

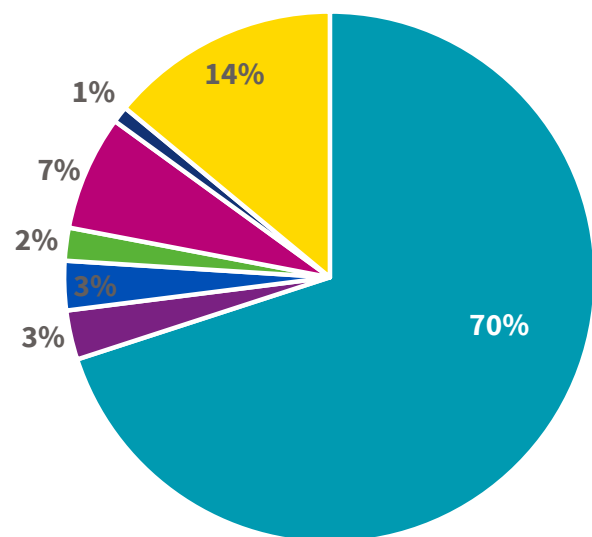
### iii The Closed Claim Study

Aviva participated in the Closed Claim Study as requested and defined by the Public Utilities Board and reviewed 405 claims. We noted the following during this study:

#### Most accidents do not involve serious injuries

Of the 405 claims, one claim involved a fatality and there were no other serious injuries such as quadriplegia, paraplegia, amputations or serious brain injuries. 70% of the injuries were soft tissue injuries. A breakdown of the types of injuries is found in the diagram below:

#### Distribution of injuries

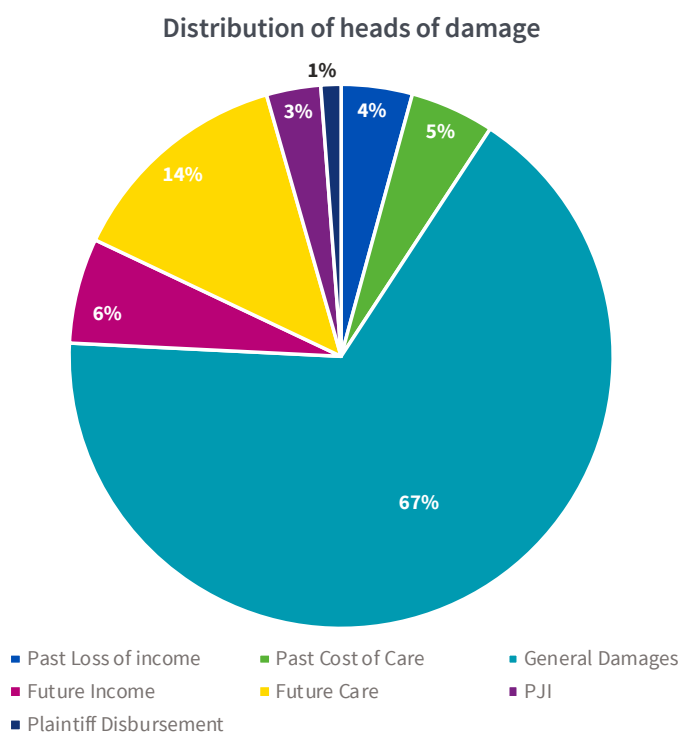


- Soft Tissue- Neck, Back, Shoulder
- Fractures
- Joint
- Other
- Psychological
- Chronic Pain
- Concussion

This finding is consistent with Oliver Wyman’s analysis of the entire closed claims sample. Using a three category classification, Oliver Wyman found that 66% of claims comprised the Class 1 group (minor neck, back, knee, shoulder, joint injuries). The Class 2 group of injuries included fractures, chronic pain, TMJ, psychological and concussions, and accounted for 31% of the sample. Serious injuries (fatalities, spinal cord, amputation, internal organs, weight bearing fracture, post-concussion syndrome) were only seen in 21 of 1,749 claimants, or 1.2% of the sample.

**Large amount of settlement dollars paid for general damages (pain and suffering)**

Chart 2 illustrates the breakdown of Aviva’s settlements by head of damage. Of the claims dollars paid, 67% went to general damages for pain and suffering, followed by future care costs (14%) and future income loss (6%). Again, this is consistent with Oliver Wyman’s findings that 64% of the total settlement dollars were paid to general damages for pain and suffering.



Aviva’s average settlement was \$34,886. Settlements were noticeably higher when there was legal representation (\$41,000 with legal representation versus \$9,900 with no legal representation). Claims with legal representation had a much higher incidence of claims for future income loss, future medical services and future replacement services.

**The shocker – the number of lawyers**

The most surprising data point to emerge from the Closed Claim Study was the high rate of legal representation. 80% of Aviva’s claims had legal representation. Legal representation in the entire closed claims sample was slightly higher at 82% and is a clear sign the system is broken. This number is far higher than what we see in other provinces – 50% for Ontario Bodily Injury claims (a figure that’s also far too high in our view), less than 30% in Nova Scotia, New Brunswick and Alberta. The other surprising fact was that none of these claims resulted in a trial.

Legal representation impacts the length of time it takes to resolve a claim. In the Aviva sample, claims with no legal representation closed after an average of 352 days, while claims with legal representation took an average 922 days. Again, Newfoundland and Labrador seems to be an outlier as we see quicker resolution times in New Brunswick and Nova Scotia, even with the involvement of plaintiff counsel – 324 days in New Brunswick and 520 days in Nova Scotia.



## 6. What consumers think

Before presenting our recommendations to government, we carried out a poll to find out what consumers think. Aviva retained an Atlantic polling company, MQO, to conduct a survey of Newfoundland and Labrador residents. The survey included 400 current drivers (200 in St. John's and 200 throughout the rest of the region) and was conducted between April 25 and April 30, 2018. The full report can be found in Appendix A.\*\*



### Key findings

- Car insurance premiums are viewed by 83% as increasing and **becoming financially difficult by 63% of drivers.**
- As car insurance premiums increase, 63% drivers are **not seeing an increase in value.**
- Further, many perceive that **premiums are increasing at a faster rate** than insurance claim payouts.
- Nearly all drivers (90%) in Newfoundland and Labrador view car insurance companies in the province as profitable and many would **like to see more competition in the market.**
- **Uninsured drivers are seen as a significant issue** in the province and the vast majority (69%) feel it's having an impact on premiums.
- There is broad support (71%) for giving drivers the choice to **pick and choose** what benefits should be included in their policy as a means of reducing their premiums. This included options for the level of rehabilitative care and making the right to sue an optional benefit that could be purchased as part of their policy (67%).
- The majority (90%) are also **in favour of a cap on pain and suffering claims** if it results in lower car insurance premiums. Two thirds (67%) were also in favour of making the right to sue for pain/suffering an optional benefit that could be purchased as part of their policy.
- There is also (79%) support for a **cap on lawyer contingency fees** for Personal Injury cases, with most (30% and 33% respectively) feeling it should be capped in the 10-20% range.

## 7. Solutions

### 1. Refocus the system on care not cash and stabilize insurance premiums

Newfoundland and Labrador's system is overly focused on tort compensation for Bodily Injury claims. As illustrated on the previous page, only a small percentage of Newfoundland and Labrador drivers have Bodily Injury claims and yet those claims account for more than 50% of all claims dollars paid. The high Bodily Injury claims costs result in higher premiums for all drivers. This issue is not unique to Newfoundland and Labrador, but most other provinces tackled this problem over a decade ago. They took steps to control the costs generated by Minor Injuries and rebalanced the system by expanding Accident Benefits coverage. The focus shifted from cash to care. Over time, most provinces have seen some erosion in the level of savings generated by Minor Injury reforms – there is work underway to review and fix this erosion. Striking the right balance between premiums and claims coverage requires constant attention.

In order to refocus the system, Bodily Injury claims costs must be reduced and Accident Benefits coverage expanded to focus on care. Bodily Injury claims costs can be reduced by reducing both the amount of the settlement and the transaction costs associated with disputes.

#### a) Reducing Bodily Injury claims costs

It will not be possible to stabilize and then reduce premiums without reducing compensation for Bodily Injury claims. Currently, the average settlement for Bodily Injury claims in Newfoundland and Labrador is \$34,886, with 67% of our bodily damage expenses going towards general damages. We offer four possible options. There are advantages and disadvantages to each, and each model will produce a different level of savings.



## i Control the cost of Minor Injury claims

### Option A – Nova Scotia definition

Nova Scotia, New Brunswick, PEI and Alberta all define “Minor Injury” in regulation and limit the amount of general damages payable. The definitions are similar, but not identical, and focus on sprains, strains and whiplash associated disorders. For the purposes of this exercise, we have selected the Nova Scotia definition because it’s the narrowest.

