

GOVERNMENT USES PUBLIC SURVEY TO JUSTIFY INCREASED PENALTIES ON HIGHER RISK DRIVERS

On May 17th Attorney General David Eby, the minister responsible for ICBC, announced the results of the public survey on the design of the compulsory Basic insurance rates. He said that changes in the rate design were long overdue, and that the government had received strong feedback that the rates should be made fairer.

“We were asking British Columbians how we should ensure that people that are higher risk drivers pay more [for] their insurance and people who are lower risk drivers get a better discount. It is something that is done better in other provinces,” Eby said.¹

Unsurprisingly, a large majority (82.3%) of the respondents to the survey agreed to the general proposition that risky drivers should pay more; implying that good drivers would pay less. The difficulty lies in translating this general objective into specific changes to the design of the insurance premium (rate), and to financially penalize risky driving behaviors of drivers who are not the owner of a vehicle.

Is Uninformed Public Opinion Useful?

As I stated when the public consultation was launched:

A public consultation can produce useful advice and suggestions, but only if there is sufficient research and documentation to inform the public.... In the case of ICBC rate design fairness, ICBC has not provided any data or analysis to justify the claim that the current rate design is unfair, or that the proposed changes will result in a fairer distribution of premium and other revenue.²

More specifics on my criticisms of the public engagement can be found in my papers entitled “Redesigning ICBC’s Insurance Rates: Populism or Empirical Evidence?” and “Government Floats Possible Changes to Rate Design for ICBC Basic Insurance.”³

¹ <https://globalnews.ca/news/4216320/icbc-rates-risky-drivers/>

²

http://www.bcpolicy Perspectives.com/media/attachments/view/doc/occasional_paper_no_54_25_march_2018/pdf/occasional_paper_no_54_25_march_2018.pdf

³ Ibid., and

http://www.bcpolicy Perspectives.com/media/attachments/view/doc/commentary_icbc_rate_design_8_march_2018_copy/pdf/commentary_icbc_rate_design_8_march_2018_copy.pdf

It is clear from the results that there is a great deal of confusion about the current financial penalties faced by drivers and policyholders. Even the comment from the BC branch of the Canadian Bar Association seems to suggest that they are unaware that driver-based financial penalties currently exist and are levied based on traffic convictions, not at-fault crashes.⁴

The government/ICBC did not provide a summary of the distinction between penalties for higher-risk drivers and policyholders to guide the respondents (and the public in general). The financial penalties currently faced by **drivers** through the Driver Penalty Premium (DPP) and the Driver Risk Premium (DRP) are tied to traffic and Criminal Code violations that are linked to the individual's drivers' license, while the vehicle crash history determines whether the **policyholder** receives a discount through the Claims Rated Scale. Drivers who cause multiple crashes in a three-year period face more financial penalties under the Multiple Crash Premium program.

ICBC has stated that approximately 20% of crashes are caused by an at-fault driver who is not been risk-rated as the policyholder or the principal operator. To target these drivers ICBC has said that the rate design should become more driver-based. It has proposed a cumbersome system of declaration (and new penalties for non-compliance) to capture these drivers in the rating system.

Government/ICBC Planners Probably Disappointed with the Survey Results

The government/ICBC planners must be disappointed with the results of the public engagement because of the low response rate, and the unrepresentative nature of the respondents.

The summary of the results shows that only 34,300 answered the questions. This represents some 1% of the number of valid drivers' licenses, and only about 1.5% of the number of Basic policyholders.⁵ This is a small response rate for a topic (ICBC rates) that seems to garner a good deal of public attention when the annual increases are announced.

The summary report also makes it clear that while the proportion of the respondents aged 60 years and older was roughly equivalent to the number of Basic policyholders,⁶ the respondents earned much higher incomes compared to the general population. Some 30% of the survey respondents earned \$100,000 or more compared to 2.7% of the population.⁷

⁴ <https://engage.gov.bc.ca/app/uploads/sites/347/2018/04/Canadian-Bar-Association-BC-Branch.pdf>

⁵ ICBC states that there are 3.3 million Basic insurance policies, but some 400,000 are for utility trailers and other non-passenger vehicles. Of the 2.9 million remaining I estimate that there are approximately 2.3 individual owners.

⁶ See https://engage.gov.bc.ca/app/uploads/sites/347/2018/05/ICBC-Rate-Fairness-Report_May-2018_FINAL-1.pdf p. 4 and

http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_55_9_april_2018/pdf/occasional_paper_no_55_9_april_2018.pdf Table 1.

⁷ https://engage.gov.bc.ca/app/uploads/sites/347/2018/05/ICBC-Rate-Fairness-Report_May-2018_FINAL-1.pdf p. 4.

This older and more wealthy bias is apparent in the survey results. Approximately 80% of current Basic policyholders qualify for the full 43% good driver rate discount, and we can assume that these people will be older and generally have higher incomes than younger drivers who have not qualified for the full discount. These policyholders would be expected to support any suggestion that higher-risk drivers should pay more—especially if there some prospect that they might pay less. It is an astute political move to cater to the older and more affluent low-risk drivers/owners as they tend to be more politically engaged than the younger drivers/owners.

