Improving the Auto Insurance System in Newfoundland and Labrador

Insurance Brokers Association of Newfoundland

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About IBAN

The Insurance Brokers Association of Newfoundland (IBAN) is an association of 16 brokerages who employ more than 1,100 people in Newfoundland and Labrador. We are responsible for 80% of all insurance sold in Newfoundland and Labrador.

IBAN is also a member of the Insurance Brokers Association of Canada, which represents more than 30,000 brokers in virtually every community across the country. As insurance brokers, we work on customers behalf to secure the best coverage in the market from the most trusted and secure federally regulated insurance companies.

Insurance brokers are not insurance companies. Our members aren't setting rates, but they are working with the public to makes sure that they find the insurance products that best meet their needs and budgets. Our members see every day how the current insurance regime does not serve these goals very well, with a number of factors serving to increase price while conferring no advantage to the public.

Newfoundland and Labrador's Insurance Challenges

Residents of Newfoundland and Labrador pay substantially higher auto insurance premiums than people that live elsewhere in Atlantic Canada. On average, premiums in this province are $1,100, versus only $800 elsewhere in Atlantic Canada, almost 40% more.

While insurance rates in different jurisdictions will never be exactly the same, a substantial portion of this difference is driven by solvable policy and structural issues. IBAN believes there are several changes that the province can adopt that will have a meaningful impact on managing premiums in Newfoundland and Labrador and improving the auto insurance market.

Newfoundland and Labrador has the most concentrated auto insurance sectors in Canada, with only 4 insurers available to brokers that write home and auto insurance. Any action the province takes should work to encourage additional entrants to provide greater choice for consumers.

Consumers and taxpayers in the province are feeling more and more squeezed in their monthly budgets with fee increases and tax hikes across the economy in recent years. This reality, coupled with subpar income growth, is contributing in an important way to the rate of uninsured drivers on our roads. With increased expenses across a wide range of goods and services in the private sector and in government, many of the province's consumers are ill-equipped to afford our high premiums.

IBAN's Approach

Brokers are keenly aware of the challenges faced by consumers in Newfoundland and Labrador's auto insurance market. We speak to the province's consumers and hear their concerns every day. It is also important to note that brokers are not representatives of the insurance companies. They are the small business people selling the products that insurers offer in the province. That product is a direct result of the particular conditions in the province: a low and dispersed population; a specific regulatory regime; and a unique set of competitive pressures and market realities.

IBAN's priority is to ensure that consumers have access to choice for their insurance needs. We advocate for a product that provides competitive rates in conjunction with fair and adequate coverage depending on the consumer's individual requirements for coverage. The government's priority in this review should be to create a sustainable auto insurance regime for the province that delivers to our consumers an affordable product with sufficient coverage. We seek to improve the product currently available to the province's drivers, and to deliver it at a manageable price that will ultimately increase the number of users and premium payers in the province.

With as many as three in ten drivers in the province in an uninsured position, the other seven in ten are forced through higher premiums to cover that revenue deficit in an already-thin pool of potential policy holders. Newfoundland and Labrador is a small market for any insurer, with only the population of a small city spread across a massive landmass. In order to create a fair and affordable insurance market for all consumers – and to also potentially entice new players to enter the market – a priority of this review should be to reduce the rate of uninsured drivers on our roads. We have concrete policy recommendations that would do just that. If we could increase the insured rate to just the national average, it would represent a significant influx of premium and a large market pressure towards lower rates for all consumers in the province.

Newfoundland and Labrador consumers pay by far the highest auto insurance premiums in Atlantic Canada. In 2016, for example, average rates in this province exceeded $1,100 per year. The other three Atlantic Provinces averaged between $775 and $820 per year. This represents a significant drain on the spending power of consumers in this province.

Decreasing the Number of Uninsured Drivers

There are too many uninsured drivers in Newfoundland and Labrador. The Royal Newfoundland Constabulary and RCMP caught more than 1000 drivers driving without insurance across the province in 2016. According to the Insurance Bureau of Canada, Newfoundland and Labrador has the highest rate of insurance claims for accidents with uninsured drivers in Atlantic Canada. It is very clear that a substantial portion of drivers on the province's roads do not have insurance.