Nova Scotia defines Minor Injury as:

“A sprain, strain or whiplash associated disorder injury that does not result in a permanent serious impairment (defined term) and resolves within 12 months.”

<b>Advantage:</b>	The definition is easy to understand.
<b>Risks:</b>	The 12-month resolution condition may be easily manipulated. The definition has eroded over time as psychological, chronic pain and concussion injuries become more widely diagnosed and fall outside the definition.

**Projected savings:**  
We estimate that this definition would capture 70% of our existing Bodily Injury claims and generate premiums savings of \$57 or approximately 4.4%.

### Option B – Expanded Minor Injury list

Another option is to expand the list seen in Option A to include a broader range of Minor Injuries. A possible definition is:

“Minor Personal Injury” means the following injuries, including any clinically-associated sequelae (which we have defined), that do not result in serious impairment or permanent serious disfigurement: contusion; abrasion; laceration; subluxation; sprain; strain; headache; temporomandibular strain or sprain; whiplash associated disorder; diagnosis of depression.”

<b>Advantage:</b>	This definition is similar to the Minor Injury definition recently introduced by the British Columbia Government. The broader list of injuries recognizes that claimants often experience a cluster of symptoms in addition to a primary injury. The broader list will generate a higher level of savings.
<b>Risks:</b>	The size of the cap may impact the amount of litigation. Since Nova Scotia increased its cap, we’ve seen an increase in litigation. Court decisions may erode the list, so the list should be reviewed on a regular basis and be kept current.

**Projected savings:**  
We project that this definition would capture 81% of our Bodily Injury claims. A Minor Injury cap of \$5,000 will generate premium savings of \$111.95 or 8.62%. A Minor Injury cap of \$7,500 will generate premium savings of \$95.96 or 7.39%.



### Option C – Ontario threshold and deductible (impairment model)

Ontario has taken a different approach to defining Minor Injuries and created a threshold. General damages are not payable for claims that are below the threshold. The threshold is defined in terms of impairment level and there is no list of injuries. A claimant surpasses the threshold if their impairment results in a Permanent Serious Disfigurement or Permanent Serious Impairment (these terms are defined). In addition, general damage awards are also subject to a deductible, indexed annually for inflation. Ontario's deductible currently stands at \$37,983.33.

**Advantage:** The impairment definition has resulted in less erosion than the Minor Injury definitions. There is a sizeable body of case law that will provide some guidance to decision makers.

**Risks:** Because the definition is broader, it has generated more litigation. This litigation is bolstered by contingency fees, adverse cost insurance and rampant lawyer advertising.

#### Projected savings:

For the purposes of costing, we assumed that any claim with general damages of \$30,000 or less would fall under the threshold or deductible.

It's estimated that 87% of Bodily Injury claims would fall within this definition. An Ontario threshold and deductible would generate premium savings of \$179.13 or 13.79%. The premium savings for a threshold alone (no deductible) would be \$169.53 or 13.05%.

### Option D – consumer choice – optional Minor Injury coverage

The fourth option that we present for consideration is an optional tort model. Similar models can be found in Saskatchewan and New Jersey. This model allows the consumer to choose whether they can claim general damages for Minor Injuries in the event of an accident. The basic policy excludes coverage for pain and suffering, except if the pain and suffering is the result of a Serious Injury (which is defined). Customers have the option to buy back tort coverage for all injuries from their own insurer. Approximately 3% of drivers in New Jersey purchase this optional coverage. Customers who do not purchase the right to sue for general damages can still claim income loss and also have access to Accident Benefits coverage that will provide treatment and income replacement. This option has significantly reduced litigation and freed up courts. Brokers and agents are required to provide quotes for three different coverages. If they do so, they have statutory immunity from any E&O litigation. The Superintendent's office also has a detailed website that explains various coverages.

**Projected savings:**  
We calculated the savings based on 100% of customers taking the basic coverage. This would produce premiums savings of \$211.11 or 16.25%. If there's interest, we would be happy to draft wording for the optional tort coverage and provide a view of cost.

**Advantage:** This option gives meaningful choice to consumers and lets them control the amount of their premium. Consumers who feel strongly about retaining the right to sue in any circumstance can buy back the option. This option also frees up courts at a time when there's pressure to try criminal cases faster. Our consumer poll found that the vast majority (71%) of drivers would like to pick and choose what benefits should be included in their policy as a means of reducing their premiums, and two thirds (67%) were also in favour of making the right to sue an optional benefit.

**Risks:** We have not calculated the cost of the buyback option. It may be expensive if there's no significant uptake. This is a bold option and is likely to receive resistance, especially from the legal community that would be impacted.

### Recommendation

Aviva believes that customers should have the right to choose their coverage and what premium they pay and recommends the adoption of Option D.

<sup>5</sup> We propose the following definition: the basic policy excludes coverage for pain and suffering for all injuries, except loss of a body part; permanent loss of function in a body part; significant disfigurement or significant scarring; a fracture; a diagnosed traumatic brain injury by a qualified medical practitioner that results in a permanent impairment of a cognitive or a physical function; a diagnosis of major depressive disorder that persists longer than six months despite regular treatment; or death.

## ii Improve litigation efficiency and reduce transaction costs

The longer claims stay open, the more money they cost. Claims with legal representation take almost three times longer to resolve. Litigation in Newfoundland and Labrador needs to be sped up. The injured plaintiff and the defendant being sued are both entitled to quicker resolution. The following changes will help move matters along quicker:

### Binding medical assessment

Options A, B, and C will require a determination of whether the injuries or impairments are minor. This should be a relatively straightforward issue, but in most provinces, it has spawned litigation. In order to reduce the costs and time associated with litigation, we recommend that the Government establish a panel of medical assessors. A medical assessor would be chosen from the Panel and would decide if the injury or impairment is minor. The medical assessor's decision should be binding on the parties and the court. This would reduce the costs associated with competing medical opinions and speed up the litigation process, which is in the best interests of all parties. As an additional benefit, the Government can easily collect data from the medical assessors in order to understand how any reform is working.

### Mandatory production

Certain documents must be produced in every Personal Injury lawsuit. However, a lot of wasted time and effort is spent on producing these documents. A plaintiff who commences litigation should be compelled to produce the following documentation:

- hospital records if applicable
- clinical notes and records dating back five years
- section B file
- ambulance records

### Reducing the time for service of a statement of claim

Newfoundland and Labrador's rules currently allow a plaintiff to take 12 months to serve a statement of claim and the plaintiff can apply to extend the time for service for two more years. We recommend that the rule be changed so that a statement of claim must be served within six months of issuance. This is consistent with other provinces.

### Allow pre-trial examination of experts

Since none of our cases proceed to trial, there's little for either party to challenge the opinion of experts. Allowing pre-trial examination of experts will help both parties understand the expert's testimony better, and this may lead to earlier resolution.

## Avoid double compensation

Income replacement is available through Accident Benefits coverage and also through Bodily Injury coverage. In order to avoid double compensation, the regulations should provide full deductibility of Accident Benefit payments from tort awards. In addition, income replacement benefits and wage continuance under short-term and long-term disability plans should also be deducted from loss of income awards in Bodily Injury claims.

### Mandatory reduction for contributory negligence

There should be mandatory reductions for contributory negligence of a Bodily Injury award for impaired driving, distracted driving (texting), failure to wear a seatbelt and failure to wear a helmet. These reductions are currently the subject of negotiation. Stipulating the amount of reduction provides clarity and certainty for all parties.

### Recommendation

We encourage the government to adopt the five measures noted, in order to improve litigation efficiency to ultimately benefit injured auto accident victims.

### Why is this helpful for consumers?

These are efficiency and streamlining suggestions to reduce the amount of time spent in litigation and focuses stakeholders on the highest priority work, which is providing necessary care when it's needed. It also removes waste and distraction from the system. Quicker resolution is good for plaintiffs and defendants.



### iii Review contingency fees

It's not clear to us why there's such a high rate of legal representation in Newfoundland and Labrador. However, we're concerned about the potential amount of money flowing away from injured claimants. It's our understanding that most Personal Injury lawyers in Newfoundland and Labrador work on a contingency fee basis of 30%. This could potentially result in a very large amount of money being directed at lawyers instead of auto accident victims.

In 2016, the industry saw 1,692 Bodily Injury claims, but allocated \$141 million to those claims. Legal representation is seen in 82% of claims, so on a straight line basis, \$115.6 million of the total settlement amounts will pass through law firms in trust for their clients. Based on a 30% contingency fee, an amount equivalent to \$34.7 million may be deducted from settlements and paid to lawyers.

MQO's poll (as highlighted in Section 6) found that 79% of NL respondents support a contingency fee cap if it would reduce their premiums. One third of the NL respondents support a contingency fee cap of 20% or less. As a comparison, in New Brunswick has a contingency fee cap of 25%.



