

Essential Services Commission
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2 November 2015

Dear Sir/Madam

Accident Towing Regulation Draft Report

The Insurance Council of Australia¹ (ICA) appreciates the opportunity to provide a submission to the Essential Services Commission (ECS) Accident Towing Regulation draft report ('the draft report').

The ICA welcomes and supports many of the recommendations contained in the Draft report as, if implemented, they will provide benefits to motorists as well as improving the efficiency of the industry generally.

As identified in the draft report, touting by tow operators for smash repair at an accident scene is currently prohibited. However, the existing regulatory framework has been ineffective in stamping out this practice in the face of financial incentives for towing operators to direct repair work to affiliated smash repairers that may charge unreasonably high repair fees.

The ESC's recommendation that restrictions be imposed on the locations to which an accident damaged vehicle can be towed would provide significantly more protection to consumers. It would protect them from touting, subsequent exposure to unreasonably high repair fees and stressful disputes with repairs who refuse to release vehicles.

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. June 2015 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$42.2 billion per annum and has total assets of \$121.1 billion. The industry employs approximately 60,000 people and on average pays out about \$109.6 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

The proposed restriction on towing destinations will also ensure consumers are given the appropriate time to make a choice, without being under immediate pressure to make a decision about where they wish to have their vehicle repaired.

The ICA also supports the draft report's recommendation that fee regulation be maintained across the Melbourne controlled area and be introduced into the self-regulated area of Geelong.

In relation to the regulation of fees across the unregulated area of Victoria, the ICA maintains that the unregulated area should also be subject to a system of set fees, as occurs in NSW.

The use of set fees across NSW has been successful in preventing motorists being exposed to excessive towing charges, including in rural areas. The ICA believe this will be a more effective way of protecting consumers in the unregulated area than a fee notification regime.

The table below provides further feedback on the recommendations of the draft report.

We hope this feedback is of assistance to the ESC in preparing its final report.

If you have any questions, or wish to discuss these matters further please contact Vicki Mullen, General Manager, Consumer Relations and Market Development Directorate via email vmullen@insurancecouncil.com.au, or phone (02) 9253 5120.

Yours sincerely



Robert Whelan
Executive Director and CEO

Recommendation	ICA position
Accident Allocation:	
<p>1. The accident allocation scheme should continue to operate in the controlled area.</p>	<p>Support.</p> <p>The ICA agrees that the current allocation system has helped address behavioural issues associated with multiple tow operators attending accident scenes.</p>
<p>4. Accident allocations in the unrestricted area should continue to be unregulated.</p>	<p>Support</p>
Consumer Protection:	
<p>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.</p> <p>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).</p>	<p>The ICA supports these recommendations.</p> <p>These recommendations, in conjunction with proposals in recommendations 6 and 7, will have a significant impact on reducing instances of 'touting' at accident scenes, and drivers being put on the spot and pressured into agreeing to having their vehicle towed to a particular repairer for repair work and being exposed to uncompetitive and excessive repair costs.</p>
<p>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.</p>	<p>Support</p>
<p>7. VicRoads should limit locations to which an accident-damaged vehicle can be towed. The authority to tow docket should list the following options for tow destinations:</p> <ul style="list-style-type: none"> - a location instructed by the owner'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. 	<p>Support</p>
Fee regulation	

<p>8. The Minister for Roads should continue to set regular vehicle accident towing and storage fees in the controlled area.</p>	<p>Support</p>
<p>9. A fee notification regime applying to regular vehicle accident towing and storage fees should be implemented for the unregulated area. This regime should involve:</p> <ul style="list-style-type: none"> • 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. <p>VicRoads should also consider collecting data on the overall towing fees charged by operators in the controlled, self-managed and unregulated areas.</p>	<p>The ICA does not oppose a fee notification regime in the unregulated area.</p> <p>However, the ICA supports the use of set regulated fees across the unregulated and self-managed areas (as occurs in NSW), over the use of a fee notification regime.</p> <p>Fee regulation across NSW and in the Melbourne controlled area has proven effective in tackling inflated towing charges and should be expanded into the self-managed and unregulated areas.</p>
<p>Area Boundaries</p>	
<p>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'.</p>	<p>The ICA supports the ongoing review of the boundaries of the controlled area to ensure that, as suburban Melbourne expands, boundaries are adjusted accordingly.</p>
<p>Fee regulation – self-management area</p>	

<p>12. The Minister for Roads should set accident towing and storage fees in the self-managed area.</p>	<p>Support.</p> <p>Average towing charges in the self-regulated area are significantly higher than in the controlled area, with little evidence of additional operating costs to justify this disparity.</p> <p>Fee regulation is therefore required to ensure towing fees are reasonable.</p>
<p>Area boundaries – self-management area</p>	
<p>13. The self-management area boundary remains appropriate in terms of defining the region where the self-management area allocation scheme applies.</p> <p>VicRoads should consider reviewing and as necessary amending the boundary where it cuts through intersections.</p>	<p>Support</p>
<p>Regulation of heavy vehicle accident towing</p>	
<p>14. Heavy vehicle accident towing and storage fees should continue to be subject to current “reasonableness” requirement of the <i>Accident Towing Services Act 2007</i> only.</p> <p>The allocation of heavy vehicle accident tows should continue to be unregulated.</p>	<p>Support.</p> <p>However, the ICA also supports a licensing regime for heavy accident towing to ensure that license holders are of good and proper character and not associated to criminal organisations.</p>