



SYNOPSIS

PUBLIC VS PRIVATE UNDERWRITING AND ADMINISTRATION OF PERSONAL INJURY STATUTORY INSURANCE SCHEMES

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Key words: Public underwriting, privatisation, outsourcing, competition policy, risk management, statutory insurance, National Injury Insurance Scheme (NIIS), Scheme Efficiency, CTP Insurance, Workers' Compensation.

Purpose of your paper: Explain the genesis and structure of Australian Personal Injury Statutory insurance schemes, exploring key issues and policy rationale for transition between public and private underwriting and relative merits of each model to better inform future debate.

Synopsis: Australian Workers' Compensation and Compulsory Third Party (CTP) Insurance schemes when first conceived in the early 1900s, with few exceptions¹, were structured on private underwriting, with private sector insurers, often competing with government owned insurers. This model remained stable until the later part of the twentieth century.

In the 1970s, with respect to *CTP Insurance* following escalating costs of common law, premium affordability issues, and the failure or withdrawal of many private insurers from the market, several jurisdictions transitioned to public underwriting. Three jurisdictions also introduced no-fault benefits at the same time, largely influenced by the reviews of injury compensation in Australia and New Zealand conducted by Justice Woodhouse. In the 1980s, with respect to *workers' compensation*, due to similar issues as highlighted above, several jurisdictions transitioned to public underwriting also electing to outsource claims administration. At the completion of the National Competition Policy Review process, that ran from the mid 1990s to early 2000s, no government changed their legislation to move away from Government underwriting of CTP Insurance or Workers' Compensation.

In the past quarter century, there have been no durable transitions from public to competitive underwriting (or visa versa). The one exception is the South Australian CTP scheme where transition to private underwriting in 2016, appeared to be motivated by financial considerations for the state government to 'realise the value' in the publically underwritten scheme.

With respect to catastrophic injury, we see evidence of a lack of appetite for private insurers to underwrite long tail liabilities with ongoing payment streams. Hence, there is a role for public underwriting of schemes such as the NIIS.

In the recent CTP Scheme Reviews in NSW (2015-2016) and Queensland (2016), the matter of public v's private underwriting was considered. Following these reviews, neither scheme decided to move away from private underwriting, however the respective Regulators have signaled that this matter should be considered in the next scheme reviews. This paper recommends key issues that should be considered in such a review.

¹ For reference, the exceptions were CTP Insurance in Western Australia & Workers' Compensation in Queensland and the Commonwealth.