### Recommendation

This issue should be reviewed more closely to ensure that lawyers are paid a fair amount and injured victims receive an appropriate share of their settlement. A contingency fee cap of 20% is a good consumer protection measure.

### Why is this helpful to consumers?

As mentioned in Section 4, lawyer representation in Newfoundland and Labrador is 82% – which is a major issue in Canada. This suggests a major issue and creates excessive costs in the system that all customers pay for.

Transparency into the practices of plaintiff lawyers is required as part of any effort to achieve best outcomes for premium payers and particularly, those injured who are paying lawyers' large fees in pursuit of awards that distract from the priority of patient care. Government should expect an adverse stakeholder reaction from trial lawyers who will suggest that this is an access to justice issue and insist the contingency fee system is in the best interest of clients in order to ensure they get a fair settlement from insurance companies.

## b) Expand Accident Benefit Coverage and improve health outcomes

### i Make Accident Benefits Coverage mandatory and increase limits

Accident Benefits in Newfoundland and Labrador is an optional coverage, although 98% of Aviva's customers purchase this coverage. Newfoundland and Labrador have the lowest benefit limits in Canada – a comparison can be found in Appendix B.

Other provinces with private auto insurance expanded Accident Benefits coverage and introduced diagnostic treatment protocols or programs of care to ensure injured claimants have access to science-based treatment.



#### Recommendation

Aviva recommends that Accident Benefits coverage be mandatory and the levels of coverage be expanded to the same coverage levels as New Brunswick:

- Increase medical and rehabilitation benefits from \$25,000 to \$50,000 for four years.
- Increase funeral expenses from \$1,000 to \$2,500.
- Increase death benefits from \$10,000 for head of household or spouse to \$50,000 for head of household and \$25,000 for spouse.
- Loss of income benefits should be increased from \$140/week for 104 weeks maximum to \$250/week for a lifetime if totally disabled and 104 weeks if partially disabled. The unpaid housekeeper benefit would increase from \$70/week for 12 weeks to \$100/week for a maximum of 52 weeks.

#### Why is this helpful to consumers?

Increased benefits ensures customers are better supported during the difficult time after an accident, enabling full and fast recovery for injuries.

## ii Introduce programs of care

Programs of care should be introduced for the treatment of frequently seen injuries such as soft tissue injuries with associated sequelae, chronic pain, post-traumatic stress disorder, and concussions. Effective programs of care have been shown to improve health outcomes and reduce costs.

## iii. Adopt the Health Claims for Automobile Insurance System (HCAI)

We recommend that Newfoundland and Labrador adopt and implement Ontario's Health Claims for Auto Insurance ("HCAI"). HCAI is an electronic system developed by Ontario auto insurers, working closely with the Financial Services Commission of Ontario (FSCO), the Ontario Ministry of Finance, various medical rehabilitation provider associations and other stakeholders. This system is used for transmitting auto claims forms between insurers and healthcare facilities in Ontario. HCAI provides valuable data about injuries sustained in auto accidents and the treatment provided.

### Recommendation

We encourage the government to look to other auto insurance markets and workers compensation for programs of care and adopt those. There's no need to reinvent the wheel.

### Why is this helpful to consumers?

Focusing on care instead of cash helps people get better, faster, with evidence-based treatments and more rigour to the health aspect of the recovery.

### Recommendation

The provincial government should adopt HCAI. This data can be used by the government to address injury trends, develop new programs of care and understand the effectiveness of current programs of care.

### Why is this helpful to consumers?

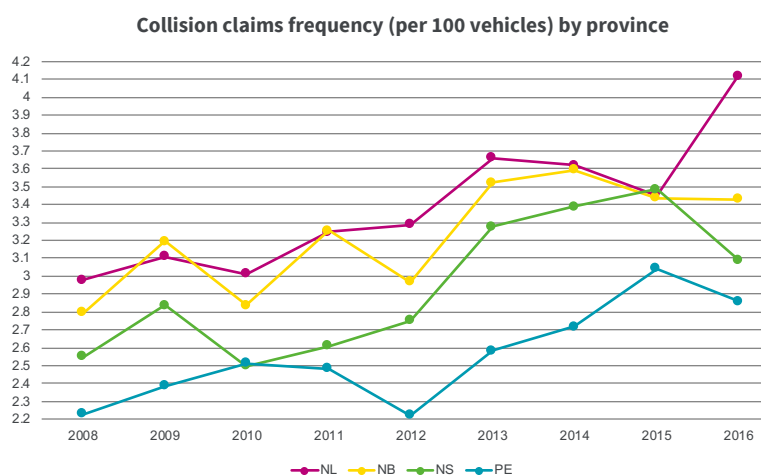
This helps consumers because tracking health information allows more scientific and methodological rigour so that ultimately, patients can receive improved medical treatment and get better faster through improved treatment protocols.



## 2. Take care of customers and their cars when there is an accident

Auto physical damage costs have been steadily increasing because the frequency of collisions is increasing and so is the cost of repairs.

Collision frequency has been trending upwards for all of the Atlantic provinces, with Newfoundland and Labrador having the highest collision frequency in most of the last nine years.



Physical damage costs have increased by 47% from 2008 to 2016, while optional coverages have also increased – Collision by 45% and Comprehensive by 80%. New cars, with increasingly expensive technology, will continue to drive up costs. At some point, when there are more cars with enhanced safety features on the road, collision frequency should decrease. Until that time, the trend of increasing physical damage costs will continue.

One way to better control physical damage costs is to adopt the Direct Compensation Physical Damage settlement model. Newfoundland and Labrador and Alberta are the only provinces that still use a tort-based vehicle damage claims-settlement model. In this model, the owner of the damaged car must deal with the at-fault driver's insurer. The not-at-fault insurer can then subrogate against the at-fault insurer and recover their payout. Insurers have dedicated teams that handle these subrogation claims. This is an expense that adds no value to the customer.

### Recommendation

Adopt Direct Compensation Physical Damage (“DCPD”) as the property damage claims settlement model.

### Why is this helpful to consumers?

An improved process would allow the owner of the damaged car to deal with their own insurer. This model is called “Direct Compensation Physical Damage” and customers rely on their own insurer to repair and/or replace the vehicle, regardless of fault. This allows Aviva, in other provinces, to provide better and faster customer service. Repairs are approved and undertaken more quickly. The subrogation process and associated costs are eliminated. In other provinces, repair time is reduced and customer Net Promoter Scores (customer satisfaction) are higher.

### 3. Be tough on fraud

Address the major elements of fraud that cost the system.

In Aviva's "Crash, Cash and Backlash" report on auto insurance fraud in Canada, we listed the many ways and stages in the claims process where fraud can occur (see Appendix C). Insurers are currently not required to measure and report fraud in Newfoundland and Labrador, so it's difficult to say how much fraud there is. Aviva believes that fraud is an issue in Newfoundland and Labrador, just like it is elsewhere in Canada, because fraud does not recognize provincial boundaries.

In 2017, we conducted a national Insurance Fraud Consumer Survey as part of our report. The results from Newfoundland and Labrador are noteworthy:

- 85% believe fraudulent insurance claims are the reason their premiums have increased
- 57% believe that 25% of all auto insurance claims are fraudulent
- 84% believe that efforts to reduce auto insurance fraud would help lower premiums
- One in four know someone who has claimed fraudulent personal injuries after an auto accident
- 75% feel auto repair shops are inflating vehicle repairs
- 71% feel tow truck drivers regularly receive "kickback" payments for towing damaged cars to specific auto repair shops
- 91% believe more needs to be done to reduce auto insurance fraud

Government, insurers and consumers all have a role to play in the fight against fraud. Government and specifically regulators have a responsibility to understand how much fraud is in the system and require insurers to fight fraud and track progress. In addition, the root causes of fraud should be addressed. The consequences of fraud should be reviewed to ensure that they are a deterrent.

#### Recommendation

- a) Assign responsibility for fighting fraud:
  - The regulator should have a clear mandate to regulate the insurance industry to deter and prevent fraud.
- b) Mandate insurers to report fraud to the regulator:
  - The industry should be required to report fraud to the regulator. The industry must safely share relevant fraud data between insurers and government entities in order to truly understand the scale and scope of fraud in the system, while working together to effectively offer and implement solutions.
- c) Eliminate root causes of fraud:
  - Prohibit referral fees.
  - Prohibit the practice of service providers asking consumers to sign blank work orders.
- d) Prohibit the practice of service providers charging different amounts based on whether costs will be covered by insurance or not.

#### Why is this helpful to consumers?

This is an issue of what is fair and not allowing illegal activity to raise the cost of insurance for all drivers. Insurance works when all parties behave responsibly and ethically.

However, this issue is challenging to track, quantify, investigate and pursue. It's also possible that as the rules change, the types of fraud will change or will continue to happen either way. It will be challenging to quantify the success.

