

9 December 2003

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Dear Mr Woods

WorkCover QUEENS LAND

Subject: WorkCover Queensland response to Productivity Commission Interim Report

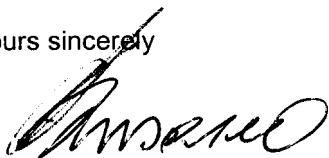
Thank you for the opportunity to review the Productivity Commission's Interim Report on National Workers' Compensation and Occupational Health and Safety Frameworks. I have enclosed a summary of WorkCover Queensland's response to the Interim Report. A more detailed response is being prepared and will be submitted to the Commission under separate cover.

While we agree with the need for consistency across jurisdictions, WorkCover Queensland is strongly opposed to the suggested national workers' compensation framework models. The agenda of the Commission appears to have been more far-reaching than addressing the consistency problems faced by our current workers' compensation system. This defeats what should be the ultimate aim of any scheme - balance between the needs of injured workers and employers. WorkCover Queensland believes that before any changes are made, the Commission must consider the 'best practice' initiatives already working successfully in many of the state-based schemes.

WorkCover Queensland prides itself on a successful system run by excellent people. We hope that this submission will provide valuable feedback for the Commission. I understand that you will be meeting with Tony Hawkins, Chief Executive Officer and a number of other representatives on 17 December 2003.

If you have any queries, please do not hesitate to contact me directly.

Yours sincerely



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Ian Brusasco AM

*Cc Hon. Gordon Nuttall, MP
Minister for Industrial Relations*

Chairman

*Cc Hon. Gordon Nuttall, MP
Minister for Industrial Relations*

WorkCover Queensland

Summary of response to Productivity Commission Interim Report

WorkCover Queensland is not a profit-driven insurer. Put simply, its philosophy is the maintenance of low premiums for employers coupled with the best possible benefits for injured workers. This has been achieved while maintaining a fully-funded scheme.

In 2002-2003 there was a 13% average increase in workers' compensation premiums across Australia (AON Risk Management Survey, 2002-2003). WorkCover Queensland is proud not to have contributed in any way to this increase. Queensland employers continue to enjoy an average premium rate that is the lowest of any Australian state, having reduced from 2.145% in 1998 to a rate of 1.55%. This reduction in the average premium rate has been maintained since 2000, while at the same time benefits to injured workers in both statutory claims and common law components were increased. For example, statutory maximum limits were increased, injury management initiatives improved rehabilitation for common law claimants, and single injury assessments were introduced to simplify access to common law.

When comparing the Queensland average premium rate to other states which include the 9% superannuation guarantee *levy* in definition of wages, the WorkCover Queensland average net premium rate would equate to 1.44%. It should be noted that the Comcare average rate of 1.13%, albeit lower than the Queensland rate, does not include heavy industry or the Australian Defence Forces and has limited access to common law.

Before any changes are made to the current workers' compensation systems in Australia, the Federal Government and the Productivity Commission should seriously consider those aspects of the Queensland system which have proven effective and workable. WorkCover Queensland has successfully achieved a balance between the needs of injured workers and employers, while still maintaining an extremely viable insurance business. This fully-funded, commercially focussed State Government organisation should be preserved at all costs.

At this stage, each Australian workers' compensation scheme is at a significantly different stage of evolution, ranging from fully managed in-house (Queensland) to a hybrid, internally underwritten and externally claim managed scheme (New South Wales, South Australia and Victoria), to a fully privately underwritten scheme (Tasmania, the Northern Territory and Western Australia). It is difficult to see how a national framework can be suggested until each of these jurisdictions get themselves to a fully-funded 'level playing field' (McKinsey Review of NSW Workers' Compensation scheme in Interim Report, page 241). Once this has been achieved, fairness and equity between states becomes less of an issue.

Overall, WorkCover Queensland supports the need for consistency and a number of the Commission's recommendations in relation to fundamentals of a workers' compensation scheme. Despite this support, we are strongly opposed to many of the recommendations made, in particular the recommendation to remove common law access, recommendations regarding cross-subsidisation, and recommendations for the Commonwealth development of a national workers' compensation scheme to operate in conjunction with existing state and territory schemes. WorkCover Queensland believes that the introduction of this additional layer of regulation is flawed, does not balance the needs of all stakeholders, will substantially impact on

the viability of the Queensland scheme, and is not in the best interests of the public. The problems faced by workers' compensation schemes would be far better overcome by sharing 'best practice' and experience of existing schemes through a formalised version of the current Heads of Workers' Compensation Authorities (HWCA).

