



30 October 2015

Dr. Ron Ben-David

Submission to the Accident Towing Regulation Review - Draft Report  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

By email: [towtruckreview@esc.vic.gov.au](mailto:towtruckreview@esc.vic.gov.au)

Dear Dr. Ben-David,

### **Accident Towing Regulation Review – Draft Report**

Suncorp welcomes the opportunity to respond to the Essential Services Commission (ESC) Draft Report on Accident Towing Regulation in Victoria (the Draft Report). Suncorp is one of the largest insurance groups in Victoria and combined our Victorian customers use accident towing services around 15,000 times per year.

### **Executive Summary**

Accidents are a rare and stressful experience for consumers who are usually unfamiliar with what they should do, how the towing industry operates and how to arrange a smash repair. This opens the door for consumer exploitation on the roadside that funnels motorists directly into expensive third-party repair networks, removes choice of repairer and increases the stress of an accident.

Suncorp commends the ESC for recognising the need for robust regulation in the accident towing market to ensure consumers are appropriately protected at the scene of an accident. Suncorp supports the overall recommendations of the Draft Report and our direct responses are enclosed as Appendix A.

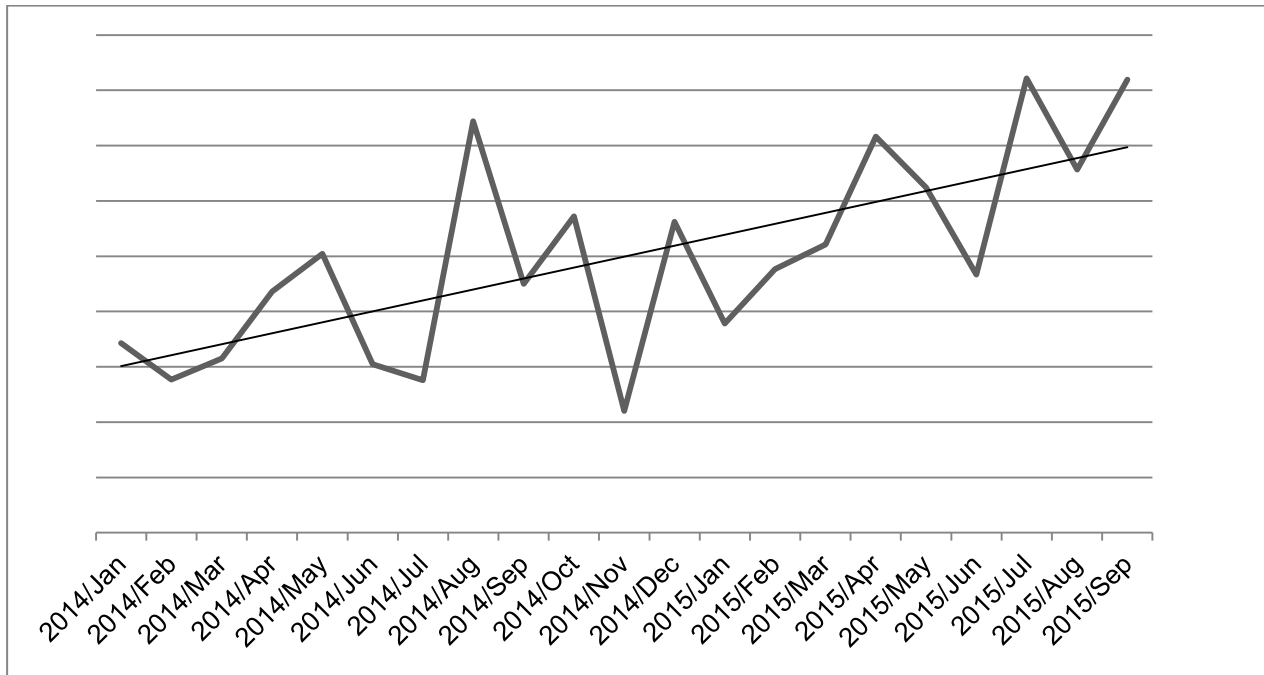
In particular, we welcome the focus on consumer protection measures designed to make it easier for drivers to make informed decisions at the time of an accident (recommendations 5-7). There remain a number of towing operators consistently touting for repair work at the scene of an accident using either intimidation tactics or acting under the cloak of good faith to mislead motorists. The draft recommendations offer clearer guidance on what to do after an accident and will significantly reduce the risk of drivers being captured by third-party repair networks.

### **Consumer Impacts**

The Draft Report correctly identifies that links between the accident towing operators and smash repairers provide a strong incentive to tout for smash repair work at the scene of an accident. Touting has long been illegal in Victoria however the law is regularly ignored with consumers funnelled into a network of affiliated businesses that charge inflated storage, hire car and repair fees. Vehicles are then held to ransom until demands are met.