#### 4. Modernize regulation to facilitate competition and innovation

##### Transition to use-and-file rate regulation

Insurance regulation in Canada is heavily focused on rate regulation and Newfoundland and Labrador is no exception. Strict rules limit insurers' abilities to create different pricing strategies for consumers.

Newfoundland and Labrador regulates rates more than other jurisdictions. Other Canadian provinces limit rate regulation to private passenger vehicles. However, Newfoundland and Labrador also regulates rates for fleets, snowmobiles, motorcycles.

The rate regulation process is strict. Prior approval is needed from the Board of Commissions of Public Utilities (PUB) for a rate increase. Insurers are required to submit full rate filings, including actuarial indications, for any rate increase regardless of size. These filings are costly and time consuming to produce. Simplified filings are only allowed for rate reductions. The PUB hearing process is costly and time consuming, and can deter insurers from applying for rate increases.

Rate regulation rules do not allow insurers to adequately price for their own risks. Strict rate regulation promotes cross-subsidization of poor drivers at the expense of good drivers. It understates the actual costs of insurance products and contributes to rate inadequacy. The hearing process adds costs, which are ultimately borne by consumers without adding commensurate value.

Taken together, this type of regulation is a serious deterrent for new entrants into the marketplace.

It's time to question the value of strict rate regulation – it's clear it does not reduce premiums. Premiums can only be reduced by bringing down costs. The current rate regulation system has not kept rates current. Oliver Wyman concluded that 2016 rates were underpriced by an average of 16%. This means that some customers are potentially facing large premium increases. So why should this system continue?

Most of the rest of the world has moved away from strict 'prior approval' rate regulation. Europe eliminated rate regulation in the 1990's. Quebec has no rate regulation, and is the most competitive auto insurance jurisdiction in Canada. In the United States, 38 states have moved to a use-and-file, file-and-use or flex rating system.

It's time to transition to a use-and-file system. Under use-and-file, an insurer has to file information supporting its overall rate after implementation. There's no requirement to file underwriting criteria. An insurer can implement a rate 30 days before submitting the prescribed information to the regulator. The regulator has 30 days to conduct a review based on the following criteria:

- The rate cannot be unfairly discriminatory, where unfairly discriminatory refers to rates based on rating factors prescribed as prohibited in insurance legislation.
- The overall rate should be able to withstand projected losses and expenses.
- The overall rate should not substantially lessen competition.

##### Recommendation

- Eliminate rate regulation for fleets, snowmobiles and motorcycles.
- Replace prior approval rate regulation with use-and-file regulation.

##### Why is this helpful to consumers?

Allowing more flexibility for insurers will result in different pricing models and more price options. The costs associated with prior approval rate regulation are significant and are ultimately borne by consumers. Reducing these costs will reduce costs for consumers. There is no evidence that rate regulation helps to control costs. A change in the regulatory system may entice other insurers to enter the market.

### Refocus regulatory resources

There are a finite number of regulatory resources. The heavy focus on rate regulation means that there are less regulatory resources to focus on the overall health of the auto insurance marketplace. As noted earlier, the Newfoundland and Labrador auto insurance marketplace is not healthy despite all of the regulation. There's little capacity to focus on issues that contribute to a healthy marketplace like product design, cost drivers including inflation, innovation, market conduct and fraud. Each of these is an important issue that impacts consumers. It's time to modernize regulation and move away from heavy sets of rules to a more principle and risk-based approach that considers the overall health of the marketplace.

### Prepare for the future of mobility and customer expectations

Mobility is changing quickly. Car-sharing, ride-hailing and autonomous vehicles are already here in Canada in various stages of progress. Insurance, which has historically been based on single owner/single use models, needs to evolve quickly in order to support these new forms of mobility. Regulation should enable, not discourage, technological development. Aviva and other insurers do not want to stand in the way of the development of new mobility models or autonomous vehicles. Instead, Aviva is proactively looking to support progress and innovation within the mobility ecosystem. Aviva wants to partner with regulators and government to facilitate the transition to a more sustainable and safe future of mobility, where insurers are able to underwrite potential risks with confidence.

Insurance companies are grappling with the challenges of serving customers with dynamic and changing expectations. For example, many customers want to interact digitally with their insurer, but current rules still require insurers to send paper and on occasion, registered mail. Given the rapid pace of change, insurers face the real threat of being left in the dust, alienating customers, and suffering in business because we're responding to agile realities with the rules of the 20<sup>th</sup> century, which were not designed for flexibility and change.

#### Recommendation

- c) The Superintendent's mandate should be revised to include responsibility for maintaining a healthy auto insurance marketplace with a corresponding duty to act. Healthy marketplace should be defined according to the criteria listed in the section titled 'Achieving a Healthy Auto Insurance Market.'

#### Why is this helpful to consumers?

This is positive for consumers because it has been shown in other jurisdictions to result in stable premiums, a healthier insurance market and more choice.

#### Recommendation

- d) Create insurance products for ride-hailing and car-sharing.
- e) Undertake a review of the Insurance Act with the objective of modernizing it. This review should include a specific focus on accommodating electronic and digital communication.

#### Why is this helpful to consumers?

Regulations need to adapt so that insurers can continue to meet their customers' expectations.

Aviva conducted a poll of 1,504 customers in Newfoundland and Labrador, Ontario and Alberta in 2017 to gauge public opinion on digital capabilities around insurance and regulation. We found that we are not meeting customers expectations, and they want that to change. Here are some the key findings:

- 70% rate the insurance industry behind other industries when it comes to delivering an effective online experience. Customers want the ability to transact digitally, regardless of their age, where they live, or the channel they have used to purchase their insurance.
- 77% feel regulation has an impact on their auto premiums and the ability of insurers to offer innovative products and services.
- 81% feel more flexible regulation would allow insurance companies to quickly provide customers with products and services that would benefit them.



## 5. Address socially unacceptable issues

### a) Reduce the number of uninsured drivers

Newfoundland and Labrador has a significant challenge with uninsured drivers.

If cost is the reason that some drivers are uninsured, a low cost insurance offering can be considered. For example, New Jersey offers a “dollar-a-day” policy. The policy has reduced liability limits because there are no assets to protect. It has Accident Benefits coverage to provide treatment and tort coverage only for serious injuries.

#### Recommendation

The government should consider a low-cost insurance offering.

#### Why is this helpful to consumers?

Uninsured drivers are unfair to premium paying drivers and of course, it's contrary to law. For the drivers who do not have insurance due to affordability, this option would help them contribute to the system, be protected and abide by the law.

However, this solution does not address the drivers without insurance for other reasons besides cost.



### b) Campaign against distracted driving

Aviva conducted a review of claims from 2016 and 2018 to analyze the effects of distracted driving on claims. Distracted driving is challenging to prove, but our review found that despite efforts to reduce distracted driving with stiffer penalties, fines, and public awareness, claims related to distracted driving have actually increased 23% nationally and 8% in the Atlantic provinces.<sup>6</sup>

Aviva also conducted a poll of 1,504 Canadians in 2017 and an overwhelming number – 95% of respondents – said texting and driving by others makes them feel unsafe on the roads. A total of 88% of Canadians have witnessed other drivers texting while behind the wheel, while only 22% admitted texting while driving themselves.

Only 48% of Canadians think fines and demerits are a deterrent, while only 32% said they think peer pressure will work. Almost four out of five Canadians (78%) said they want to see a technology solution that would stop distracted driving by disabling texting and other functions while the driver is behind the wheel. Last fall, Apple's new iOS operating system debuted a 'do not disturb while driving' feature. This is progress as almost three-quarters of Canadians (73%) in our poll said they would use anti-texting technology.



#### Recommendation

The government and industry should work together to educate consumers and raise awareness about the dangers associated with distracted driving.

#### Why is this helpful to consumers?

Reducing distracted driving prevents accidents and makes the road safer for all of us.

<sup>6</sup> Distracted driving-related accidents are difficult to prove without drivers admitting complete fault. Aviva Canada's claims data that support the increase in distracted driving-related accidents are what Aviva Canada estimates based on cause of claim. This assessment includes cause of claims frequently linked to distracted driving such as: rear end impact, vehicles changing lanes, improper passing, lost control, collision with fixed object, failure to obey stop sign, failure to obey a traffic light, failure to obey a yield sign, hit and run, parked car struck, and a single vehicle accident.

## 8. Conclusion

Aviva thanks the Government of Newfoundland and Labrador for undertaking this comprehensive review and consultation. We encourage the Government to take full advantage of this review and make significant changes to the auto insurance system as the current system is unsustainable. We would be pleased to discuss any aspect of our response and participate in any discussions regarding implementation.



