NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

Hearing Transcript

2017 Automobile Insurance Review

September 11, 2018

PRESENT:

The Board:
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Dwanda Newman, Vice-Chair
James Oxford, Commissioner

Board Counsel/ Staff:
Ryan Oake, Regulatory Analyst
Peter O'Flaherty, Q.C., Hearing Counsel

Parties (Alphabetical Order)

Atlantic Provinces Trial Lawyers Association
Ernest Gittens

Campaign to Protect Accident Victims
Colin Feltham
Jerome Kennedy, Q.C.

Consumer Advocate
Dennis Browne, Q.C.
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Insurance Bureau of Canada (IBC)
Amanda Dean
Kevin Stamp, Q.C.
Trevor Foster

Spinal Cord Injury NL
Lara Fraize-Burry
Michael Burry

Presenters:
Craig Allen
Presenting for the Campaign

(9:03 a.m.)
CHAIR:
Q. Good morning, everybody. I'll just turn it over to you, Mr. Feltham, or Mr. Kennedy. Who's going to present your presenter? Thank you.
MR. FELTHAM:
Q. Thank you, Chair, Commissioners. Good morning. The Campaign this morning is presenting Mr. Craig Allen, who is an actuary, and he's got two reports that have been filed with the Board. The first is concerning the taxi component of the review, dated April 4th, 2018, and a second larger report dealing with the review in a more fulsome manner, which July 18th is the date. We intend to deal with the taxi report first and then move into the second report from there, with questions to follow. Before we begin, Mr. Allen, can tell us your name and where you live?
MR. ALLEN:
A. My name is Craig Allen, and I live in Somerville, Massachusetts.
MR. FELTHAM:

Q. And how long have you lived there?
MR. ALLEN:
A. I've lived in Somerville for approximately - in the Boston area for approximately ten years.
MR. FELTHAM:
Q. And are you from that area?
MR. ALLEN:
A. No, I am Canadian. I grew up in the Vancouver area, and I spent the first twenty years of my career in Toronto.
MR. FELTHAM:
Q. And there is at page 3 of your – I'm sorry, I'm going to jump a little bit because I've got to go to the 2nd of July, 2018 report to refer to this. I'm sure it's contained, but a little bit of biographical information and I'd like to spend a little bit of time just to show that we can let the Board know who you are and some of your experience and your background. So at page three of that 2nd July, 2018 report, you've included some biographical information, and there it is on the screen. So can you maybe take us through that a little bit in terms of your

education and your actuarial background?
MR. ALLEN:
A. Yes. So I graduated in 1987 from the University of British Columbia in Mathematics. That same year, I moved to Toronto and joined Canada Life where I worked for two years in an entry level actuarial position. In 1989, I moved to Zurich Canada, now Zurich Insurance North America, also in an actuarial function and worked there for some six years with a fair bit of involvement in private passenger and commercial vehicle pricing. In 1995, I joined Lawyers Professional Indemnity Company, which is the errors and omissions insurance company of the legal profession of Ontario, and also between 1995 and 2004 the legal profession of Newfoundland and Labrador. So I got my fellowship in the Casualty Actuarial Society and the Canadian Institute of Actuaries in 1996, and in 2008, I moved to the US to join Liberty Mutual Insurance, worked there for two years, and for the last eight years I've been an independent consulting actuary. Since 2015,

I've been Chair of the Actuarial Evidence Committee of the Canadian Institute of Actuaries, so notwithstanding my location in the US, I'm still actively involved in the Canadian actuarial profession. As well, from 2014 through 2017, I was Eastern Vice President of the National Association of Forensic Economics. That's quantitative professionals who mainly quantify economic damages in litigation. As I mentioned, my previous involvement in Newfoundland and Labrador was fairly extensive in terms of the professional liability program for Newfoundland and Labrador's legal profession.
MR. FELTHAM:
Q. Mr. Allen, in terms of the – what was the nature – I guess, there are different positions that you have. What was the nature of some of the work that you did for insurance companies?
MR. ALLEN:
Q. So the primary activities of actuaries in property casualty insurance companies are pricing the product and setting reserves.

That is setting the liabilities for unpaid claims that go on the financial statements of the insurer. So I did the first of those primarily while at Zurich, and the second of those – and both of them at LAWPRO, at Lawyers Professional Indemnity Company.

