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August 13, 2021

Tim Bzowey
Executive Vice President, Auto/Insurance Products
Financial Services Regulatory Authority of Ontario
Auto Insurance Sector
5160 Yonge Street, 16th Floor
Toronto, Ontario M2N 6L9

Dear Mr. Bzowey,

Re: Preliminary Ontario Private Passenger Vehicles Annual Review Consultation

Insurance Bureau of Canada (IBC) and its member property and casualty insurers welcome the opportunity to comment on the Financial Services Regulatory Authority of Ontario's (FSRA) *Preliminary Ontario Private Passenger Vehicles Annual Review* consultation. Ontario's private passenger vehicle auto insurance market is competitive, with 64 insurers having written premiums in 2020[1]. These insurers are unique and have different business models targeting different consumer markets across the province. They also have different philosophies on claims handling and reserving practices. Accordingly, projected ultimate claims costs and resulting trend rates will develop differently depending on each insurer's unique business model. Oliver Wyman's report acknowledged this, stating that its own analysis *"… are specific to industry-wide private passenger vehicles only and may not be suitable for any individual insurer.[2]"*

Though individual companies are expected to have different trend rates from those of the industry as a whole, IBC retained Deloitte to conduct a parallel Ontario trend rate analysis based on available GISA data up to December 31, 2020. Several of Deloitte's selected trend rates mirror Oliver Wyman's analysis, with the exception of the bodily injury trend rate. In this capacity, different trend rates highlight the reality that in the Ontario claims environment, two qualified actuaries looking at the same set of data can develop different projections. Accordingly, it is important that FSRA continue to recognize that despite operating in the same market, insurers have different claims development expectations. It is critical that FSRA permit Ontario insurers to use different trend rates based on their individual experiences.

We focus our remaining commentary on the significant uncertainty around claims development due to the COVID-19 pandemic, future loss cost trend rates, history of loss cost changes following Ontario reforms, the historical impact of reforms, and other selected metrics.

[1] IBC with data from MSA.
[2] Oliver Wyman report, page 251

Impact of COVID-19 on Claims Development

The COVID-19 pandemic has had a significant impact on driving behaviours and trends. Multiple provincial mandated stay-at-home orders and commercial shutdowns resulted in people driving less, meaning fewer vehicles on the roads for extended periods of time. Oliver Wyman notes that the stay-at-home orders in 2020 resulted in a dramatic decline in traffic and that "while vaccine distribution achieving 'herd immunity' is likely for later in 2021, there remains uncertainty as to the new post COVID-19 traffic patterns and levels." Because of this uncertainty, both Oliver Wyman and Deloitte exclude the influence of the COVID-19 pandemic from its selected trend rates.

The COVID-19 pandemic's long-term impact on claims costs is still unknown. While the competitive auto insurance market is a significant benefit to consumers, the diversity of insurers operating in the province means the impact of COVID-19 on claims costs has been unique to each company. Given the considerable uncertainty on claims development, IBC strongly recommends insurers be permitted the flexibility to bring their own COVID-19 claims experience and related actuarial analysis when applying their individual trend factors.

Future Trend Rate Benchmarks

IBC retained Deloitte to conduct a parallel future trend rate analysis. Deloitte concluded that Oliver Wyman's trend selections are in the reasonable range. Oliver Wyman and Deloitte's trend rates are highlighted in the table below.

Oliver Wyman and Deloitte's Future Trend Rates

	Oliver Wyman	Deloitte	Deloitte Difference
Accident Benefits	**-1.4%**	**-0.8%**	**+0.6p/p**
Bodily Injury	**-6.2%**	**-8.6%**	**-2.4p/p**
DCPD	+9.2%	+9.5%	+0.3p/p
Collision	+9.6%	+9.3%	-0.3p/p
Comprehensive	+10.0%	+9.6%	-0.4p/p

IBC with data from Oliver Wyman, Deloitte.

- Oliver Wyman and Deloitte's selected future trend rates are similar for accident benefits, DCPD, collision, and comprehensive coverages, and demonstrate no material deviations, both actuaries having measured the rate of change in loss cost experience without the influence of COVID-19.

- Deloitte projects that bodily injury costs will change by 2.4 percentage points less than Oliver Wyman. This difference is due to Oliver Wyman excluding the reform level change variables in their model, leading to flatter future trend rates, whereas Deloitte's analysis found a statistically significant unfavourable reform level change. Deloitte indicates that given the significant uncertainties under the current fluid environment, trend selections using GISA data are acceptable between -6.2% and -8.6% are acceptable. That being said, given that two different actuaries selected two different bodily injury trend rates using industry data, it is reasonable that individual insurers, which may have different trend factors, be permitted to use them even if they differ from the -6.2% and -8.6% range.

- Both actuaries estimated future vehicle damage trend rates to continue to increase significantly higher than inflation, by nearly 10% each.

Historical Impact of Reforms

From a historical perspective, multiple consecutive years of stable or declining loss costs is rare in Ontario. Following other recent Ontario reforms, claims costs fell for a year or two before increasing again. Three historical Ontario examples are highlighted below.

- Bill 59, the *Automobile Insurance Rate Stability Act* (November 1, 1996), decreased mandatory income replacement benefits from $1,000 to $400. In 1997, the first full year following the reforms, accident benefits loss costs fell by 29%, but cost stability only lasted for one year before loss costs increased again.