**For further information, please contact  
[government\\_relations.canada@aviva.com](mailto:government_relations.canada@aviva.com)**



# NL Consumer Study Summary Report May 2018

Presented by:



- MQO conducted a survey with Newfoundland and Labrador residents on behalf of AVIVA to gauge public attitudes and perceptions towards car insurance rates.
- A total of 400 current drivers were surveyed across Newfoundland and Labrador (St. John's CMA: 200 / Remainder of province: 200).
- The overall margin of error for this survey is +/- 4.9% 19 times out of 20.
- Data collection occurred between April 25<sup>th</sup> and April 30<sup>th</sup>, 2018.
- Results are presented at the overall level. Responses were very consistent by region, gender or age. Differences by these sub-groups are only reported if a significant difference was observed.

- The table below provides an overview of the demographic profile of survey respondents.

**Demographic Profile**

Region	Overall (n=400)
St. John's CMA	200
Other NL	200
Gender	
Male	190
Female	209
Age	
18 to 24	58
35 to 54	139
55 and over	203

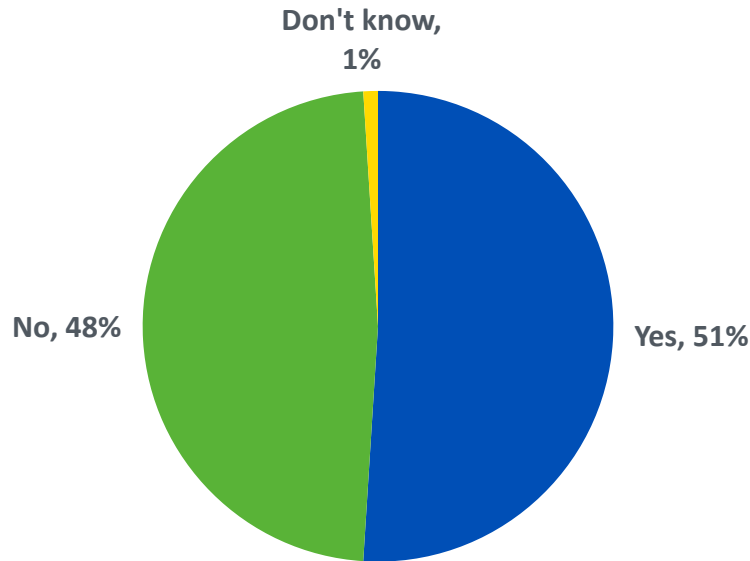


# Key Findings

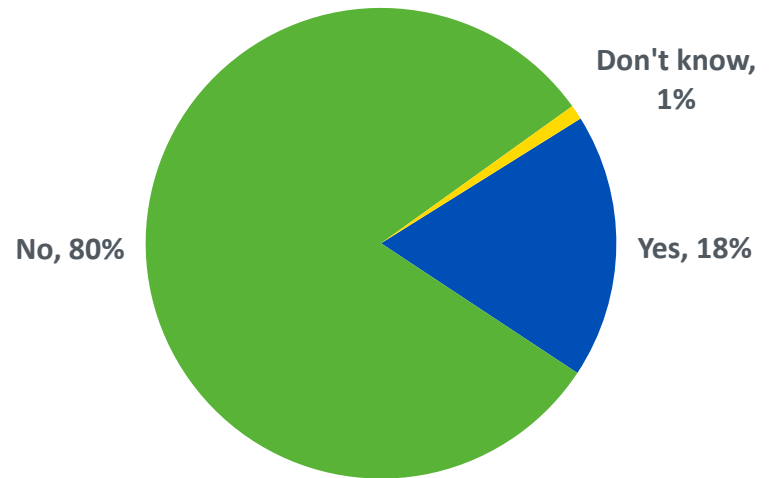
- Car insurance premiums are viewed as increasing and becoming financially difficult for many drivers.
- As car insurance premiums increase, drivers are not seeing an increase in value. Further, many perceive that premiums are increasing at a faster rate than insurance claim payouts.
- Nearly all drivers in Newfoundland and Labrador view car insurance companies in the province as profitable and many would like to see more competition in the market.
- Uninsured drivers are seen as a significant issue in the province as the vast majority feel it is having an impact on premiums.

- There is broad support for giving drivers the choice to pick and choose what benefits included in their policy as a means of reducing their premiums. This included options for the level of rehabilitation care and making the right to sue an optional benefit that could be purchased as part of their policy.
- The majority are also in favour of a cap on pain and suffering claims if it results in lower car insurance premiums.
- There is also support for a cap on lawyer contingency fees for personal injury cases with most feeling it should be capped in the 10-20% range.

**One-half (51%) of respondents had filed an insurance claim (in general) in the past. Meanwhile, just one-in-five (18%) were aware that over 95% of those insured have never made an injury claim.**

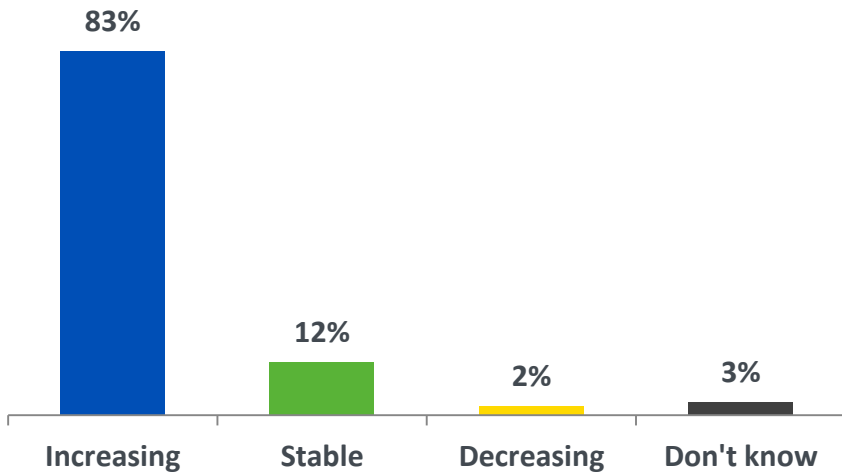


**Q1. Have you ever filed a car insurance claim?**  
(n=400)

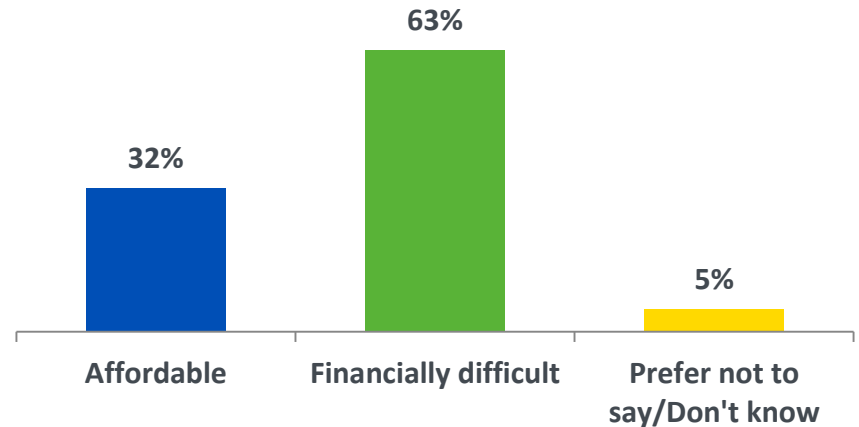


**Q2. Were you aware that over 95% of those insured never made an injury claim?**  
(n=400)

The majority of respondents (83%) believe that car insurance rates are increasing. Further, almost two-thirds (63%) feel that purchasing car insurance is becoming financially difficult.

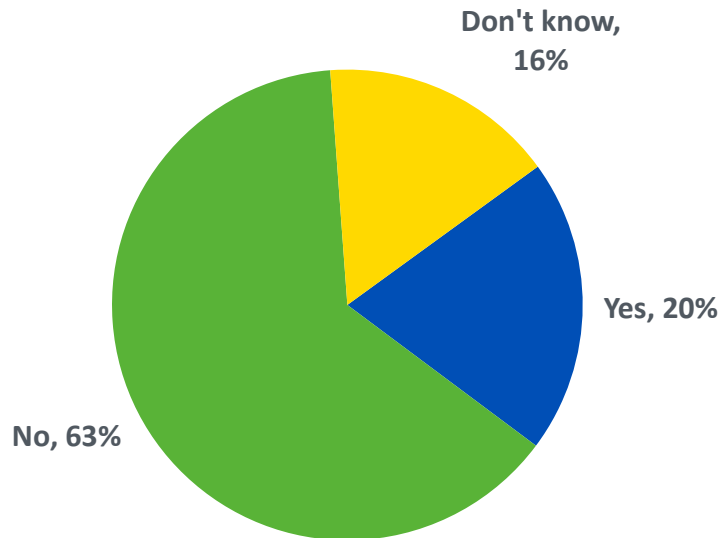


Q3. Would you describe car insurance rates as increasing, stable or decreasing?  
(n=400)



Q4. In your opinion, is the purchase of car insurance...?  
(n=400)