MR. FELTHAM:
Q. And today you're here in a consulting actuarial capacity. You've been retained by the Campaign to Protect Accident Victims to do these reports, and to come here and give a presentation?
MR. ALLEN:
A. That's correct, yes.
MR. FELTHAM:
Q. Okay, Mr. Allen, it's begin with the first report, we'll call it, which is the report dated April 4th, 2018, if we could. I gather this report was issued by you following the submission of a report that was done by James Cameron for the Board?
MR. ALLEN:
A. That's correct.
MR. FELTHAM:
Q. And I take it that this report in large part

provides some commentary on a number of aspects of Mr. Cameron's report or opinion?
MR. ALLEN:
A. Correct, yes.
MR. FELTHAM:
Q. And at the bottom of page one of the report, if we could just go to that, please, there's a last paragraph where you note that, "The Cameron Report put forth the following measures as a means of controlling loss costs", and you list those four; an increase in the deductible applicable to general damages on bodily injury claims; two, the introduction of a monetary threshold where the deductible is waived if the injury claim for general damages exceeds the threshold; three, the introduction of caps on general damages on minor injuries; four, the introduction of verbal thresholds to restrict entitlement to general damages on bodily injury, and I gather that your report in large part is a commentary on those concepts that were discussed by Mr. Cameron?
MR. ALLEN:
A. Yes, that's correct. Mr. Cameron's Report

did cover in much detail how well claims had been handled in the taxi program. I have no comment to make about that. What I am commenting on is the recommendation, this recommendation that the report made as to measures that would reduce costs, and perhaps make pricing more affordable for the taxi program.
MR. FELTHAM:
Q. And if we go to page two of the report to get us into the report itself here, I'll turn it over to your somewhat, but we see here – the first thing we see is a chart. What is that chart telling us, Mr. Allen?
MR. ALLEN:
A. Yes, so what it makes a comparison between is the experience, the claims, and number of vehicles for taxis insured by the Facility Association, and it's restricted to the Facility Association because of the filings that are available from the Facility Association that provide that data. However, as Oliver Wyman has pointed out, that represents 95 percent of the taxis in Newfoundland and Labrador. So it will be

quite representative of the situation for taxis. The next two lines, the next two rows in the table, show the comparable experience for private passenger vehicles and for commercial vehicles, and what it shows is that the – the far right hand side of the table shows the loss cost per vehicle; that is the cost of claims per vehicle, and one can see that the cost is more than ten times as high for taxis as it is for private passenger vehicles, and higher yet compared to commercial vehicles. For taxis, $4,839.00, compared to only $433.00 for private passenger vehicles. Now that's for the third party liability coverage. So that's bodily injury liability as well as property damage liability. It's the combined two. We'll see the third from the right column, that the frequency of claims is much higher for the taxi program, 228 claims per 1000 vehicles, compared to only 29 per 1000 vehicles for private passenger auto. I'll note that certainly for private passenger vehicles the bulk of those claims are property damage liability claims. The frequency of bodily injury claims is much lower. Unfortunately, we don't have that information from Facility Association for taxis, so that's why I'm making the comparison for the whole third party liability coverage. So there's a very large discrepancy in the frequency of claims per vehicle between taxis and private passenger. There's a smaller discrepancy in the severity, and that's the average size per claim. The average size per claim for taxis is $21,253.00, that's the second column from the right, and for private passenger vehicles the severity is $14,600.00, so $21,200.00 for taxis compared to $14,600.00 for private passenger. What that shows is that frequency is the big discrepancy between taxis and private passenger vehicles. Also of note, and this is what I'm going to make a comment on in Comment 1 of the report, the number of earned vehicles is only 795 for taxis, that's 795 vehicles, compared to 320,000 private passenger vehicles. The measures proposed by the Cameron Report for

controlling cost are aimed at reducing the availability of compensation for bodily injury claims, and what that's proposed on is all motor vehicle accidents in Newfoundland and Labrador, the comment that I make is that the issue that's being addressed, that is the high cost of claims for taxis, is an issue that affects only 795 vehicles compared to 320,000 vehicles for private passenger. So the proposal is to limit compensation to accident victims even though the issue to be addressed affects only 795 out of more than 300,000 vehicles.
(9:15 a.m.)
MR. FELTHAM:
Q. And when you say the proposal, Mr. Allen, you mean Mr. Cameron's proposal?
MR. ALLEN:
A. Correct, yes. I should say "his recommendation", yeah, Mr. Cameron's recommendation.
MR. FELTHAM:
Q. Okay, and that's essentially – that's Comment 1?
MR. ALLEN:

