

30 April 2011

Disability Care and Support Inquiry  
Productivity Commission,  
GPO Box 1428  
Canberra City ACT 2601

Dear Sir/Madam,

I commend the Productivity Commission on its Draft Report on Disability Care and Support.

I would like to make a few comments with regard to the National Insurance Injury Scheme (NIIS) based on my work and research on issues related to road-crashes and insurance.

## **1. Providing incentives for people to avoid injuries**

### ***1a. The relationship between compensation and incentives for avoidance***

The draft report discusses the incentives for people to avoid injuries. This is an important issue as there is significant potential to reduce death and serious injury through changing behaviour. For example, speeding, drink driving and fatigue are all still major contributors to road crashes.

The draft report notes that liability for compensation can potentially provide direct monetary incentives to people to avoid negligent behaviour that may cause injury to and even death of others. The report also recognises some reasons why common law liability for compensation is not an effective deterrent. These include the existence of insurance in blunting deterrence effects and the financial limits of people to pay compensation where insurance is not in place.

However, it is important to note that there is an additional reason as to why liability for compensation will provide insufficient incentive for people to reduce risky behaviour. Unlike (most) property, life and quality of life cannot be replaced. Where loss of life and loss of quality of life are involved, the value of prevention will almost always be greater than the value of compensation paid.

For valuing the benefits of preventing fatalities and injuries it is now common place to consider the value society places on reducing small risks of death and injury. For fatalities, this amount is generally referred to as the value of a statistical life (VSL) or value of a preventable fatality (VPF). Recent estimates of VSL in Australia are around \$6 million,<sup>1</sup> an amount well in excess of compensation paid to the victim's families or a typical level of life insurance cover. Similarly the value of preventing catastrophic injuries is generally much greater than compensation payments.

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<sup>1</sup> See 'The cost of road crashes: A review of key issues' by Dr Richard Tooth, 2010, Available at <http://www.ara.net.au/UserFiles/file/Publications/TheCostofRoadCrashesReport.pdf>

The key implication is that, for human costs, optimal incentives for deterring risky behaviour are not closely related to level of compensation sought or paid.

### ***1b. Insurance and incentives***

The report notes that insurance can dilute the incentives for people to reduce excessive risky behaviour. However this is not always the case and is likely to become less so in the future. Insurance based solutions offer great potential to help modify risky behaviour and reduce risks of future injury and death. For example, with regard to road safety, as a result of technology advances and innovation, insurers are finding new ways to reward and thus encourage safer driving behaviour.

## **2. Compensation**

The draft report describes the NIIS but does not discuss how people might supplement their cover in case of catastrophic injury. With regards to compensation, the total level of financial support that a person receives in the event of a catastrophic injury should in part be determined by individual choice. Individuals face different circumstances and understandably some will wish to seek to secure additional financial support over and above that provided by the NIIS.

This can be simply achieved by allowing individuals to seek private insurance that supplements the cover they receive under the NIIS. It is important the NIIS scheme be developed such that it enables and supports private insurance markets. To this end, it would be useful for the report to recognise the potential value of additional private cover.

Yours sincerely,

Dr Richard Tooth