- Bill 198, the *Keeping the Promise for a Strong Economy Act* (October 1, 2003), introduced pre-approved treatment of minor whiplash injuries and a one-year ban on cash-out settlements. In the first full year following the reforms, accident benefits loss costs fell by 16%, but cost stability only lasted for one year and increased steeply in subsequent years.

- Effective September 1, 2010, the government reformed *Ontario Regulation 34/10* [New Statutory Accident Benefits Schedule (SABS)], by including the *Minor Injury Guideline* $3,400 minor injury treatment cap, reducing med/rehab expenses and attendant care benefit for non-catastrophic injuries by half, and developing the minor injury treatment guidelines. The reforms led to a 44% decrease in accident benefits loss costs in the first full year following reforms; however, loss costs increased again, which led to the most recent reforms in 2016.

<u>Factors Contributing to Potential Claims Uncertainty</u>

While past reforms have had positive impacts on claims costs, they have also been short-lived due to changes to the unpredictable claims environment, resulting from claimant behavioural adjustments to the reforms and from government or judicial decisions. Similarly, despite an estimated improved 2020 loss ratio, the COVID-19 pandemic has resulted in a delay in the normal claims reporting pattern, so it is reasonable to assume there will be more claims reported in the near future than otherwise expected. The uncertainty around recent claims data due to the COVID-19 pandemic could result in rising claims costs following 2020's anomalous industry experience.

Accordingly, recent developments could lead to potential claims uncertainty in Ontario, such as:

- The pending Civil Rules Committee decision to lower the discount rate that the courts use to set the present value of compensation for tort claims, which would increase the current value of settlements;

- The *Tomec* decision, which found that timelines for accident benefit entitlements outlined in the SABS may not be concrete and could lead to higher ultimate injury claim costs for past and present accident years. Most recently, the Licence Appeal Tribunal (LAT) secured legal authority to allow many of these claims to proceed, contributing to the rising accident benefits claims costs problem in the province; and

- The delay in the number of applications to the LAT for dispute resolution services. In Q1 of 2020 (pre-COVID), the number of applications to the LAT for dispute resolutions services was 3,391. In Q1 of 2021, this number increased by 17%, to 3,969. Over the same period, the number of backlogged cases at the LAT increased exponentially, from 2,340 to 12,066. This represents a 416% increase in just one year, and thus is a strong indicator for higher claims costs for accident benefits

Any - and all - of the above factors have the potential to contribute to claims costs rising. Therefore, IBC strongly encourages FSRA to permit insurers greater flexibility in their selected accident benefits and bodily injury trend factors.

Investment Returns

Oliver Wyman calculated the weighted pre-tax return on investment (ROI) for 2016 to 2020 accident years. Oliver Wyman notes that the actual return realized by individual insurers can vary from industry averages as each insurer operates under their own Board approved investment strategy. IBC agrees with Deloitte that Oliver Wyman's approach is reasonable; however, would recommend Oliver Wyman disclose its data source, list of companies with respective investment returns in scope of the analysis, and detail its calculation methodology to understand discrepancies in the 2020 investment return value.

Oliver Wyman further notes that FSRA is considering replacing its current minimum benchmark ROI of 2.25% for rate applications with rates selected by each individual insurer that reflects their own unique investment portfolio assets. IBC strongly supports this proposal, as it is a more principle-based and less prescriptive approach, would accurately reflect individual insurers' unique experiences and different risk tolerances, and offer them the flexibility needed.

Operating Expenses

Oliver Wyman used GISA's operating expense ratios from 2016 to 2019 as the 2020 expense ratio is not yet available, and used written premiums as the denominator for the expense ratios. Conversely, Deloitte used earned premiums as a base. IBC supports Deloitte's use of earned premiums, as it is the realized revenue of each calendar year and drives a more accurate calculation for the realized profit loadings. Oliver Wyman notes that the higher 2020 expense ratio (26.0%) compared to the 2019 expense ratio (24.9%) is attributed to the rise in the contingent commission provision, which is likely due to the loss ratio experience as a result of COVID-19. IBC agrees with Deloitte that this explanation is reasonable.

Profit Provision

Oliver Wyman indicated that in 2019, insurers *merely* exceeded the targeted 5% profit provision set by FSRA and far exceeded that target in 2020. Deloitte's analysis indicated that insurers' 2019 profit provision was in line with the targeted 5%, at 5.7%. Both actuaries agree that the 2020 results were an anomaly due to the COVID-19 pandemic and therefore not an accurate reflection of future target levels for 2021 and thereafter.

Conclusion

The Ontario claims environment is rapidly evolving and near impossible to predict, and the COVID-19 pandemic presented additional challenges in understanding the true auto insurance industry experience. Oliver Wyman acknowledged that individual insurer trend rates are expected to be different from the industry as a whole.

Finally, recent government and judicial developments, coupled with the uncertainty of the impact of COVID-19 on claims development, could contribute to a return to rising claims costs in the near future. For these reasons, it is critical that FSRA continue to encourage competition in the Ontario auto insurance market and provide insurers greater flexibility in their application of these trend rates to accurately reflect their different claims development expectations.

Thank you again for the opportunity to comment on FSRA's *Preliminary Ontario Private Passenger Vehicles Annual Review* consultation. Please do not hesitate to contact me if you have any questions.

Sincerely,

Kim Donaldson
Vice President, Ontario