**Among those who said car insurance rates are increasing or stable, almost two-thirds (63%) do not believe the value they receive has increased commensurately. Further, more than one-half (54%) feel that insurance rates are increasing at a faster rate than insurance claim payouts.**



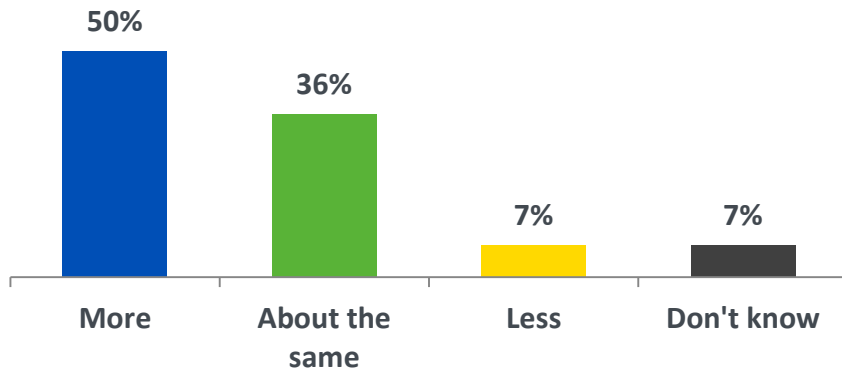
**Q5. In your opinion, as car insurance rates increase, has the value you receive from your insurance increased as well?**  
**SUBSET: Those who said car insurance rates are increasing or stable. (n=394)**

Statement	Total
Total (N)	394
Insurance rates are increasing at the same rate as insurance claim payouts	16%
<b>Insurance rates are increasing at a faster rate than insurance claim payouts</b>	<b>54%</b>
Insurance rates are increasing at a slower rate than insurance claim payouts	3%
Don't know	26%

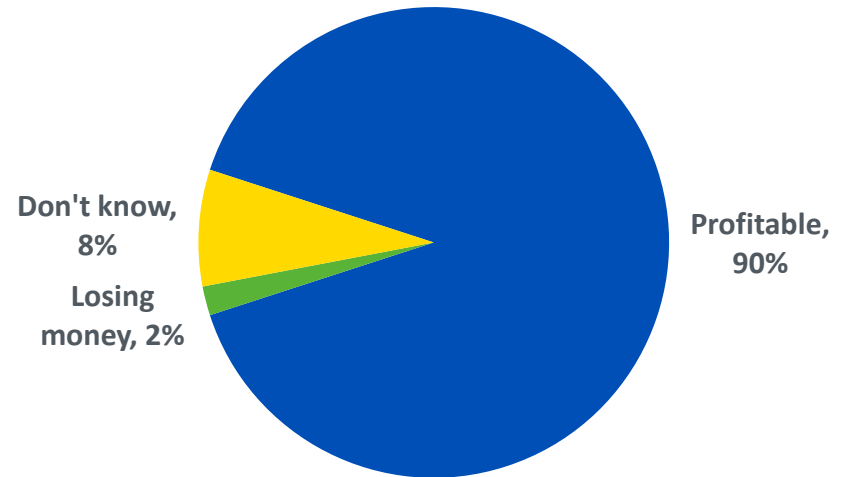
**Q6. Which of the following best reflects your views on car insurance rates?**  
**SUBSET: Those who said car insurance rates are increasing or stable. (n=394)**



**One-half of respondents indicated there should be more insurance companies operating in the province. Meanwhile, the vast majority (90%) believe that insurance companies operating in the province are profitable.**

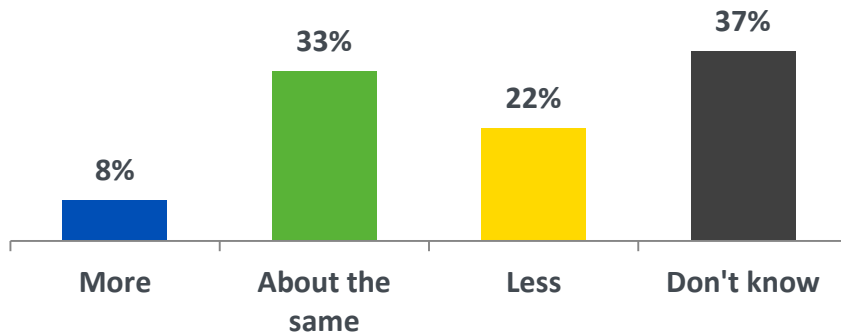


**Q7. Do you believe there should be more, less or about the same number of insurance companies currently operating in NL? (n=400)**



**Q8. In your opinion, are insurance companies doing business in NL...? (n=400)**

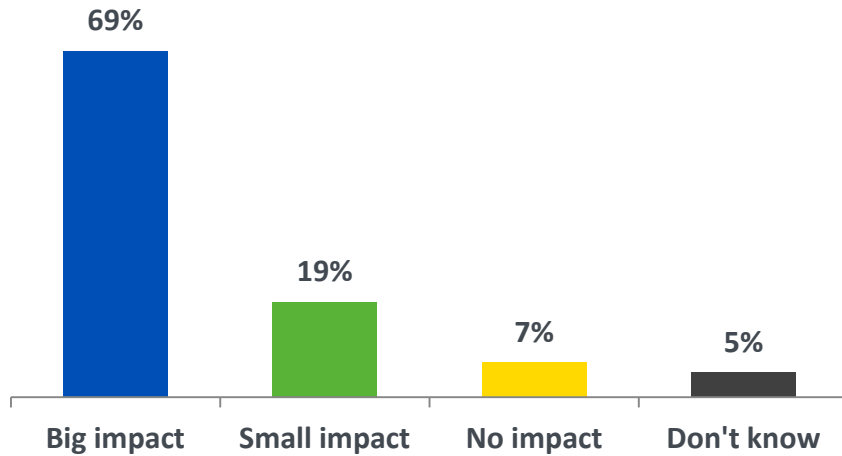
**Respondents had some difficulty identifying whether drivers in this province receive more, less or about the same overall benefits for personal injury claims compared to the rest of Atlantic Canada. While 37% were unsure, one-third (33%) felt benefits were on par with the other Atlantic Provinces and 22% felt they received less.**



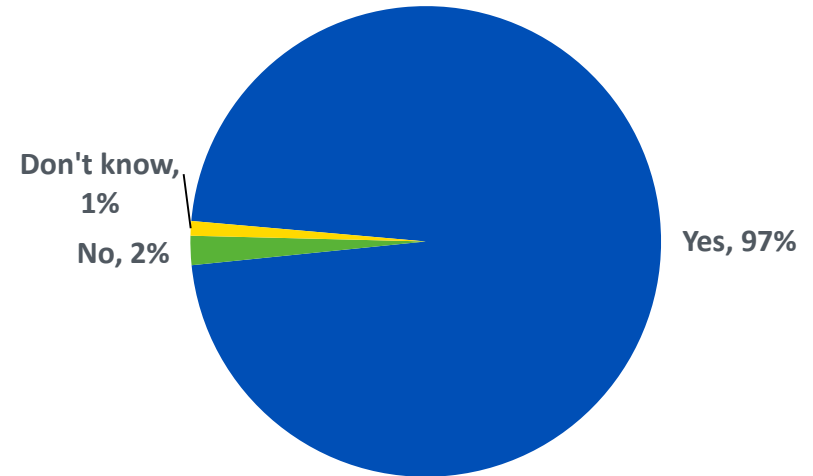
**Males (12%) are more likely than Females (5%) to feel that drivers in the province receive more benefits compared to the rest of Atlantic Canada.**

**Q9. Do you think that NL drivers receive more, less or about the same overall benefits for personal injury claims compared to other Atlantic Provinces?  
(n=400)**

Uninsured drivers are seen as a significant issue in the province. More than two-thirds (69%) of respondents felt that uninsured drivers have a big impact on car insurance rates while a further 19% said it had a small impact. Meanwhile, there was widespread support for insurance premiums to be based on one's driving and claim history.