A. Correct.
MR. FELTHAM:
Q. Okay, and then if we can move to Comment 2.
MR. ALLEN:
A. Yes. So as I pointed out earlier, the big discrepancy between taxis and other vehicles is in the frequency of claims, the number of claims per vehicle, not as much on the severity, and yet the recommendations made in the Cameron Report address severity. They largely address severity, I should say. There is a possibility with deductibles that there will be claims that will not meet that deductible, and so those claims would go away. That would reduce the frequency somewhat, but the other measures, the cap, in particular, would address primarily the severity of the claims. So the measure is aimed not at the biggest discrepancy, it's aimed at the secondary discrepancy. In terms of what the impact of raising the deductible would be on frequency, even though it could indeed reduce frequency, it will be on the smallest claims, not the largest. So hence, even if it does reduce

frequency, it would have only a small impact on loss cost; that is on the cost of claims that result in premiums being what they are.
MR. FELTHAM:
Q. Mr. Allen, in paragraph four under Comment 2, you say, "By contrast, measures that would reduce the number of accidents involving taxi drivers, particularly those that reduce the number of severe claims, would potentially have a much larger impact on the loss cost per vehicle".
MR. ALLEN:
A. Yes, the deductible would only – it wouldn't reduce the number of accidents, it would only reduce or eliminate compensation for the smallest accidents, and eliminate some compensation for the other accidents, whereas eliminating accidents altogether, especially the most severe accidents, will have a much larger impact on the loss cost. Taking $2,500.00, or even a larger number from each claim, will not eliminate the claims that exceed $100,000.00 or $200,000.00, or up to – or even higher.
MR. FELTHAM:

Q. And do you have, you provide it in the report, but some suggestions of other types of measures that actually may reduce the number of accidents and improve the loss cost per vehicle?
MR. ALLEN:
A. Yeah, including improved driver education and safety training for taxi drivers, better screening of taxi drivers, and measures to improve vehicle condition and roadworthiness. Now I'm not an expert in those matters, but I believe those are part of a program that has been put forth by the Campaign.
MR. FELTHAM:
Q. And when you say, "accident prevention measures", or the types of things that you're just describing, you say, "would be of benefit to all stakeholders". What do you mean there?
MR. ALLEN:
A. Yes, certainly, you know, those who are protected by insurance, preventing a claim rather than reducing the compensation available will prevent the uncovered

economic loss that's part of that. In addition, insurance always covers only a portion of the total loss that comes about through an accident. So there are bystanders, there are a number of other stakeholders who are adversely affected when there is an accident.
MR. FELTHAM:
Q. Okay, and in to Comment 3, this is a more lengthy comment, but I gather – to help set this up here, I gather what we're talking about here is this concept of all taxis having to go to Facility Association versus improving taxi claims experience, maybe getting some of those taxis out of the Facility and into commercial markets, regular commercial markets?
MR. ALLEN:
A. That's correct, yeah.
MR. FELTHAM:
Q. Can you take us through that?
MR. ALLEN:
A. Yes, so this largely follows from the comments made by Shawn Doherty, Senior Vice President of Facility Association, and what

he pointed out is that there is – Facility Association would like to move this business, the taxi business, away from its programs. It is a residual market. Ideally, insurance companies in the commercial marketplace will take those risks instead. What Mr. Doherty pointed out is that there's currently a state where there's a lack of confidence. There's a lack of information that would give insurance companies the confidence to pick up that business. So in terms of the Facility Association itself, it would like to promote the picking up of this business by commercial insurers, but due to the statistical information that's currently collected, they're not able to identify the portion of the taxi program that would meet the risk appetite of insurers. In terms of insurers having their own expertise and capabilities to identify insurable risks or ideal risks, better risks, without statistical information insurance companies are now in a state where they don't have the confidence that there's enough of that in

the current taxi program, and that's because of a lack of information. So what Mr. Doherty has pointed out is that this impasse that's currently in place, the one measure that he proposes to deal with that is for an interested party like, for instance, taxi drivers, to take the initiative and to develop a program that would, for instance, prevent accidents. What he proposes is that if such a program were to go forward and were to be successful, that that would give confidence to commercial insurers that there are subsets of the taxi book that would be favourable for them. And that would demonstrate that such a—that taking on segments of the risk would be favourable. If that were to happen, then the benefit of that is that first of all, the poor risks who are now undifferentiated in the Facility Association Program would be more clearly identified and they would likely see their rates go up or they might—yeah, they would likely see their rates go up within the Facility Association Program, and the result of that would be that they would either improve their practices in response to their higher premiums or they might actually leave the business which might be the best outcome if they cannot improve their claims experience. One of the measures as we touched on earlier that could—that might demonstrate the possible improvements or possible—that might demonstrate that there is a subset of the book that is attractive to insurers would be a Driver Certification Program and that was proposed by the Campaign. The Driver Certification Program would include training standards, taxi driving experience requirements, and tracking of claims and violations by drivers. So, the program could be monitored at all times and would be feasible. So, the overall benefits of such an effort would be by creating an incentive for drivers to—for taxis to undertake the program in the form of lower insurance costs that would create an incentive take loss control measures which would then reduce the cost of insurance for various stakeholders and would also reduce the number and seriousness of

accidents.