There is no doubting the need for consistency in workers' compensation fundamentals such as definition of worker, definition of wages base, definition of injury, premium assessment, statutory entitlements, access to common law and rights of review. Any framework to provide this consistency will be difficult to implement, and needs to utilise expertise and best practice from existing schemes in order to balance benefits for injured workers and employers alike.

The benefits of consistency across jurisdictions include but are not limited to:

- common understanding by all providers (medical, allied health, legal) and other stakeholders
- lower costs and efficiencies for employers
- certainty and a level playing field for injured workers.

It would appear that the benefits of consistency equally apply to Occupational Health and Safety (OHS) issues. However, OHS is not within the domain of WorkCover Queensland and hence we leave such comments to the appropriate OHS authorities.

There are several aspects of the recommendations that WorkCover Queensland supports, based on the information provided. These include consistency of access and coverage, injury management, statutory benefits structures and dispute resolution. When more in-depth information is provided, WorkCover Queensland believes these recommendations should be subject to further analysis and discussion.

Pleasingly, WorkCover Queensland is already demonstrating success in these areas. Best practice initiatives such as Experience Based Rating (EBR) premium calculation methods, definition of worker results test, new interstate worker legislation and return to work programs have already earned praise from key stakeholder groups. WorkCover Queensland has worked hard over the past six years to achieve success and expertise in these areas. During this time, we have consistently maintained full funding, stable premiums and stable benefits. We would not wish to see our hardearned industry leader status eroded through implementation of some of the Commission's proposed recommendations.

Notwithstanding our support for consistency across jurisdictions, WorkCover Queensland believes that many of the recommendations made in the report are flawed, and have far too many unanswered questions to give any confidence to workable and acceptable outcomes for all stakeholders.

The recommendations for self-insurance fail to:

- quantify the relevant thresholds of entry and exit at steps one, two and three
- define the period medium and long-term
- identify the relevant prudential, claims management, OHS and other requirements at each step.

The introduction of the proposed regulatory model will only add an unnecessary layer of regulation to insurance schemes that need to be as close to their customers as possible to be successful.

It would appear that the fundamental premise of the recommendations is that of 'choice' primarily to the employer, with little regard to the injured worker who would appear to be subject to the whim of employer decisions. **While choice is admirable and important in promoting competition, surely the important aspect of a good workers' compensation scheme is balancing the needs of injured workers and employers alike.** WorkCover Queensland believes that the Commission's suggested scheme is not viable in its current form, and that 'choices' made by organisations opting into the scheme may not necessarily be for their injured workers long-term benefit.

WorkCover Queensland can appreciate the desire of larger national companies to self-insure (nominally step one in the Interim Report), and through the Queensland scheme such companies already have the ability to do so. However, a substantial exit of employers from any scheme will detrimentally impact the financial viability of the scheme they have left.

Since 1998, WorkCover Queensland has been impacted by the progressive exit of 24 self-insuring employers. These employers represented 15% of premium and claims costs, so downsizing and centralisation of regional office functions was necessary to cope with the financial impact of lost economies of scale. If it had not been for this loss of business, WorkCover Queensland would have been able to deliver even lower premium rates for employers and more improved service delivery and benefits for injured workers.

To further erode the premium pool potentially jeopardises the medium and long-term viability of the scheme. Despite assertions to the contrary by the Commission, this is made abundantly clear in the actuarial advice of Taylor Fry.

The first area affected by any further loss of business to self-insurance is likely to be WorkCover Queensland's regional presence. WorkCover Queensland maintains regional presence in 24 locations throughout Queensland - something unsurpassed by any other workers' compensation jurisdiction in Australia. Over the last six years, WorkCover Queensland has established and continues to enhance the local knowledge acquired in regional areas. We have fostered and continue to support a workforce of skilled people in the areas of premium, claims and case management. Our regional success has been strongly endorsed by external customer surveys of injured workers and employers in remote areas.