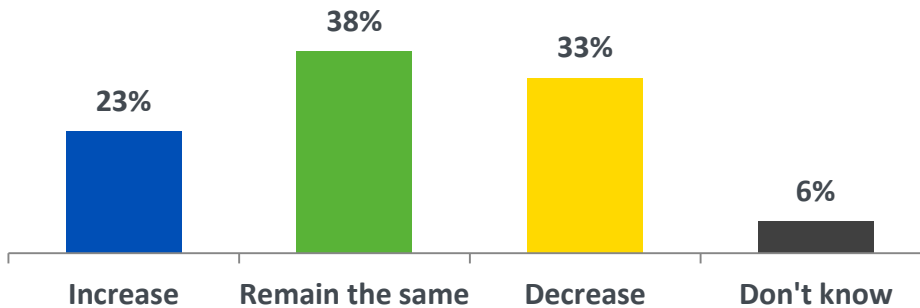


**Q10. Do you believe that uninsured drivers have a big impact, small impact or no impact on car insurance rates in NL?**  
(n=400)



**Q11. In your opinion, should insurance premiums be based on your driving and claim history such that drivers with a clean driving record pay less for their premiums and drivers with a poor driving record pay more?**  
(n=400)

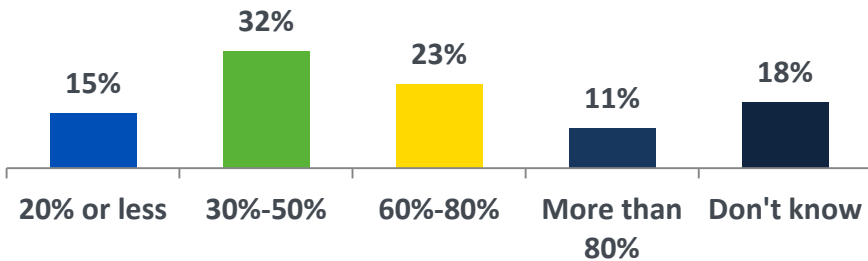
Respondents were split with regards to the potential impact of reduced claim payout costs on insurance rates. While one-third (33%) feel insurance rates would decrease, 38% believe the rates will remain the same and almost one-quarter (23%) believe rates would continue to increase.



Males were more likely to expect rates to continue to increase (27%) if claim payout costs were reduced compared to Females (19%).

**Q12. If the costs associated with claim payouts were reduced in NL, do you feel this would cause your insurance rates to...?**  
(n=400)

Respondents gave a wide range of responses when asked what percentage of injury claims involve a lawyer. With regards to factors affecting people’s decision to retain lawyers for personal injury claims, nearly everyone felt that people find the claims process complicated (80%) and need support (87%), that they don’t trust insurance companies (82%) and want to maximize their settlement (92%).



**Q13. What percentage of personal injury claims do you believe lawyers are involved with?**  
(n=400)

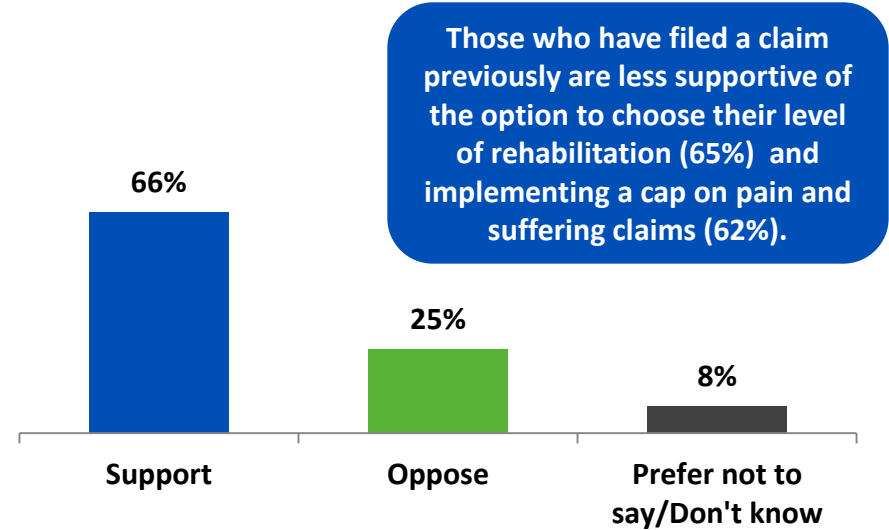
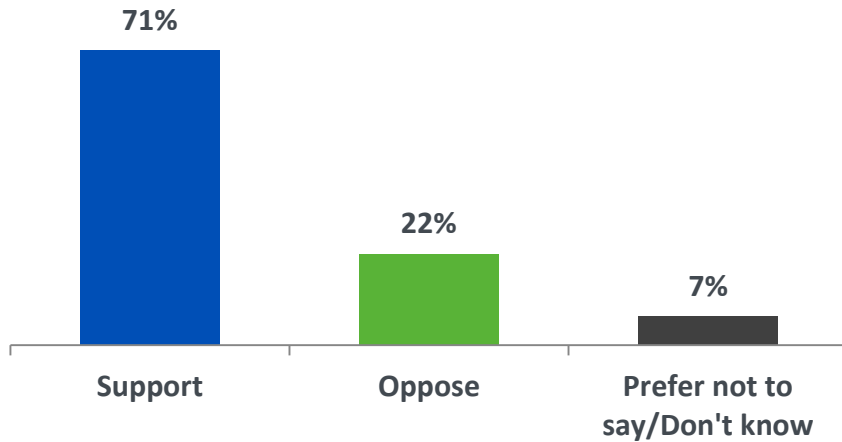
Statement	Total (% 'Yes')
The process is too complicated	80%
They need help or support to navigate the claim process	87%
They don't trust insurance companies	82%
They want to maximize their settlement	92%

**Q14. Which of the following do you believe are factors in people’s decision to retain lawyers for personal injury claims?**  
(n=400)



# Rehabilitation Care and Pain and Suffering Claims

**Seven-in-ten respondents (71%) support the option to choose the level of rehabilitation care included in their insurance policy. Meanwhile, two-thirds (66%) support the addition of a cap on pain and suffering claims as a means to reduce premiums.**

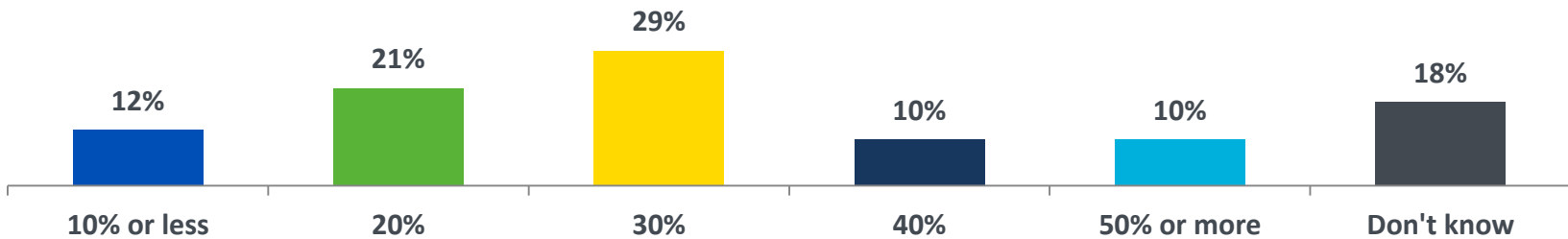


**Q15. In the event of a serious injury, claimants receive compensation for rehabilitation care. Would you support or oppose having the option to choose the amount or level of rehabilitation care included in your policy based on the premium you pay? (n=400)**

**Q16. If the addition of a cap on pain and suffering claims resulted in lower car insurance premiums, would your support or oppose it? (n=400)**

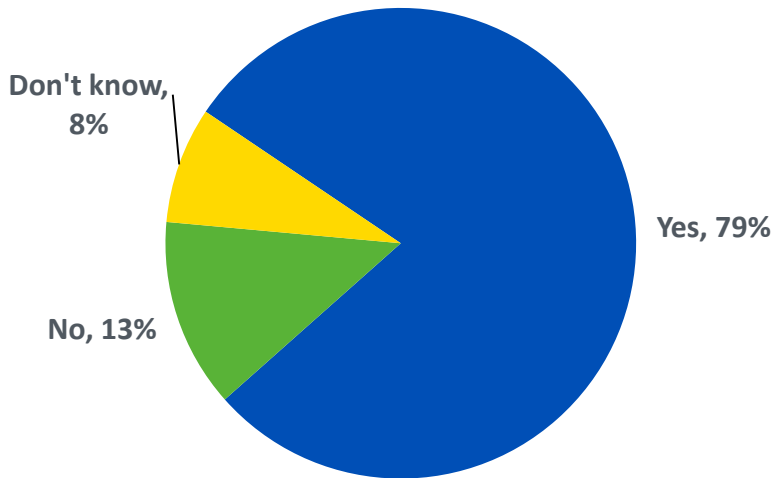
# Contingency Fees

When asked what percentage of settlements lawyers typically take if they win a personal injury case, the top estimates were 30% (29% of respondents) and 20% (21% of respondents).

