

For information
on 31 October 2011

Legislative Council Panel on Transport and Panel on Financial Affairs

**Joint Subcommittee on Issues Relating to Insurance Coverage
for the Transport Sector**

Procurement of Motor Insurance by the Transport Sector

Introduction

This paper sets out the present situation of Hong Kong's motor insurance market, provides additional information on issues that concerned the transport sector and responds to the views raised at the Joint meeting of the Panel on Transport and Panel on Financial Affairs on 28 February 2011.

Background Information

2. Pricing of the insurance business is based on risk assessment. Insurance companies will consider the risks assumed, mainly the accident rate and quantum of claims, in determining the premium levels. Premium rates therefore reflect the level of risks assumed by insurers, while the underwriting results are largely affected by the frequency and quantum of claims. Insurance policy is a contract between the insurance company and the policyholder. Its terms and conditions specify the scope of coverage, exclusions to liability, premiums and conditions for claims etc.

3. Hong Kong has an open insurance market. There is no entry barrier for insurance companies to enter the motor insurance market provided that they are able to meet the prudential requirements set out in the Insurance Companies Ordinance (Cap.41) ("ICO"). There are currently 60 insurers underwriting motor insurance business in Hong Kong. Out of them, at least 12 insurers are providing insurance cover for some 18,000 taxis and 4,000 public light buses ("PLB"). Insurers would underwrite different types of motor insurance business depending on the market situation and their own underwriting policies. There are fewer insurers in the market engaging in taxi

and PLB insurance business primarily because it involves more specialized underwriting knowledge and experience, and the industry has experienced continuous underwriting losses in recent years. The level of premiums to be charged by insurers should best be left to market forces. In fact, section 26(3A) of the ICO has expressly stipulated that the Office of the Commissioner of Insurance should not intervene into the premium rates or terms and conditions of insurance policies set by insurers.

4. Taxi and PLB business has been highly competitive. Coupled with huge claims payments, these two lines of business have recorded continuous underwriting losses since 2005 and 2006. This situation only began to improve in 2010. The increase in taxi and PLB premium rates (mainly in 2009 and 2010) is mainly caused by the heavy underwriting losses and the need to restore premium rates to a more reasonable and sustainable level. Relevant statistics of accident rates and underwriting results are summarized at Annex 1 and Annex 2 respectively.

5. The insolvency of a taxi insurer in early 2009 has highlighted the fact that persistent unreasonable level of premiums that is not adequate to meet claims is not sustainable and could lead to insurer insolvency. Other insurers in the same business thus consider it necessary to tighten their underwriting policy and raise their premium rates.

Huge insurance claims payments

6. The significant underwriting losses of motor business in recent years is mainly a result of huge claims payments. Apart from persistent high accident rates and large amounts of court awards, illegal activities like insurance fraud, inflated claims and champerty might also be contributory factors. Both the transport and insurance industries consider that staged incidents (i.e. self-inflicted injuries by third parties), material misrepresentation and inflation of injuries do happen from time to time, and that the solution should be to combat these illegal activities.

No Claim Discount (“NCD”)

7. To encourage good driving behavior, it is a general practice of insurers to give a discount on the premium upon renewal of policies. Depending on the type of vehicles, NCD enjoyed by commercial vehicles can be as high as 30%. However, if a policyholder has made any claims during the policy period, the NCD would be reduced progressively.

8. NCD is not no fault discount and will only be granted where there are “no claims”. Hence, generally speaking, it will only be unaffected where

no claim arises or where the insurer can successfully recover all/ most of the claims that it has paid.

9. To improve and standardize the market practice for handling NCD, motor insurers reached a “Market Understanding on Reinstating No Claim Discount for Taxi and Public Light Bus” in November 2010. The market understanding clarifies the circumstances under which the NCD could be reinstated. In general, the NCD can be reinstated if the insured/ insured driver is not at fault in an accident and the insurer succeeds in recovering the claims payment; or the insured has agreed to relinquish his/ her rights on claims on the accident and signed a declaration letter to that effect.

Immediate reporting of accidents and no private settlement of claims

10. Motor insurance policies in general contain a provision requiring policyholders to report immediately any accidents in which they are involved, so that insurers can appoint professional loss adjustors to investigate into the accidents, assess the liabilities and extent of damages and reduce possible losses. Most insurance policies also have a condition requiring policyholders not to enter into any private settlement agreement with the other party of an accident without obtaining the insurer’s prior consent. If a policyholder breaches the above policy conditions, his claims could be declined by the insurer. To provide general guidance for policyholders/ motorists, the Hong Kong Federation of Insurers (“HKFI”) issued a leaflet entitled “What to do after a car accident occur?”. Policyholders should contact their insurers if they have any enquiries.

Other policy terms and conditions

(a) Drink/ drug driving

11. HKFI had sought legal opinion on taxi/ PLB owners’ potential liabilities arising from their drivers’ drink/ drug driving. Briefly, if a taxi/ PLB owner only rents the vehicle to a driver for use in connection with the driver’s own business, the owner is generally not liable for the driver’s drink/ drug driving and hence not liable for any third party claims so arising. However, if the driver is employed by the owner, the owner would be responsible for any legal liability that might arise from the driver’s driving behaviour.

