

The new BC government is struggling to keep ICBC auto insurance rates affordable, and return the public corporation's finances to a satisfactory financial condition. Minister responsible David Eby has ruled out a move to a full no-fault insurance model, but has suggested that a cap on pain and suffering claims respecting soft tissue injuries is being considered.¹

Such a cap was proposed by Ernst Young in its July 2017 report. Alberta imposed a cap on pain and suffering claims for soft tissue injuries in 2004 (currently approximately \$5,000).

On 4 December 2017, the Alberta government imposed a 5% maximum increase on private vehicle Basic auto insurance premium increases for the period 1 November 2017 to 30 November 2017.²

Auto insurance rate changes in Alberta are regulated by the Automobile Insurance Rate Board (AIRB), which had previously agreed to a 10% increase in private vehicle rates. The government found that such a large increase was "inconsistent" with the government's "top priorities of ensuring the cost of living in Alberta is affordable."³

Background

Auto insurance in Alberta is provided by many private (or cooperative) insurance companies. It is a 3rd party liability model, where certain accident benefits are provided on a no-fault basis to a maximum \$50,000.

In 2004, in an effort to reduce the rising costs of bodily injury claim, the government legislated a cap on pain and suffering claims resulting from minor soft tissue injuries (whiplash). The scheme survived legal challenges⁴, and did result in a reduction in injury claims volumes and costs.

In 2012, however, the supreme court of Alberta found that the scheme did not include certain jaw/dental injuries, which resulted in many more pain and suffering claims for this form of injury.

In 2014, the AIRB began to regulate rates by setting maximum annual increases based on an independent financial review of industry costs and revenues (benchmarks).

¹ BC Hansard, 7 November 2017, p. 1890. Other measures are also under review.

² <http://www.airb.alberta.ca/industry-information/communications/notices/2017-2018/2017-05.pdf>

³ Ibid.

⁴ The Supreme Court of Canada refused to hear an appeal in 2009.

Individual companies could increase rates at a lower level (presumably to attempt to increase market share).

In recent years, the cost of claims has been increasing, which the industry mainly attributed to the growth in the cost of pain and suffering claims arising from minor soft tissue injuries.

The insurance industry has been lobbying the Alberta government to amend the legislative cap on minor soft tissue pain and suffering claims to lower these types of claim costs. The recent directive would appear to indicate that the government believes that a price cap is preferable to a regulatory change; that the private insurers should reduce their profit margins (which they maintain are already narrow).⁵

Price Comparison

It is difficult to make direct comparisons between provincial auto insurance rates, as discussed in my occasional paper of 8 September 2017.⁶

However, the combined compulsory and additional coverage rates in Alberta have been amongst the highest in Canada, and over twice the cost of Saskatchewan, which operates under the no-fault model.

AVERAGE PASSENGER VEHICLE INSURANCE PRICE

	2013	2014	2015	2016	2017
BRITISH COLUMBIA	1,431	1,511	1,527	1,611	e1,810
ALBERTA	2,127	2,283	2,352	2,376	2,506
SASKATCHEWAN	1,061	1,116	1,159	1,181	1,195
MANITOBA	1,013	1,034	1,081	1,102	1,130
ONTARIO	3,782	3,279	3,092	3,160	3,196
QUEBEC	1,316	1,439	1,555	1,510	1,537
RATIO ALB. TO SASK.	200%	205%	203%	201%	210%

Source: <https://www.sgi.sk.ca/contact/index.html>

⁵ See interview with Bill Adams, Vice President of the Insurance Bureau of Canada, 31 October 2017; <https://globalnews.ca/news/3835845/alberta-auto-insurance-rates-higher-than-the-national-average-still-rising-lowestrates-ca/>

⁶ http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_40_8_september_2017/pdf

Note: The 2017 rates are as of 30 September 2017; I have increased the BC number by 8% to reflect the 2017 annualized rate plan effective as of November. Quebec has a public no-fault model for the Basic injury coverage.

Implications

The Alberta directive to cap the rate increase over-rides the authority of the independent regulator. This is the first time that this has happened since the regulatory regime was established. In 2013, the previous BC government eliminated much of the BC Utilities Commission's discretion to set Basic insurance rates based on the cost of service model.⁷

Can an independent regulator model, designed to de-politicize price setting for monopoly service providers, maintain the public's trust? Or will appealing to perceived short-term popular opinion prevail (a kick the can approach)?

By choosing to control prices, instead of addressing the underlying cost pressures, the Alberta government has adopted a policy similar in form to the ill-considered 2013 "rate smoothing" policy of the previous government in BC. Instead of depleting the capital reserves of ICBC, the Alberta government has decided to squeeze the profit margins of the private insurers. It is likely that such a policy will also prove to be unsustainable in the near-term.

The new 5% rate increase cap also demonstrates that the regulations limiting the cost of certain claims for pain and suffering was not sufficient to withstand a technical court challenge. The Alberta government may now be considering a major change to the hybrid-tort model of auto insurance to reduce claims costs and other pressures driving premium rates.

For the new NDP administration in this province, the actions of the Alberta government to maintain affordability in auto insurance should cause policy analysts to re-assess the anticipated benefits from any potential cap on pain and suffering claims for minor soft tissue injury. The anticipated claims costs savings outlined in the July 2017 Ernst Young report are probably optimistic.⁸

Richard McCandless December 19, 2017. <http://www.bcpolicyperspectives.com/>

⁷ It cited the need for affordable and stable rates for the compulsory insurance, although political expediency was certainly a factor.

⁸ http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_38_19_august_2017/pdf p. 5.