MR. FELTHAM:

Q. And then, Mr. Allen, in switching gears here, but to comment 4, and I gather this one is directed at Mr. Cameron's comment in his report or suggestion that, you know, Newfoundland and Labrador could adopt a threshold system akin to what exists in Ontario, but you've indicated that there may well be some potential pitfalls arising from a system such as Ontario which we know had very high insurance rates?

MR. ALLEN:

A. Yeah, I'll quote from the 2007 Civil Justice Reform Project that was undertaken in Ontario, and that was undertaken by the Honourable Coulter Osborne, and he did express in his report some concern about the verbal threshold that's been in place in Ontario. The—and the concern he has is that to demonstrate that an injury needs or does meet the threshold often requires the—often requires requesting a medical legal report, and the issue is simply the costs of those reports which add to the costs which are—

which add to the costs of the—of automobile accidents without that being directly improving the care of the—of injured parties. He mentioned one of the issues with respect to the determination of whether an accident meets the verbal threshold, and that's decided at the end of the trial. So, the—all the expenses of the trial are under—are incurred before it's decided whether the accident meets the verbal threshold. So, it if does not meet the threshold, those costs have all been spent and the threshold has not saved the system money. The—he did raise as well just the access to justice issues that barring recovery for those who meet the verbal threshold has the possibility that economically vulnerable individuals might be among those who are denied the ability to sue, and that may include the children and the unemployed elderly. A year ago, David Marshall produced a report also in Ontario on the Ontario system titled "Fair Benefits Fairly Delivered." And Mr. Marshall noted that because of Ontario's most—or because Ontario

has the most generous accident benefits program in Canada that it in turn has created the highest barrier institute tort recoveries which still has—nonetheless it's the highest third-party liability premium amongst the provinces with a similar distribution system. Mr. Marshall also pointed out that in its no-fault benefits system which also has qualification requirements based on severity of injury that thereto the costs of competing medical opinions have added costs to the system that don't go to the care of individuals. So, he had stated tens of thousands of dollars in the range of 15 to 20 thousand are spent on those, can be spent on those reports.

(9:30 a.m.)

MR. FELTHAM:

Q. And Mr. Allen, moving away from the proposal of threshold system like Ontario, under comment 5, this refers back to something from Mr. Cameron in his executive summary, and he's saying, "In its Executive Summary, the Cameron report states that taxi rate increases have been attributed to continuously escalating loss costs." And Mr. Cameron was asked about that when he was here, and frankly I think he conceded on this point, but nonetheless, it's in your report and I think we should refer to it to allow you to explain what we're talking about here, because I gather that in your view that comment is not borne out by what Oliver Wyman reported in the work that it did with respect to taxi statistics?

MR. ALLEN:
A. That's correct. From 2012 to 2016 that is for accidents that occurred in the period, Oliver Wyman pointed out that there hasn't been a systematic increase in the cost of claims, and to quote the report, "It appears that the changes from year to year are due to random variation. There's no apparent trend in this data."

MR. FELTHAM:
Q. And so, if there's no apparent trend, that means we don't have a continuous escalation in the loss cost? Is that what that means?

MR. ALLEN:
A. Yes, for that period, yes.

MR. FELTHAM:
Q. Okay. And moving, Mr. Allen, to the final piece of this report, comment 6, and I gather this particular comment, and I'll get you take us through this and there's a couple of charts here that require some explanation, but I gather Mr. Cameron was suggesting that a cap on general damages ought to be utilized to control claims costs. And what were your comments with respect to that and I guess as it relates to some of the other Atlantic Provinces?

MR. ALLEN:
A. Yeah. So, I would make a comparison, not only to what happened here in Newfoundland and Labrador after the deductible of 2500 was introduced in 2004, I also compared that to Nova Scotia experience after it introduced its cap in 2003. Maybe if we can move a little further along on the –

MR. FELTHAM:
Q. Over to page 7?