There is a limit to how much fixed infrastructure can be eliminated from a commercially driven insurance operation when a significant amount of business exits. WorkCover Queensland's infrastructure, which includes the provision of services in regional offices as well as the Brisbane metropolitan area, cannot be easily further downsized. Economies of scale and scope will also be lost with a smaller premium pool. The end result will inevitably be increased claims management costs given that WorkCover Queensland is not prepared to compromise or diminish its service levels to injured workers and employers. These increased costs will ultimately need to be passed on to employers through premium increases.

There is a perception that private external claims managers deliver a better service than a publicly funded insurer. WorkCover Queensland sees this as incongruous with the profit-driven requirement of a private company compared to the cost recovery basis of a public entity. The results of the National Return to Work Survey (Campbells, 2003, page 44) prove that WorkCover Queensland is on par or better than those states that outsource claims management and underwriting.

WorkCover Queensland believes that its service provision on claims management to injured workers is unsurpassed and accordingly has no intention of outsourcing this fundamental and successful component of its business.

The extension to this is the issue of privatised insurance underwriting. As mentioned by Grellman in his 1997 Review of New South Wales WorkCover Scheme, there were concerns that privatisation would encourage cross-subsidisation with other insurance products, resulting in "reckless competition among licensed insurers" (Grellman, 1997, page 69). There is a continued risk that private underwriters will utilise workers' compensation insurance on a loss leader basis to acquire other, more viable business from their customers.

WorkCover Queensland prides itself on providing only workers' compensation insurance to its customers. Our people are therefore free to concentrate on providing the best possible service to employers and injured workers, instead of on pushing other product lines.

In terms of premium, the Interim Report recommends that there be no cross-subsidisation and if at all, it should be minimised. This is an unrealistic goal, as there will always be some element of cross-subsidisation in any risk-based underwritten insurance scheme. Cross-subsidisation exists in order to protect businesses, particularly small and medium enterprises (SMEs) from the effect on their business of unusually high cost claims. There are various arguments for and against cross-subsidisation, which exists in most public utilities. For example, to post a letter from Cairns to Kalgoorlie costs 50 cents, the same as the cost of a letter posted from one side of Brisbane to the other. Philosophically, WorkCover Queensland believes there is a social responsibility to ensure that workers' compensation is managed so that costs and benefits are borne equitably by all participating parties.

All schemes provide weekly statutory benefit entitlements. In some jurisdictions, these benefits continue for the balance of a working life. Over the years, respective governments in Queensland have maintained the provision of common law access for severely injured workers where the provision of statutory benefits is inadequate to compensate the needs of long-term, seriously injured workers.

WorkCover Queensland has asserted and continues to maintain the view that genuinely, seriously injured workers should retain the right to common law benefits. If access to common law was removed from workers' compensation environments, it would not preclude those genuinely injured workers from seeking similar common law access through public liability forums. This would cause cost-shifting and potential increases to already massive public liability premiums.

WorkCover Queensland agrees that consistency is a major problem for Australia's current workers' compensation system. The Interim Report successfully identifies this problem, but fails to evaluate possible solutions before making recommendations.

WorkCover Queensland believes that the problem of consistency across jurisdictions could be addressed through the formation of a small professional committee to address such issues. The nucleus of this committee could emanate from the Heads of Workers' Compensation Authorities (HWCA) or the Workplace Relations Ministers. Ideally, legislation could be enacted to formalise HWCA, which currently has neither the formal mandate nor the power to make recommendations and implement. Clearly this committee would need fair representation from each state, and should not be driven solely out of the New South Wales or Victorian arenas.

In summary, WorkCover Queensland reiterates that there are far too many unknowns and unanswered questions to place reliance on many of the recommendations in this Interim Report, in particular unilateral movement to a national workers' compensation framework. WorkCover Queensland would defy any other Australian workers' compensation jurisdiction, private underwriter or claims manager to categorically and quantifiably demonstrate delivery of better service to all of its stakeholders by way of premium and claims management - all while maintaining a level of solvency that satisfies all prudent financial requirements.

WorkCover Queensland is developing a more detailed response on each of these issues for submission to the Commission.