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## **2013 NSW CTP Greenslip Changes Proposal Submission.**

### **Preface**

Firstly, the NSW Motorcycle Alliance would like to take the opportunity to congratulate the NSW Government on its acknowledgement that reform is necessary in the NSW CTP system. The motorcycling fraternity has obviously had a number of issues with the CTP system over the years, most noticeably in the overcharging of motorcycle greenslips uncovered in 2011, and we acknowledge the involvement and assistance of the (then opposition) Liberal/National parties in having that situation redressed, and continuing their support since gaining government.

While we acknowledge and applaud the Government's determination to tackle the greenslip pricing issue in NSW, we do have some concerns over the changes being proposed and what they will mean for motorcyclists and other road users.

### **The Current System - The Good and The Bad**

Obviously the current system has its issues, the most notable being the cost to the motorist. However the scheme does have a number of benefits that are not necessarily available in some other states which we feel are valuable aspects of the scheme. A brief overview follows of the benefits and disadvantages of the current scheme as we see it;

#### ***The Good***

- The recently introduced \$5,000 "at fault" coverage for at fault drivers under the ANF scheme.
- The cover for children under 16 under the 7J Benefit
- The abolition of the Inevitable Accident defence – following the Sophie Delizio case, the decision to cover crash victims where no at fault party has been identified is a good one.
- The reimbursement to the public hospital system of costs
- Coverage for at fault road users who are not CTP contributors (pedestrians, cyclists, etc)

Overall, the NSW Motorcycle Alliance recognises that the NSW system is more generous and more community spirited in its coverage than some systems in other states, and we acknowledge that this comes at a cost. We therefore do not dispute that NSW CTP Greenslips

should be somewhat more expensive than cover offered under similar schemes in some other states such as QLD and Victoria.

### ***The Bad***

- The down side to the community spirited benefits mentioned above is the cost. At fault road users who are not contributors to the CTP premium base, such as pedestrians, cyclists, etc. results in motorists paying higher premiums to cover these claimants.
- Motorcyclists are still given a very rough deal in terms of CTP pricing. We believe the number of claims against motorcycle greenslip policies is very low, given that when we do have accidents they are either single vehicle crashes that do not involve a greenslip claim (except perhaps the new \$5,000 ANF coverage) or when they involve a second vehicle it is more commonly the second party who is at fault, therefore the greenslip of the other party is the one being claimed against. Given the relatively low percentage of claims by passengers on motorcycles against the motorcycle greenslips (due to the fact that we carry far fewer passengers than cars and with less frequency) we believe that the relativities used for determining Motorcycle Greenslip prices are still grossly unfair in NSW.
- The legal costs and delays involved in determining fault in NSW and the efforts of insurance companies to avoid payouts is also causing increased costs and delays in the system.
- Insurance companies are taking huge profits from the CTP scheme, much larger than allowed for when the system was started. The initial projections of 8% margin for insurance companies is generally at least double that, meaning that the cost of the system is overstated and the costs to motorists is overstated. The annual crying poor on the insurance industry and their demands for regular premium increases is extremely offensive given the profits they are making.

### **The No Fault System Proposal**

Any effort made to reduce litigation and delays in the CTP system will have the support of the NSW Motorcycle Alliance, as long as road users, and motorcyclists in particular, are not disadvantaged along the way. Whilst we acknowledge that a No Fault system has the capacity to speed up claims, reduce litigation, complication and administration and reduce costs, we have a number of concerns.

- There is potential for an increase in total claims. There are many accidents that result in relatively minor injuries which could include broken limbs, that go unreported and no CTP claim is made, largely due to the desire of the driver/rider to avoid admitting fault and receiving a fine from Police. A switch to a no fault system has the capacity to drag a percentage of these people back into the system, increasing the cost burden on the system.
- Motorcyclists will become an easy target for profiteering insurance companies. Whilst we believe we are currently being overcharged, with the excuse given that motorcycles are higher risk, even though claim data against motorcycle greenslips does not back that assertion up, switching to a No Fault system will leave motorcyclists exposed. We will be an easy target for insurance companies, and if the current relativities remain in place for determining premiums, we could be looking at massive increases when fault is removed. For comparison, the Victorian TAC system cross-subsidises motorcycle policies in order to maintain some relativity with car premium prices, and also because the Victorian government recognises the value of motorcycles in battling congestion.

Whilst we believe the TAC system is far from perfect, it at least recognises motorcycles and treats them fairly. We fear that a switch to a no fault system in NSW using the current attitudes towards motorcycle premiums will result in a massive increase in bike premiums compared to car premiums.

- We have serious concerns over whether a No Fault system can even function in a privately underwritten environment. Privately underwritten systems are adversarial by their very nature, with insurers looking to limit claims by laying fault with customers of rival companies and reducing payouts where possible. They do not operate on altruistic principles. A No Fault system means that the adversary of the insurance company ceases to be a competitor, and becomes the customer themselves. The customer who pays the premium will become the claimant and the threat to profits. Insurance companies will no longer be there to protect their customer and claim back compensation from a third party, they will enter into adversarial relationships with their own customers.

Given that last point, we believe more work needs to be done with regards to how the insurance providers will fit into the new system and how the relationships with customers will play out. We fear a dramatic rise in insurance companies looking to reduce payouts by claiming contributory negligence on behalf of potentially innocent crash victims who were not at fault. We may move from a system of insurance companies battling each other to a system of insurance companies battling their own clients, who will be ill-equipped to defend themselves.

We know this will not be a popular suggestion, but we believe consideration should be given to returning to a centralised insurance system in the style of the Victorian TAC, only more effective and more professionally run.

To sum up, our concerns with the proposals are;

- A No Fault system will leave motorcyclists vulnerable to massive premium increases if current relativities are not changed.
- A No Fault system will dramatically alter the relationship between insurer and client, potentially leaving the client open to reduced payouts and litigation.
- The potential for capped claims as has been mentioned in the press is of great concern.
- We believe insurance companies will look for more utilisation of the defence of contributory negligence against payouts. We are already starting to see this occur now, and as soon as the relationship between insurer and customer becomes adversarial, we believe it will increase.
- We have grave concerns about how a No Fault system can function effectively in a privately underwritten environment. We believe a No Fault requires a centralised body to provide cover in order for it to be effective.
- The proposals do nothing to deal with one of the main drivers of premium costs, being insurance company profits.

Thank you for the opportunity to provide a submission.

Kind Regards

Dave Cooke

Manager

NSW Motorcycle Alliance