MR. ALLEN:
A. Over to page 7, yes. So, the red bars indicate years before the reform and blue

bars indicate the results after the reform, and you can see that there was not a significant change disruption in the year-to-year progression of loss costs in Newfoundland and Labrador, but more in terms of what's been proposed for caps, the next chart further down on this page –

MR. FELTHAM:
Q. Chart 2?

MR. ALLEN:
A. Chart 2, if we could move that.

MR. FELTHAM:
Q. And just before we get there, Mr. Allen, just to refresh us, the titles here, "TPL," that's Third-Party Liability; "BI," bodily injury loss; and "ALAE Costs." What are the—I mean, what are we talking about there? What are the—what's that category of costs?

MR. ALLEN:
A. Yeah, so that's limited to bodily—the bodily injury subsection of the third-party liability coverage. And loss and ALAE, loss is the amount that's paid to claimants in compensation for their injuries, either in a settlement or a judgment, a trial. The ALAE

is the cost of—that stands for Allocated Loss Adjustment Expenses. That's the costs allocated to individual claims paid by the defence, paid by the insurance company to defend the claim. It's primarily legal fees, although it can also include independent adjustor fees. Those are amounts that are—that can be earmarked to specific claims.

MR. FELTHAM:
Q. Thank you. Sorry to interrupt, but just—I'll take you back to chart 2 now.

MR. ALLEN:
A. Yeah, so in chart 2, so what we see there is the red bars are years that proceed or—in 2003 partially include the reforms in Nova Scotia. And what can see is that indeed the blue bars are lower than the red bars, but what's also the case is that the red bars were dropping. They reached a peak in 2000 and started declining at that point. There was quite a steep drop between 2002 and 2003 even though the reforms took place in the year in 2003. It's a continuation of a trend that had begun starting in 2000. So,

Page 25

the loss costs in the blue bars are indeed below those of the red bars, but that trend had started before the reforms took place.

MR. FELTHAM:

Q. And so, you know, what you're telling then is that if we look from 2000, chart 2, the year 2000, and start to move forward, 2000, 2001, 2002, 2003, we're seeing reduction in loss in ALAE costs each year, but there are no reforms then in Nova Scotia in terms of minor injury regulation reforms?

MR. ALLEN:

A. That's correct. Only late in the year in 2003. So -

MR. FELTHAM:

Q. Right.

MR. ALLEN:

A. But the previous bars, yeah, no reforms, yeah.

MR. FELTHAM:

Q. Okay. And I note your second report that we're going to get it does deal with this issue in much more detail. So, we can—I think we can conclude this part and we'll pick it up again, if you will, when we get

Page 26

to this question in the main report. Chair and Commissioners, that concludes Mr. Allen's taxi Report, if I can call it that for July—April 4th, 2018, and we'd now propose to move onto the presentation of the second report. So, Mr. Allen, the second report from July 18, 2018, I gather this—if I can set it up, this is divided into two parts really, right? You have section 1 and a section 2, if we look at your table of contents for example. And am I correct that the first part of your report looks at what are the drivers or what had been the drivers of auto insurance premium increases in Newfoundland and Labrador. In the second part you examine anticipated costs savings and premium reductions with a cap. Is that correct?

MR. ALLEN:

A. Yes.

MR. FELTHAM:

Q. Okay. And there is an executive summary, but I'm going to move from that right into the questions and—because we're going to have to review these in detail in any event.

Page 27

So, if we go to page 4, and report is structured in the question-and-answer manner. So, what I'd like to do is put the questions to you, and you can take us through your findings with respect to the answers. So, question 1 that you were asked with respect to this issue of the drivers' premiums for auto insurance in Newfoundland and Labrador was, "What is the trend for frequency of bodily injury claims in Newfoundland and Labrador?" And then a secondary question of, "Has there been a trend in the number of motor vehicle accidents as recorded by the Royal Newfoundland Constabulary?" And so, what were your comments on that?