This is a costly problem for Newfoundland and Labrador. Ultimately, those with auto insurance pay higher premiums due to payouts because of uninsured accidents, so even those not involved in a collision are harmed. For those that are involved in an accident with an uninsured driver, they will have to pay for any damage themselves or through their insurance.

There are already steep penalties for driving without insurance, ranging from fines starting at $2,000 to jail time. Those caught without insurance have their vehicles towed, and are unable to retrieve them until they can show proof of insurance. But stiff penalties are of little value if the risk of receiving one is relatively low. Unless you are pulled over by police for another matter, there is little chance of being caught.

There are a number of practical steps that the province can take to address this and make it easier to track who is insured and who is not, including assigning license plates to individuals, not vehicles, and requiring insurance companies to notify the province when a policy is cancelled.

These changes are:

Assigning Licence Plates to Individuals

In many provinces, license plates are associated with the individual, not the vehicle. That means that if a person sells a car or buys a new one, they bring their existing license plate with them. In contrast, in Newfoundland and Labrador a plate stays with the car, regardless of owner.

Associating a license plate with an individual makes it easier for law enforcement and the Motor Vehicle Registration Division to track those with and without insurance.

Enhancing Road Safety

While much of the attention of the insurance regime is spent on dealing with incidents that have already taken place, policy should also be aimed at prevention as well as reaction. Preventing accidents before they occur saves everyone suffering, time and money. Therefore the insurance review should consider policies that would enhance road safety and reduce the number of accidents and insurable events that take place on our roads.

Mandatory Winter Tires

Winter tires enhance performance during the cold months and prevent accidents by improving traction in winter conditions and by significantly cutting down on stopping time and distance. In Quebec, where winter tires were made mandatory in 2008, there was a decline in accidents that took place after the law's implementation. After the law was passed, winter tire use increased to 98 per cent of cars on the road and collisions were reduced by up to five per cent in the first year.

Similarly in Germany, between 2005 and 2008, collisions were cut in half from more than 12,000 to just over 6,000. Certainly other safety improvements played a role in this improvement, but the winter tire mandate of 2008 had an important effect in that country as well, a country that does not experience winters as extreme as we do.

IBAN recommends winter tires be made mandatory in the province between November and April.

Age-based Mandatory Inspections

Today's new vehicles are stronger than they ever have been before. Mandating annual inspections for new and near-new vehicles makes little sense, even in the context of a change in ownership.

However, as a vehicle ages and accumulates mileage, safety systems degrade and accidents become much more common. Therefore a mandatory annual inspection after a vehicle passes its eighth year on the road would help ensure the province's older vehicles remain safe and road-worthy.

Digital Proof of Insurance

Another innovation adopted by other jurisdictions to improve the consumer experience has been the allowance of a digital proof of insurance. The vast majority of the province's drivers have smartphones on them at all times, and so allowing them to store verifiable insurance data in them for presentation to law enforcement would help streamline a process that is currently cumbersome and paper-based.

This could be implemented with a transition period during which traditional paper pink slips would continue to be mandatory, but after a certain time (and provided the pilot period of the program rolls out as intended), consumers would be allowed to transition to a digital-only demonstration of coverage if they so choose.

Increasing Minimum Mandatory Liability Requirement

Every province requires that policy holders hold a certain minimum of liability coverage, which is used to compensate other parties for damages in the event of an at-fault claim. The government should increase mandatory liability to $1,000,000.

Newfoundland and Labrador currently only requires that policy holders hold $200,000 in liability coverage. For example, Nova Scotia requires a minimum coverage of $500,000. $200,000 can often be insufficient coverage in the event of an accident that causes multiple injuries or requires life-long care for those involved. For events that exceed this limit, the insured is responsible to cover any differences out of pocket. For many, in serious accident situations, the amounts involved could be enough to cause financial ruin.

There are many reasons that policy holders may choose a lower liability limit, though cost is often a factor. These savings can be an illusion, though. Lower liability maximums mean that, in the event of an accident where damages exceed them, other policies make up the difference, which creates a risk that inflates all insurance prices, even for drivers with a clean driving record. In the end, requiring all drivers to carry insurance policies that reflect real risks will allow for more effective pricing.

Making Section B Benefits Mandatory

Section B benefits are “no-fault” benefits for people injured in an automobile accidents regardless of who caused the accident, and generally you are covered by your policy regardless of who caused the accident. Typically, such benefits cover medical and rehabilitation expenses, as well as loss of income.