A large majority (78.6%) reported that there were no drivers under 25 years old in their household. No information was provided to show if this is representative of ICBC policyholders.

Key Findings

Drivers who cause crashes should pay more for Basic insurance than they currently do.

- One would be surprised if the response was any different, even though few of the respondents knew what the at-fault drivers currently pay (because this information was not provided).

Drivers who cause crashes, not the registered owners of the vehicles that were crashed, should be penalized by increases in Basic insurance rates.

- Most at-fault drivers who cause crashes are the owner or principal operator, and the owner sees a penalty through a loss of CRS discounts and through points incurred through the driver-based penalty systems.
- While the questions strongly suggested that at-fault drivers should pay more of the cost of insurance, to change from a vehicle-based insurance model would likely be impractical due to the cost of overhauling ICBC's information systems and re-educating the broker network.
- Instead, the government has directed ICBC to seek the BC Utilities Commission's approval to increase the driver-based penalties (the DPP and the DRP) by 40% over two years.
- The government justified the 40% two-year increase to the driver-based penalties by saying this was favoured by the survey results. However, less than 50% favoured total transition caps of 20% or more per year, and this issue was not specific to the driver-based financial penalty programs.

The option to pay back at-fault vehicle damage should be changed.

- Allowing presumably wealthy policyholders to pay for vehicle damage claims allows these individuals to avoid losing their CRS discount, but distorts the true risk profile of policyholders.
- Only 22% favoured eliminating the option to pay the vehicle damage.
- ICBC did not provide any information on the prevalence of this practice.

There is broad support for driving convictions having an impact on insurance premiums.

- Almost 75% of respondents agree that a serious driving conviction within a three-year period should result in higher insurance **premiums** – which again confirms that these people do not understand the current model where insurance premiums reflect actual crash history, not driving convictions.
- Driving convictions impact a drivers' penalty points under the DPP and DRP penalty programs.

Respondents were somewhat split on whether the annual distance driven should have a greater impact on insurance rates.

- Almost half disagreed with this proposal, which would adversely impact those living in non-urban areas and those that drive for employment.
- Again, ICBC did not provide any cost or revenue estimates.

Opinions were mixed about the amount of one-time penalties for the registered owners of vehicles in the event an unlisted driver (of their vehicle) caused a crash.

- As they should be; this proposal will probably fade rapidly from further consideration.

Summary and Next Steps

The government is changing the financially unsustainable tort-based insurance model by imposing a cap on pain and suffering awards for “minor” injuries. It is also expanding the jurisdiction of the Civil Resolution Commission to adjudicate claim disputes with a value of up to \$50,000. An expansion of the scope and financial limits of the no-fault accident benefits has already been announced. The changes are anticipated to reduce annual expenditures by \$1.0 billion, mostly from a major reduction in the amount paid for pain and suffering.

The government anticipated strong opposition from the personal injury bar to the limit on pain and suffering. To limit the points of criticism the government sought to acknowledge the concern of some policyholders that high-risk drivers were not paying enough, and low-cost drivers were paying too much, for the ICBC insurance. In launching online questionnaire the government (with no evidence provided) declared that the current rates were unfair and suggested that a re-balancing could result in lower rates for low-risk drivers.⁸ However, it will be difficult to reduce premiums for low-risk drivers when the ICBC capital reserves are far below the levels required.⁹

⁸ <https://www.canadianunderwriter.ca/insurance/icbc-remodel-system-reward-low-risk-drivers-1004128252/>

⁹ At current management targets I estimated that the combined Basic and Optional capital shortfall will be approximately \$4.5 billion by 31 March 2019; see Table 1 in

In releasing the results Attorney General David Eby announced that ICBC will soon apply to the BC Utilities Commission for approval to increase the driver-based financial penalties by 40% spread over two years.¹⁰

In 2015 the driver-based financial penalties produced \$20.3 million in income for ICBC, while the Basic insurance premiums generated \$2.67 billion in revenue. Clearly, even a doubling of the driver-based financial penalties, while significant to the penalized driver, will not add significant revenue to offset rapidly rising costs.

The Attorney General suggested that other changes to the rate design may be announced in the near future.¹¹

It is hoped that the justification provided to the BC Utilities Commission for any rate design changes provides actual financial costs and benefits, and the differential impact on drivers and policyholders. Had this information been available when the public was asked to respond to the questionnaire the results would have been more meaningful.

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The writer is a retired senior BC government public servant whose paper describing the BC government's manipulation of the finances of BC Hydro from 2008 to 2014 was published by *BC Studies* in November 2016. *BC Studies* published his paper on the 40-year financial history of ICBC in 2013. He has been an intervener in the BC Utilities Commission's recent reviews of both ICBC's and BC Hydro's rate requests

http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_56_19_april_2018/pdf/occasional_paper_no_56_19_april_2018.pdf

¹⁰ <https://news.gov.bc.ca/releases/2018AG0033-000953>

¹¹ <https://globalnews.ca/news/4216320/icbc-rates-risky-drivers/>