MR. ALLEN:

A. Yes. So, the frequency of bodily injury claims, that's simply the number of claims divided by the number of hundreds of vehicles. And what we see is that in 2003 that number for bodily injury claims in Newfoundland and Labrador was .93 claims per 100 vehicles. Following the red line, we see that the number—that the frequency

Page 28

started declining fairly soon after 2003, and it almost continuously declined. It levelled out somewhat between about 2007, 2008, through about 2013, a little of an uptick, and then it started dropping again. So, the rate of bodily injury claims per 100 vehicles is now down, in 2017 is .55 per 100 vehicles. So, that's down almost—you know, down more than 40 percent over that period. The—what we looked at was the number of accidents to see what's driving that change. Is it due to fewer accidents on the road or is due to a change in the propensity to make a claim? And what we saw is that between 2006 and 2013 the number of accidents per—well, between 2006 and about 2011, the number of accidents as recorded by the RNC per hundred vehicles was growing. So, even as the number of accidents was growing, the number of bodily injury claims was not, which suggests that the rate at which actions are—or the rate at which claims are made for bodily injury is not out of control. It's—in fact, it's been quite stable and declining. Stable, if not

Page 29

declining. The—as has been pointed out, the RNC does not have jurisdiction over the whole province. So, this is—whereas the number of claims is across the whole province. It is, though, an indication or likely an indication of the trend from year to year in the number of accidents in the province as weather patterns and vehicle safety measures are—have an effect and affect much of the province.

MR. FELTHAM:
Q. And Mr. Allen, can you comment on the nature of the RNC data that you used here and why that was selected?
MR. ALLEN:
A. It's publicly available. It's reported in each year by the RNC. I did not find province-wide accident statistics. So, that's why the RNC was used. It does represent jurisdictions that represent about 40 percent of the population of the province and it also includes the major metropolitan area of here in St. John's.
MR. FELTHAM:
Q. And moving to question 2, page 5, and you're

Page 30

asked, "What is the trend in Newfoundland and Labrador with respect to average total premium for private passenger automobile insurance coverage?" And what can you tell us about that?
MR. ALLEN:
A. Yeah. So, since 2006 which is when the average per vehicle reached a trough, reached its lowest level, the amount paid per—in insurance premium per vehicle has risen from $874 to $1,123. That is an annual, average annual increase of 2.3 percent per year. Yet it's down from—it had reached a previous peak in 2003 of $1,035 and had dropped significantly. It has increased since then, so, but that's a 2.3 percent per year.
MR. FELTHAM:
Q. And I gather here, we're talking total premium? So, that's what – included in that is what folks are paying for, collision, comprehensive, whatever coverage they buy; it's not just third party liability coverage?
MR. ALLEN:

Page 31

A. That's correct. That's mandatory coverages and optional coverages and that's divided by the total number of vehicles purchasing mandatory coverage. So, if someone adds an optional coverage to their coverage package that will increase the amount of premium paid. It does not increase the number of vehicles over which that is spread.
MR. FELTHAM:
Q. And then if we go to question three, this time you were asked "What is the trend in Newfoundland and Labrador with respect to premiums for third party liability coverage?" So, this time now you're breaking out just the third party liability portion of the premium?
MR. ALLEN:
A. That's correct, yes. We still have the total premium represented by the red line. The blue line is the third party liability coverage and third party liability coverage had reached a low level of $570 in 2006. It's now – it has since increased to $654. That's an annual increase of 1.3 percent per year. So, the total insurance premium

Page 32

across all coverages has increased at 2.3 percent per year on average. For third party liability, it's only 1.3 percent per year.
MR. FELTHAM:
Q. And what is the third party liability premium charge for? What coverage does it relate to?
MR. ALLEN:
A. It relates to bodily injury coverage, as well as property damage coverage. So, property damage coverage being the damage inflicted by at-fault drivers on other vehicles and other property, including loading docks or garages, that sort of thing.
(9:45 a.m.)
MR. FELTHAM:
Q. So, insofar as bodily injury claims costs tie into premiums, we're talking about the blue line?
MR. ALLEN:
A. Yes, that's correct. Yes, the blue line includes both bodily injury and property damage coverage. The red line does as well,

Page 33

but the red line includes other coverages, such as collision coverage. So, that's when an at-fault driver's own at-fault – or rather an at-fault driver's own vehicle is damaged, they'll claim on their optional collision coverage or if a vehicle is damaged through adverse weather or is stolen, that would be covered by comprehensive coverage, which is another optional coverage. The red line includes those optional coverages and accident benefits as well. The blue line is the third party liability bodily injury coverage and third party liability property damage coverage.

MR. FELTHAM:

Q. And I mean, that change in third party liability premium being collected by insurers between – well, when it was $570 in 2006 to the 2017 figure of $654, I mean, do you have any comment on whether that's significant change, you know, considering the time period?

MR. ALLEN:

A. We might want to move to question four to

Page 34

put that into context, but what question four will do is relate that to growth in general inflation, that is growth in the consumer price index for Newfoundland and Labrador.