Newfoundland and Labrador is the only jurisdiction in Canada where Section B benefits are not mandatory. In every other province and territory, they are part of the basic insurance required to license a vehicle. This ensures that those affected by a collision are able to secure the assistance that they need to recover.

Making Section B benefits mandatory would, of course, introduce a small premium increase for those that do not currently have them included in their coverage.

Ultimately, though, Section B benefits are about ensuring that individuals involved in an accident have access to the financial supports that they need to recover, regardless of fault. Being injured in an accident is bad enough, it shouldn’t also be financially ruinous. Our specific recommendations are:

- We recommend making accident benefits mandatory, enhancing medical and rehab benefits to $50,000 and disability income to $250 per week, and establishing pre-approved evidence-based treatment protocols.

- Like Alberta and Nova Scotia, IBAN would like to see common diagnostic and treatment protocols. The intent of these is to provide people with common injuries with immediate access to evidence-based treatment on a pre-approved basis so that they can recover quickly.
- Funeral expense coverage set at $5,000.

Direct Compensation for Property Damage (DCPD)

Direct Compensation for Property Damage allows drivers to be compensated by their own insurer for property damages resulting from an automobile collision caused by another party. Introducing DCPD would not change a consumer's right to pursue other damages. It means that drivers will work with their own insurer to complete the claims process for property damage, rather than dealing with another party's insurer. This represents a more streamlined process for the consumer, who will have the advantage of dealing with a representative of a familiar insurance company to process their claim. It should allow the claims process to function more efficiently, resulting in claimants receiving appropriate compensation more quickly.

Premiums would not be negatively impacted by implementing DCPD in the province. Insurers would be – as in other jurisdictions such as Nova Scotia – prohibited from using a "not-at-fault" accident as a variable in determining premiums. Across a provincial market, DCPD would be cost-neutral.

IBAN recommends that the province implement DCPD in the province to improve the consumer experience when dealing with a no-fault claim.

IBAN Recommendations

- Work immediately to bring down the province's rate of uninsured drivers by assigning license plates to individuals and not vehicles, and by requiring the disclosure of cancelled policies.
- Increasing the mandatory liability minimum to $1,000,000.
- Mandatory winter tires.
- Mandatory annual inspections for older vehicles.
- Digital proof of insurance.
- Mandating Section B benefits.
- Improve Section B benefits with a focus on impactful rehabilitation.
- Implement DCPD in the province to improve the consumer experience when dealing with a no-fault claim.

Cap Versus Deductible

Much of the debate in the province over the current review surrounds the issue of a deductible on minor injuries versus a cap on payouts associated with them, and has the insurers on one side, pro-cap, versus lawyers on the other, who argue in favour of the current deductible/no cap regime. IBAN takes no position on this issue, but our members are very aware of the positives and negatives for each approach. It is important to note that much of the difference in premiums paid by consumers in this province versus other Atlantic provinces has happened since 2005, when the other three Atlantic Provinces instituted a cap on payouts for minor injuries. As distributors of whatever product insurers see fit to offer in the province, IBAN members take no position on the cap versus deductible debate, but can offer valuable insight on the pros and cons of each approach.

<u>Cap on Payouts for Minor Injuries</u>

Positive Aspects

- Limits payouts from insurers and therefore exerts downward pressure on premiums;
- Reduces litigation and associated clogging of our justice system;
- Could potentially entice new entrants into the market, further exerting downward competitive pressure on premiums;
- Benefits the majority of policy-holders a small amount – through a reduction in premium paid;
- Polling indicates public support for a cap if it can be shown to reduce premiums.
- Stabilize rates

Negative Aspects

- Limits access to compensation for drivers and passengers paid due to pain and suffering in the event of an accident;
- Introduces ambiguity around the debate about what constitutes a "minor" injury, an inherently subjective notion;

Ultimately, the decision of a cap versus deductible is a policy choice that the government must make, and each side will have supporters and detractors. It is impossible to satisfy everyone in this aspect of the review of our auto insurance regime, and the government must carefully weigh the pros and cons of all approaches before making its decision.

IBAN takes no position on either side of this debate. It only seeks to educate the public and government on the relative merits of each course of action, and to ensure that we create an environment that is competitive and sustainable for the long term benefit of the province's drivers.