Suncorp has previously provided data relating to the dollar value of demands received from third-party recovery agents, who represent third-party repair networks that have often captured work by operating or aligning with tow truck businesses. Suncorp has found that total demands have continued to increase in the time since this review began.

Figure 1 – Total Demands Received, Third Party Recovery Agents, Victoria



Based on internal claims data analysis we estimate that the costs associated with third party repair networks is adding approximately \$33 a year to the cost of insurance premiums in Victoria. For a typical Victorian family driving multiple cars, this translates into significant additional costs solely to line the pockets of third-party repair networks.

Consumer detriment is also increasing with Suncorp regularly speaking to distraught not-at-fault third-party drivers confused by the process they are in. In one recent example, a vehicle owner contacted us to complain about repairer intimidation and poor repair quality. They were highly surprised to be informed that a solicitor was acting on their behalf. Further investigation revealed the owner's son, the driver of the car at the time of the accident, was coerced by the towing operator into signing an authority to act form.

After seven weeks of repairs, the repairer demanded additional payment from the owner for out-of-scope repairs. Petrol was siphoned out of their vehicle and their battery was swapped with a cheap second-hand replacement. The owner challenged the repairer on these points and was physically intimidated into paying the demands. The incident was not reported to consumer affairs or VicRoads as the owner was afraid of the repercussions.

Suncorp has several additional examples of consumer detriment such as this which can be made available to the Commission or the Victorian Government to illustrate the importance of robust protection at the scene of an accident.

### Providing consumers with more choice after an accident

Suncorp strongly supports the Commission's recommendation that consumers be provided with additional guidance and warnings at the time of an accident in order to enable them to choose the best location and process for the repair of their car.

In particular the simplified set of destination choices on the tow authority form will help prevent unscrupulous operators 'capturing' consumers by touting for repair work at the scene of an accident. Providing a simplified list of destination choices will:

- ensure it is quicker and easier for consumers to make an informed decision at the scene of accident;
- allow the consumer the option to have their vehicle stored at a safe location while they make further decisions, including their choice of independent repairer if offered within their insurance policy;

- ensure that vehicles can be more easily located after an accident, in turn improving repair turnaround times; and
- assist in reducing illegal touting behaviours, while preserving choice for consumers.

As touting at the scene of an accident is already illegal, Suncorp is somewhat perplexed by the significant investment the industry has recently made in advertisements suggesting the proposed destination choices will diminish consumers' choice of repairer. The only destination no longer available under the Draft Report's proposed reform is direct to a smash repairer from the scene of an accident without contacting an insurer.

This approach specifically addresses towing operator and repairer alignment designed to target consumers at the scene of an accident. As accident towing is allocated and the consumer does not choose who provides the towing service, it is important that there is a structural separation between the accident towing service and any subsequent smash repair. Consumers should not be expected to make a repair decision at the already stressful scene of an accident.

For the 8.5 per cent of consumers in Melbourne who would prefer to handle their own repair end-to-end, they can continue to exercise their choice of repairer by simply contacting their insurer, confirming their policy covers choice of repairer and arranging for the car to be towed directly to their preferred smash repairer.<sup>1</sup> For the majority of consumers in Melbourne – 67 per cent – that prefer for their insurer to manage the end-to-end repair process, the proposed changes offer significantly improved protection against being captured by expensive third-party repair networks.<sup>2</sup>

Suncorp therefore supports the proposal to simplify the choices available to consumers at the roadside and believes this proposal lies firmly within the Commission's Terms of Reference to promote the long term interests of Victorian motorists.

### **Enforcement**

In conjunction with simpler choices and clearer communication for consumers, better complaint-handling and enforcement processes are required to address poor industry behaviour. The Draft Report notes an extremely low number of complaints received by VicRoads annually, when compared to the use of towing services and the evidence of unethical conduct. This indicates that either customers are choosing not to complain or they are facing barriers to doing so.

Suncorp's experience is that it is costly and time-consuming to take action against unreasonable towing fees and poor behaviour. An appropriately resourced regulator – either VicRoads or an alternative body – would make it easier for consumers and insurers to record formal complaints and better identify the small number of operators regularly engaging in illegal practices.

### **Fee regulation - Geelong**

Suncorp supports the proposal to regulate fees in the Geelong self-management area. As noted in Suncorp's previous submission, average accident towing costs in Geelong are approximately twice those in the controlled area. While self-management is working well, the high fees observed in this area indicate that allocation has created an environment where there is guaranteed work and little incentive for fee competition or improved behaviour.