MR. FELTHAM:

Q. Okay. Well, let's do that. So, question four was "Provide an analysis of the change in third party liability premium in Newfoundland and Labrador over time as compared to the increase in CPI during that same period". Before we get to that, I mean, why are we comparing the pricing to CPI? What does that tell us?

MR. ALLEN:

A. So, what the CPI reflects is the growth in price in most goods and services. There is inflation in the economy. For the same product or service, we generally have to pay more in a later year than in an earlier year because prices go up. And that's what the consumer price index measures. So, if a product goes up at the rate of the consumer price index, it hasn't really gone up in economic value. Earnings generally increase

Page 35

with inflation as well as all other goods and service – or most other goods and services. So, if a good or service increases in price at less than the consumer price index, it has actually decreased in cost in terms of economic purchasing power.

MR. FELTHAM:

Q. Okay. And what have we seen in this province with respect to the third party liability premium charged by auto insurers as compared to the consumer price index?

MR. ALLEN:

A. So, as I mentioned earlier, the average third party liability premium in 2006 was $570 per vehicle. Had that increased just with the rate of general inflation, that is at the consumer price index, that would have increased to $707 by 2017. But in fact, but in 2017, the average cost of third party liability coverage was only $654. So, that's more than $50 short of what inflation would have taken the premium to.

MR. FELTHAM:

Q. So, in 2017, if I understand you correctly, Newfoundland and Labradoreans are not even

Page 36

paying for third party liability premiums an amount that's equivalent to what it would have been had it kept pace with inflationary rates?

MR. ALLEN:

A. That's correct.

MR. FELTHAM:

Q. And if something is not even increasing, in this case this premium, at a rate equivalent to consumer price index increases, you know, what does that tell us about that product?

MR. ALLEN:

A. That it's becoming more affordable over time. That it's – that the cost of the value – or the cost of the package of services provided by that has reduced compared to the overall price level.

MR. FELTHAM:

Q. And moving on to question five, page eight. Here you were asked: "What is the trend for frequency of third party liability property damage claims in Newfoundland and Labrador?" And then you were asked to compare that to bodily injury frequency. So, we're talking about frequency again, and this time, property damage in the third party liability context with a comparison to bodily injury frequency. What can you tell us about that?

MR. ALLEN:

A. Yeah. So, this, to some extent, mirrors what was in the response to the first question or to the – yeah, to the first question. That is how many accidents have there been relative to the number of bodily injury claims, and that, to some extent, is reflected by the number of third party liability property damage claims. So, many accidents happen without an injury, but most accidents result in damage to vehicles and other installations. So, the third party property damage coverage generally is more frequently triggered by an accident than bodily injury claim. And what we see on this chart, when we compare the blue line, which is the frequency of property damage claims, and that's across the whole province. When we compare that to the rate of accidents as reported by the RNC, we see that the two lines are generally parallel,

and even though the RNC line is not the whole province, we see that fluctuations from year to year are comparable between the property damage claims and accidents as reported to the RNC.

So, we see that the number of property damage claims had grown between 2008 and about 2013, and it's since been declining. The number of bodily injury claims though did not increase appreciably during that period.

MR. FELTHAM:

Q. And then over to question six, page nine, where you were asked: "What is the trend for severity of third party liability property damage claims in Newfoundland and Labrador and how does that compare to BI severity?" So, this time you're being asked for a comparative analysis, I guess.

MR. ALLEN:

A. Yes. So, the chart, Chart 6, the red line represents average claim sizes for bodily injury. There's a scale on the left-hand side of the chart that's in tens of thousands of dollars and that represents the

amounts, the average claim size for bodily injury claims. The scale on the right-hand side is only in thousands of dollars. That's the average claim size for property damage. So, as could be expected, the cost to repair a vehicle will be less than the loss of earnings and cost of care in a bodily injury.

When you put those two lines over each other with different scales, you'll see that they increase at a very similar rate and that's actually borne out in performing a regression analysis that is fitting a line to those data points that I followed the same procedure that Oliver Wyman did in using a log linear model that is fitting an exponential line to those data points. And what that showed is that between 2004 and 2017, that is post the introduction of the deductible, bodily injury deductible in Newfoundland and Labrador, that the rate of increase in severity per year has averaged 4.4 percent and that's true for both bodily injury and property damage. The property damage is increasing at – or bodily injury

is increasing at a rate no different than that of property damage.