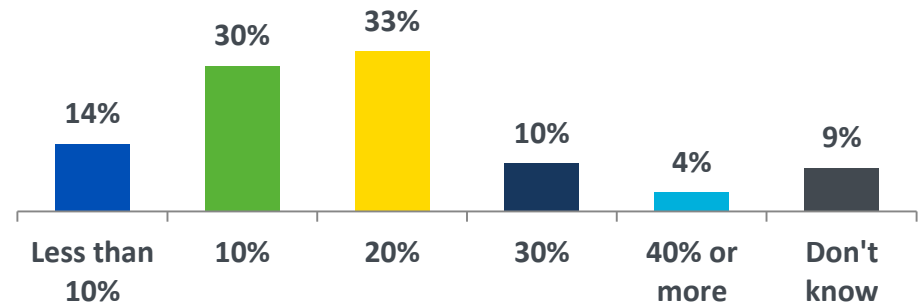


**Q17. Lawyers usually work on the basis of contingency fees where they receive a flat percentage of your settlement if you win your case. What percentage do you think lawyers charge on average for car insurance claim cases? (n=400)**

**Respondents overwhelmingly believe that there should be a cap on contingency fees charged by lawyers for personal injury claim cases (79%). Among those who agreed contingency fees should be capped, the vast majority felt it should be 20% or less and nearly one-half saying it should be 10% or less.**

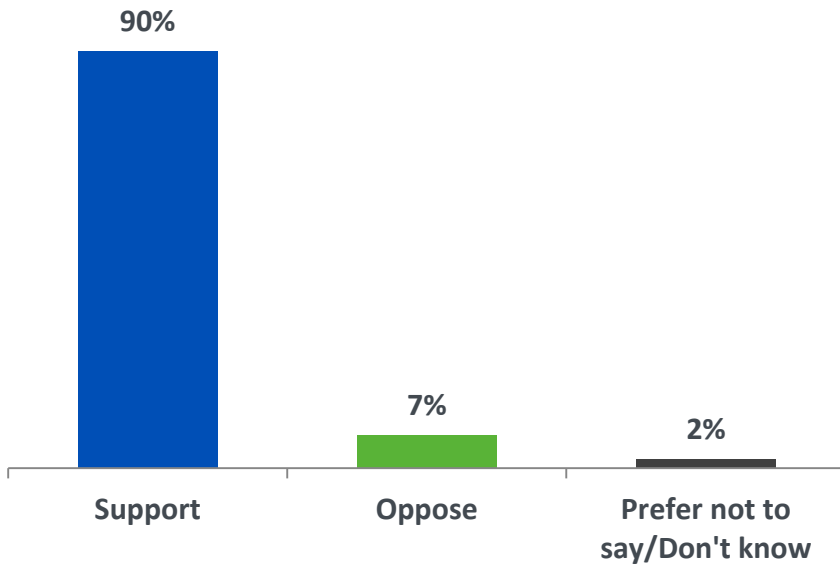


**Q18. Currently there is no cap on contingency fees charged by lawyers for car insurance claim cases. Do you think contingency fees should be capped?**  
(n=400)

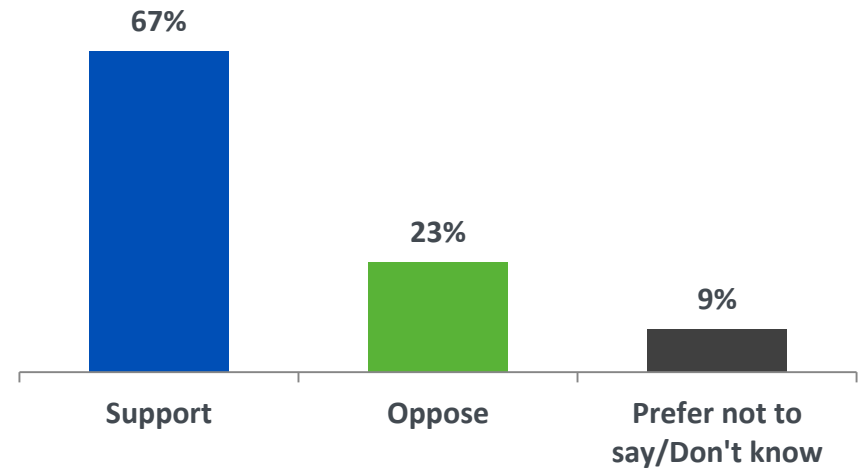


**Q19. What do you feel should be the maximum percentage lawyers can charge for contingency fees?**  
SUBSET: Those in support of a cap (n=319)

**Respondents overwhelmingly support (90%) having the option to choose their benefits as a means of reducing car insurance premiums. Two-thirds (67%) were also in favour of making the right to sue for pain/suffering an optional benefit that could be purchased as part of their policy.**



**Q20. Do you support or oppose having the option to choose what benefits are included in your policy as a means of reducing your car insurance premiums?**  
(n=400)



**Q21. Would you support or oppose making the right to sue for pain/suffering an optional benefit that you could purchase as part of your policy?**  
(n=400)

## Comparison of Accident Benefits coverages

Province	Medical and rehab	Loss of income	Funeral expenses	Death benefits
NL	\$25,000 for 4 years	Maximum \$140/week; 104 weeks for partial disability, lifetime for total disability; test be disabled for at least seven days to qualify; unpaid housekeeper \$70/week, maximum 12 weeks	\$1,000	\$10,000 head of household or spouse
NS	\$50,000 for 4 years	90% of gross weekly income (less any \$2,500 payments for loss of income); 104 weeks partial disability; lifetime if totally disabled (incapable of performing essential duties); maximum \$250/week; must be disabled for at least seven days to qualify; unpaid housekeeper, if completely disabled, \$100/week for maximum of 52 weeks	\$2,500	\$25,000 head of household, \$25,000 spouse
NB	\$50,000 for 4 years	Maximum \$250/week; 104 weeks for partial disability, lifetime for total disability; must be disabled for at least seven days to qualify; unpaid housekeeper \$100/week, maximum 52 weeks	\$2,500	\$50,000 head of household, \$25,000 spouse
PEI	\$50,000 for 4 years	Maximum \$250/week; 104 weeks for partial disability; lifetime for total disability; must be disabled for at least seven days to qualify; unpaid housekeeper \$100/week, maximum 52 weeks	\$2,500	\$50,000 head of household, \$25,000 spouse



# Crash, Cash and Backlash

Auto Insurance Fraud in Canada

[avivacanada.com/fight-fraud](http://avivacanada.com/fight-fraud)



# Auto Insurance Fraud in Canada

Auto insurance fraud costs Canadians up to \$2 billion every year. And it's the honest drivers who are paying for the fraudulent minority. The shocking stats do not end there...

From the multiple ways in which fraud is committed, to the vast array of players gaming the system, to the government-backed initiatives that have gone uninitiated, all signal that meaningful action is needed. There's simply too much abuse in the auto insurance system.

We surveyed consumers across Canada and found that overwhelmingly from province to province you agree. You want to pay less for your insurance. You should be paying less for your insurance. And you can pay less for your insurance, if we fight fraud. But, a problem this big can't be tackled overnight. We all have to work together to inform ourselves, protect ourselves and apply pressure in the right places for actionable reform.

# The problem

Through every stage of the insurance process you can unwittingly be exposed to fraud, through no fault of your own. Check out some of the most prevalent examples and what Aviva's doing about it.



## Becoming insured

### 1 Fake pink slips

Fraudsters forge motor vehicle insurance liability cards (pink slips) and sell them to unsuspecting consumers through online sites like Kijiji and Craigslist. When you have a counterfeit insurance pink slip, you are actually not insured.

### 2 Unlicensed intermediaries

Prey on consumers who may otherwise have difficulty obtaining insurance. They act as a broker and take a fee for setting up a policy, often providing false and fraudulent information to insurance companies. Victims may not be covered if they make a claim.

### 3 Rate evasion

Residents of high-risk territories deliberately register their licenses or vehicle registration addresses to lower-risk territories to get lower premiums, which costs honest consumers.

## Having a loss

1

### Staged vehicle thefts

Fraudsters stage the theft of their vehicles in order to get a claim payout. This costs honest customers higher premiums and ties up public resources such as police officers to investigate.

2

### Staged collisions

One or multiple parties orchestrate a collision to obtain a claim payout for vehicle damage or accident benefits coverage—attempting to get cash for injuries that never occurred. Staged collisions not only drive up the premiums of honest drivers, but can also endanger their wellbeing.

3

### Tow truck operators

Are often owned by or receive a fee from repair shops for referrals. Some take advantage of customers in an already stressful situation by pressuring them to have vehicles towed unnecessarily and to sign blank work orders for repairs. In some cases, they bill insurers for tows that never happened.

## Making a claim

1

### Healthcare providers and legal representatives

Can coach claimants to exaggerate injuries to take advantage of accident benefits that they then take a percentage of for their services. Some have unwitting patients sign blank treatment orders that they then submit to insurers to obtain payment for services that were never provided.

2

### Appraisers

May work in collusion with automotive repair facilities who pay them to exaggerate vehicle damage repair estimates.

3

### Automotive repair facilities

Auto shops can exaggerate the damage to vehicles or even create it themselves—allowing them to pad invoices and bill for parts that were not required or used.