### **Fee notification - Regional**

Suncorp supports the ESC's recommendation to implement fee notification for non-regulated regional areas. We regularly observe significant variations in towing fees outside the controlled area, even for similar services and this is an important step to ensure fair and transparent pricing structures for towing services throughout Victoria.

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<sup>1</sup> Newspoll conducted an independent internet survey of 4097 Australian drivers, 18 years of age and older in March – April 2015. Data was collected in line with ISO 20252 – Market, Social and Opinion Research and has been weighted with current ABS population demographics to ensure any extrapolation of results is representative of age, sex and area.

<sup>2</sup> Ibid.

Suncorp acknowledges that operating costs are higher in non-metropolitan areas, however our experience suggests that this should require no more than a 10-20% margin above the metropolitan base fee. Fee notification in no way limits the ability for regional operators to recoup these slightly higher costs. We also support the ability for operators to update their fees at any time, providing flexibility to respond to unforeseen cost changes in the future.

The act of fee notification will however provide greater transparency and enable more effective enforcement of the current 'reasonable fees' regulation. It will be important that VicRoads be provided with sufficient resources to ensure that instances of unreasonably high fees are investigated and responded to appropriately. Fee notification in regional areas will not result in efficient operators going out of business, but it will make it easier to identify operators taking unfair advantage of lower levels of competition in regional areas.

### **Conclusion**

The Draft Report proposes a number of sensible reforms that Suncorp strongly supports. These reforms will improve consumer protection and reduce upward pressure on insurance premiums paid by Victorian motorists.

Suncorp would be happy to provide further assistance on request. Should you have any further questions regarding our submission, please contact me at [Damien.Butler@suncorp.com.au](mailto:Damien.Butler@suncorp.com.au).

Yours sincerely,



Damien Butler

Senior Manager, General Insurance Public Policy  
Suncorp Group

### **About Suncorp Group**

Suncorp Group Limited (Suncorp) offers a range of personal and commercial insurance products protecting the financial wellbeing of millions of Australians. Suncorp employs nearly 15,000 Australians and has more than nine million customers across the country.

In Victoria, Suncorp provides insurance coverage to well over one million policyholders under its portfolio of brands including AAMI, GIO, Apia, Vero, JustCar, Bingle, InsureMyRide and Shannons. Suncorp is a significant contributor to the Victorian economy with 2,570 employees working from our major offices located in Melbourne and a network of branches throughout the state.

This submission is made on behalf of Suncorp's Personal and Commercial Insurance business.

## Appendix A – Response to Draft Recommendations

### **Accident allocations – the controlled area scheme (s. 3.4 of report)**

1. The accident allocation scheme should continue to operate in the controlled area.

Suncorp supports the continued operation of the accident allocation scheme. The allocation scheme has been highly effective at managing tow truck attendance at the scene of an accident, reducing behavioural issues and improving accident clearance times.

### **Accident allocations – improving the existing scheme (s. 3.6 of report)**

2. In the controlled area, VicRoads should at least every three years analyse allocations and adjust allocation zone boundaries to more closely match a proximity-based allocation scheme. The long term aim should be to allocate accident tows based on proximity — that is, the tow would be allocated to the depot nearest to the accident with a licensed tow truck ready for dispatch.

Suncorp agrees that it is important to periodically review the allocation boundaries. These reviews should take into account:

- The need to expand zones in response to population growth, traffic accident statistics and any behavioural issues experienced on zone boundaries; and,
- The number of tow operators in a particular area.

### **Accident allocations – restrictions on licences (s. 3.6 of report)**

3. The requirement for VicRoads to approve depot relocations and movement of licences to different depots within the controlled, self-management and unregulated areas should be removed. The requirement to link a licence to a specific depot should also be removed.

Suncorp supports increased flexibility for tow operators however highlights the importance of being able to locate a vehicle after it has been towed from the scene of an accident. Draft Recommendation 7 provides a towing operator's licensed depot as one of the destination choices provided to consumers at the scene of an accident. It is therefore important to consider the interrelationship between the two Draft Recommendations and ensure this does not form the basis of a loop-hole enabling multiple affiliated smash repairers to be listed as 'depots' under the towing operator's licence.

### **Accident allocations – the unregulated area (s. 3.8 of report)**

4. Accident allocations in the unregulated area should continue to be unregulated.

Suncorp supports the current approach in the unregulated regional area.

### **Consumer protection – improving customer outcomes (authority to tow and factsheet) (s. 4.8 of report)**

5. VicRoads should amend the authority to tow docket to include a new page of warnings that must be signed by the driver or vehicle owner before an accident tow is performed.

