



December 15, 2017

Ms. Darlene Whalen
Acting Chief Commissioner
Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040 St. John's NL A1A 5B2

Dear Ms. Whalen:

**Re: 2017 Automobile Insurance Review (The "Review")
Terms of Reference and Work Plan**

As you are aware, I am Chair of the Campaign to Protect Accident Victims (the "Campaign") in relation to the above Review. The Campaign represents the interests of past and future victims of injuries sustained in motor vehicle accidents. Victims of motor vehicle accidents are stakeholders in the Review who stand to be directly personally impacted by any legislative action taken following the Review. I write at this time to register a number of concerns we have about the Work Plan recently posted on your website.

They include:

VICTIMS

1. The Terms of Reference require in the second bullet of Phase 1 that "...the implications of such a cap for claimants" be considered. There is no reference in the Work Plan as to how the implications for claimants are going to be identified and assessed so that they may be considered as required. Given that it will be innocent accident victims upon whom a cap could be imposed and who will have their right to seek compensation reduced or eliminated as a result, it is important that the means and steps to address to these important issues are identified. Please advise how the Board will remedy this oversight in the Work Plan.

REVIEW OF ALL COVERAGES AND ASSOCIATED CLAIMS COSTS

2. The specific Terms of Reference for Phase 1 of the Review relevant to the Campaign focus primarily on Third Party Liability claims costs and the potential

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impact on rates of imposition of a cap or potential adjustment of the current \$2500.00 deductible for non-economic losses. This direction presupposes (to the exclusion of other reasons) that non-economic loss claims costs are increasing at an unpalatable rate which in turn is driving up premiums. From that it is proposed that the "solution" for increasing premiums resulting from supposed increasing non-economic claims costs is some reduction in non-economic benefits payable to innocent accident victims. Indeed, the preamble to the Terms of Reference specifically instruct you to examine these issues. However, the Terms of Reference also specifically instruct the PUB to "...detail other issues or concerns raised by stakeholders participating in the review.

Our Campaign is a participant in the process. We ask that the PUB comprehensively examine **all** aspects of the automobile insurance premium and underlying claims costs for **all** coverages, not simply Third Party Liability Premiums and Bodily Injury Claims costs. It is only in this way that the PUB can ensure before it reports, that it has been able to identify whether, if there is a meaningfully increasing trend in automobile insurance premiums in the Province, from which coverage or coverages this increase is being driven. In short, we submit that the PUB must examine claims costs and premium trends for all automobile insurance coverages. In particular, it is important to determine the claims experience over the last number of years for physical damage coverages (collision and comprehensive) and the frequency and care at which these types of coverage are being purchased by policyholders; rather than assuming or pre-determining that non-economic bodily injury claims are driving apparently increasing rates and that the reduction of non-economic loss compensation to victims is the "solution".

The public record indicates that accidents are declining in this province, that Bodily Injury Claims per vehicle are declining significantly and that average Third Party Liability premiums have been stable for many years (with recent declines). Yet, the focus of the Review is just apparently on increasing Third Party Liability claims costs and premiums. A full picture is required to avoid tunnel vision with the obvious result that if innocent victims lose most of their compensation for non-economic loss, rates will go down. We submit that good public policy requires the whole picture as to what costs are driving rate increases, if any. Comprehensive information must be gathered and carefully assessed by the PUB before making findings upon which legislation which could negatively affect the rights of victims is considered.

In light of these concerns, we respectfully seek the PUB's reply as to how these concerns will be addressed during the Review.

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PROFITABILITY REVIEW

3. This will require both a review of underwriting income, but also the significant investment income earned by insurers writing automobile policies in the Province on the premiums entrusted to them by law from our citizens. The Campaign understands from the 2016 Superintendent of Insurance Report that in 2016, on average, automobile insurers paid out only about 77% of the premiums collected in claims cost in this Province for a total underwriting income of about One Hundred Million Dollars (\$100,000,000.00) on \$434,000,000.00 in premiums. Most had ratios more favourable than 77%, in fact. This is before investment income which doubled to about \$1,000,000,000.00 in the property and casualty insurance industry in Canada (of which NL auto insurance premiums are a part) between Q1 2016 and Q1 2017. We ask that all insurance companies' profitability for both underwriting income and investment income be separately as well as collectively calculated to ensure that outliers (which may skew the overall results) are identified and reasons determined as to why they exist. As well, we ask that the methodology be well explained and the sources of data clearly identified.

Please advise if you require further clarification or wish to discuss.

Yours very truly,

Yours very truly,
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