Regulatory Framework and Market Concentration

The auto insurance market in Newfoundland and Labrador is the most concentrated in Canada among the provinces where private companies sell the product. As of 2015, the top three insurers in Newfoundland and Labrador comprised 76% of the auto insurance market. In the Maritimes, they comprised 39% of the market. In fact, there have been two high-profile exits in the past three years due to regulatory challenges in the province – Economical Mutual Insurance Company and Portage Mutual Insurance Company.

For all of Canada, they comprised 45% of the market. Even in Prince Edward Island, the smallest market in the country, consumers have more choice of insurance providers than in Newfoundland and Labrador. In 2015, on Prince Edward Island, the top three insurers comprised only 39% of the market. Notably, five insurers that in 2015 were among the top 10 largest providers of auto insurance in the Maritimes did not operate in Newfoundland and Labrador.

Additionally, there are insurers that operate elsewhere in Canada that choose not to do automobile insurance business in Newfoundland and Labrador, such as Wawanesa Insurance Company, Guarantee Company of North America, Pembridge Insurance, Pasco Insurance Company. Reforms that may entice just a small number of these players into our market would make for a more competitive auto insurance market for the province.

One of the main reasons for the lack of consumer choice in Newfoundland and Labrador is the regulations associated with auto insurance rates. The main problems with the rate regulation process in Newfoundland and Labrador are:

- The Board of Commissioners of Public Utilities' (PUB) use of industry-wide benchmarks to modify or reject the proposed rate of an insurer;
- The requirement for the PUB to approve a proposed rate prior to its use in the market;
- The cost of the PUB hosting public hearings to review rate applications; and
- The scope of rate regulation.

The best outcomes for consumers are realized when regulations protect consumers, promote competition and encourage companies to innovate. The current approach to regulating rates in the province:

- Risks having volatile changes in premiums;
- Has high administration costs that insurers and consumers have to incur;
- Spreads scarce regulatory resources across all applications for rate changes instead of just the ones that require greater scrutiny; and
- Maintains rates for consumers that do not necessarily reflect their level of risk.

Rate regulation in Newfoundland and Labrador is a lengthy and costly process. Instead of protecting the interests of consumers, it discourages insurers from competing on price, from reducing their rates and from investing in their operations in the province. Examples from the United States and other provinces in Canada show that there are more efficient ways at regulating the price of auto insurance.

Rate Regulation in Other Jurisdictions

The majority of jurisdictions in the United States use more principle- or risk-based processes for rate regulation than the prior approval process in Newfoundland and Labrador. The table below identifies the different types of rate regulation processes for private passenger vehicles and the number of states that use each of them.

<u>Rate Regulation in the United States</u>

	Prior Approval	**Flex-Rating**	**File-and-Use**	**Use-and-File**	**No Process**

States	12	6	24	8	1

Of the 50 states:

- 24% use a prior approval process;
- 47% use a file-and-use process, which allows an insurer to file its new rate with the regulator and use the rate in the market immediately, until or unless the regulator wants to review the rate in more detail;
- 12% use a flex-rating model, which allows an insurer to proceed through a less intensive review for a proposed rate change that is within a pre-set threshold or a prior approval review for a proposed rate change that is above the threshold; and
- 16% use a use-and-file process, which allows an insurer to use a new rate in the market before having to file it with the regulator.

Rate regulation is not the whole problem with auto insurance in the province. The cost of claims is much higher in the province than in the rest of Atlantic Canada. The review of auto insurance that the government is pursuing is an opportunity to ensure that the legislation and regulations supporting auto insurance meet the needs of consumers and the economic interests of the province. In addition to examining the legislation and regulations that prescribe the auto insurance product, rate regulation should be a main part of that review.

Conclusion

IBAN thanks the government for the opportunity to participate in this review, an important process for drivers, consumers, brokers and insurers in this province. Newfoundland and Labrador's 1,100 brokers are seeking a consumer-focused reform that seeks to enhance the safety of our roads and make life more affordable for our residents as they contend with the challenging economic situation the province currently faces. We, like the government, seek a sustainable and fair automobile insurance system for the province. We feel the recommendations contained in this document will help to achieve this important objective.

Whichever direction the government takes, we feel that this round of auto insurance review presents an important opportunity for the government to create a sustainable and viable market for the long term that delivers an affordable and comprehensive product to the province's drivers.