VicRoads should also amend its 'Towing from an accident scene: your rights' factsheet to emphasise existing warnings and include a recommendation that the driver's or other party's insurer be contacted (if relevant).

Suncorp agrees that it is important to provide additional information to individuals at the scene of an accident, to assist them in making informed decisions at a stressful time. In particular, we support the inclusion of a recommendation that individuals contact an insurer prior to signing agreements authorising towing, repairs or a rental car.

**Consumer protection – improving customer outcomes (education campaign) (s. 4.8 of report)**

6. VicRoads should work with insurers to encourage, and appropriately support, the development of an industry education campaign to educate drivers about what to do at an accident scene.

Suncorp supports efforts to provide more education for consumers about how to respond at the scene of an accident.

However, as acknowledged by the Draft Report, consumers are likely to be under significant stress when an accident occurs, and most will not have experienced the situation previously. In these circumstances, prior education is not a substitute for adequate information being provided at the time of the incident. Suncorp will however continue to encourage consumers to contact us as early as possible for support after an accident.

**Consumer protection – improving customer outcomes (towing destination) (s. 4.8 of report)**

7. VicRoads should limit the locations to which an accident-damaged vehicle can be towed. The authority to tow docket should list the following options for tow destinations: a location instructed by the owner's insurer; a location instructed by the at-fault driver's insurer; the owner's home (or the home of a friend or family member); or storing the vehicle at the tow operator's licensed depot awaiting further instructions.

Suncorp strongly supports the introduction of better destination control measures for towed vehicles.

**Fee regulation – controlled area (s. 5.4 of report)**

8. The Minister for Roads should continue to set regular vehicle accident towing and storage fees in the controlled area.

Suncorp supports this recommendation.

**Fee regulation – unregulated area (s. 5.9 of report)**

9. A fee notification regime applying to regular vehicle accident towing and storage fees should be implemented for the unregulated area. The regime should involve:

- operators having to notify VicRoads of their accident towing fees
- VicRoads publishing all notified fees on its website
- operators permitted only to charge up to their published, notified fees and
- VicRoads publishing an annual report on notified fees.

VicRoads should also consider collecting data on the overall towing fees charged by operators in the controlled, self-management and unregulated areas.

Suncorp supports fee notification for areas that are currently unregulated. This is a step toward improving the fee disparity between regulated and non-regulated areas. Fee notification will also make it easier to identify operators taking unfair advantage of the lack of competition in some regional areas.

**Area boundaries – controlled area (s. 6.5 of report)**

10. VicRoads should establish the primary purpose of the controlled area boundary, namely, whether it is intended to reflect the underlying market for accident towing services (market based) or whether its purpose is to reflect a geographic area defining metropolitan Melbourne (geographic based). If market based, then VicRoads should begin collecting relevant data to inform future realignments of the boundary. If geographic based, VicRoads should establish its preferred means for defining and amending 'metropolitan Melbourne'.

Suncorp supports a clearer mechanism for defining regulated boundaries. As metropolitan Melbourne expands, we have observed a range of issues just outside regulated boundaries. Suncorp supports a geographic based definition as we believe this would be the simplest to define and keep current over time.

***Accident allocations – self-management area (s. 7.3 of report)***

11. The accident allocation scheme should continue to operate in the self-management area.

VicRoads should require self-management area operators to identify and implement improvements to the scheme, with proximity-based allocations providing the benchmark for any improvements.

If operators are unable to achieve sufficient improvements, VicRoads should amend the terms and conditions applying to the self-management area to progressively move towards proximity-based allocations.

Suncorp supports the continuation of the current allocation scheme in the self-managed area, noting the need for fee regulation.

***Fee regulation – self-management area (s. 7.5 of report)***

12. The Minister for Roads should set accident towing and storage fees in the self-management area.

Suncorp supports the extension of fee regulation to the self-management area. Having an allocation system that is not backed by pricing regulation has effectively guaranteed work for operators in this area, regardless of their fees or behaviour at an accident scene.

***Area boundaries – self-management area (s. 7.7 of report)***

13. The self-management area boundary remains appropriate in terms of defining the region where the self-management area allocation scheme applies. VicRoads should consider reviewing and as necessary amending the boundary where it cuts through intersections.

Suncorp agrees that the self-management area boundaries are currently appropriate, noting that regular reviews will be required.

***Regulation of heavy vehicle accident towing (s. 8.3 of report)***

14. Heavy vehicle accident towing and storage fees should continue to be subject to the current “reasonableness” requirement in the Accident Towing Services Act 2007 only. The allocation of heavy vehicle accident tows should continue to be unregulated.

Suncorp has not observed any significant behaviour or cost issues in the heavy towing market and therefore supports the continuation of the current regulation.