(b) Gale or storm signal No. 8 (or above)

12. Motor insurance policies (including those for commercial vehicles) generally do not contain a clause to exclude coverage when gale or storm signal no. 8 (or above) is hoisted. Notwithstanding, regardless of whether gale or

storm signal 8. (or above) was hoisted, policyholders are required to observe the policy condition that “the insured shall take all reasonable steps to safeguard the insured motor vehicle from loss or damage”. The insurer may decline a claim if the policyholder has not taken all reasonable steps to safeguard the insured motor vehicle from loss or damage.

(c) Chinese translation of policies

13. HKFI has provided Chinese translation for various types of motor specimen policies. The relevant policy wordings in Chinese and English are available in the website of HKFI (www.hkfi.org.hk).

Conclusion

14. Although the transport and insurance industries have introduced a number of measures to lower accident rates and claims amounts, they consider that the problem of insurance fraud is serious, and has led to huge claims payments. Hence, relevant Government bureaux and departments should work together with the industries to combat illegal activities like insurance fraud and champerty, with a view to reducing related insurance claims and providing room for reduction in premium rates.

Financial Services and the Treasury Bureau
Office of the Commissioner of Insurance
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Private Car, Taxi, Public Light Bus & Goods Vehicle Involvements in Accidents

Class of Motor Vehicle		Year			
		2007	2008	2009	2010
Private Car	No. involved in accident	6,450	5,927	6,085	6,255
	No. licensed (mid-year)	363,689	379,399	385,675	402,490
	Annual veh-km (in millions)	4,442	4,453	4,537	4,665
	Involved rate:				
	per 1,000 vehicles	17.7	15.6	15.8	15.5
	per million veh-km	1.45	1.33	1.34	1.34
Taxi	No. involved in accident	4,004	3,926	3,801	4,053
	No. licensed (mid-year)	18,045	18,084	18,126	18,129
	Annual veh-km (in millions)	2,102	2,135	2,130	2,200
	Involved rate:				
	per 1,000 vehicles	221.9	217.1	209.7	223.6
	per million veh-km	1.91	1.84	1.78	1.84
Public Light Bus	No. involved in accident	1,173	1,080	1,110	1,146
	No. licensed (mid-year)	4,349	4,346	4,349	4,346
	Annual veh-km (in millions)	387	380	377	364
	Involved rate:				
	per 1,000 vehicles	269.7	248.5	255.2	263.7
	per million veh-km	3.03	2.84	2.94	3.15
Goods Vehicle ^{Note 1}	No. involved in accident	4,033	3,851	3,434	3,757
	No. licensed (mid-year)	111,022	110,321	107,202	109,089
	Annual veh-km (in millions)	3,719	3,678	3,447	3,534
	Involved rate:				
	per 1,000 vehicles	36.3	34.9	32.0	34.4
	per million veh-km	1.08	1.05	1.00	1.06

Source: Road Traffic Accident Statistics from the Transport Department (Figure 3.1)

(http://www.td.gov.hk/filemanager/en/content_4474/f3.1.pdf)

Note 1: The figures relating to Goods Vehicle are the aggregated figures of Light Goods Vehicle and Medium & Heavy Goods Vehicles as published in the Road Traffic Accident Statistics from the Transport Department.

Underwriting Results of Private Car, Taxi, Public Light Bus and Goods Carrying Vehicle & Tractor Business

Year (HK\$'000)	2006	2007	2008	2009	2010
<u>Private Car</u>					
Gross premiums	1,403,092	1,417,667	1,510,411	1,466,003	1,550,933
Gross claims paid	624,468	664,649	802,169	758,272	693,023
Underwriting profit/ (loss)	211,384	80,387	(35,587)	(13,877)	63,231
<u>Taxi</u>					
Gross premiums	147,485	129,018	153,886	209,303	314,327
Gross claims paid	119,030	120,576	147,321	129,811 ^{Note 1}	107,741 ^{Note 1}
Underwriting profit/ (loss)	(4,025)	(30,677)	(50,882)	(25,940) ^{Note 1}	17,252 ^{Note 1}
<u>Public Light Bus</u>					
Gross premiums	96,993	94,819	90,557	135,001	169,571
Gross claims paid	68,269	80,774	95,787	97,694	86,801
Underwriting profit/ (loss)	(9,379)	(21,142)	(12,924)	(3,824)	30,813
<u>Goods Carrying Vehicle & Tractor</u>					
Gross premiums	660,520	636,264	675,753	641,992	666,242
Gross claims paid	389,517	501,876	534,037	476,479 ^{Note 1}	372,717 ^{Note 1}
Underwriting profit/ (loss)	(22,767)	(64,247)	(140,776)	(15,867) ^{Note 1}	12,389 ^{Note 1}

Note 1: Anglo Starlite Insurance Company Limited was placed into provisional liquidation in early May 2009. The bulk of the insurance claims made against the insurer, being in respect of Motor Vehicle Third Party Bodily Injury and Motor Vehicle Third Party Property Damage, have been taken up by the Insolvency Fund administered by the Motor Insurers' Bureau of Hong Kong. Under these circumstances, the claims figures of the insurer have not been incorporated in the relevant statistical data since the second quarter of 2009.