MR. FELTHAM:

Q. And then if we go to Chart 7, the lines look a little different there. What are we seeing here?

MR. ALLEN:

A. So, we're going back to loss and ALAE per vehicle. That's the cost per purchaser of insurance. And the blue line represents the property damage cost. The red line represents the bodily injury cost. As Chart 6 showed us, the rate of increase per average claim is increasing at the same rate for property damage and for bodily injury. What Chart 7 shows is that when you take frequency into account that the rate of increase in cost for property damage is higher than – per vehicle, the rate of increase per vehicle is higher for property damage than for bodily injury.

So, part of the major driver is the cost of – of the third party liability premium is the cost of claims for each of property damage and bodily injury. What we see is that the rate of increase in that for property damage is higher than that for bodily injury. So, if there's a driver of an increase in cost, property damage is certainly playing a part in increasing the cost of third party liability premium. Although as we've seen, third party liability premium has only increased at less than the rate of inflation.

MR. FELTHAM:

Q. Speaking of severity changes, I believe subsequent to this report, you did some examination of – in response to questions from the IBC, I believe – some examination of severity trend changes as it relates to other Atlantic Provinces?

MR. ALLEN:

A. Yes. So, as I mentioned earlier, between 2004 and 2017, the average severity per claim for both bodily injury and property damage has been an increase of 4.4 percent per year in Newfoundland and Labrador. That compares to what the increases have been for New Brunswick and Nova Scotia. New

Brunswick, this is from 2004, so this is post the reforms that went in place in 2003. From 2004 to 2017, the rate of increase of bodily injury claims is 7.6 percent in New Brunswick compared to the 4.4 percent in Newfoundland and Labrador. The same rate for Nova Scotia from 2004 to 2017 is 5.9 percent compared to the 4.4 percent for Newfoundland and Labrador. So, in both those provinces, the rate of increase in claims – or in severity of claims has been greater since 2004 than it has been in Newfoundland and Labrador.

MR. FELTHAM:

Q. So, the severity of claims in the two Atlantic Provinces – with New Brunswick and Nova Scotia with reforms, what you're telling us is that the severity – the rate of increase in severity is greater than it has been in Newfoundland during the same period, 2004, 2003-2004 onward?

MR. ALLEN:

A. That's correct. Yeah, the severity is lower in those provinces and it did decrease with the introduction of caps. But since then,

the rate of increase has undone more of that saving than the rate of increase in the bodily injury, average bodily injury cost in Newfoundland and Labrador.

MR. FELTHAM:

Q. Then if we go to question seven, Mr. Allen, you were asked: "What has been the trend in Newfoundland and Labrador in terms of the percentage of vehicles carrying collision on comprehensive coverage and how does that compare to the other Atlantic Provinces?" And then you were asked about the relationship to total premiums charged. So, can you take us through this analysis?

MR. ALLEN:

A. Yes. So, as pointed out earlier, the rate of increase in total premium is 2.3 percent since 2006 in Newfoundland and Labrador. 2.3 percent compared to 1.3 percent for third party liability coverage. One of the explanations for that discrepancy is that more people in Newfoundland and Labrador have been buying optional coverages. So, they've been paying more premium, but they've been getting more insurance for

that. And as the first chart shows, in 2006, 67 percent of vehicles carried optional collision coverage. By 2017, that had increased to 76 percent. So that increase from 67 to 76 is part of the reason for the increase in the amount of premium paid for auto insurance. At the beginning of that period, Newfoundland and Labrador was – the percentage was the highest of the four Atlantic Provinces, but it has increased at a greater rate than those other provinces.

In terms of Chart 9, that's looking at the comprehensive coverage. The collision coverage that's for moving – or for damage that's happened with an at-fault driver who's been moving. Comprehensive coverage is for when the vehicle is stationary. So, as I mentioned earlier, weather related damage or theft is covered by comprehensive coverage. Back in 2001, Newfoundland and Labrador had the lowest percentage opting for comprehensive coverage, only 63 percent. That has now increased to the highest

percentage in the Atlantic Provinces, now 81 percent of vehicles carry that coverage.
(10:00 a.m.)
So, the red line on Chart 9 shows a rapid increase in the percentage of vehicles carrying optional coverage, availing themselves of more insurance. The other lines show lesser increases.
MR. FELTHAM:
Q. So, if I understand you correctly, in this province, insurance consumers, auto insurance consumers are buying more coverage when it comes to comprehensive optional coverages, comprehensive and collision. I don't mean in terms of limits coverage, but the numbers of people buying that particular product, and that's a factor that goes into the fact that rates are what they are, in terms of what the average premium being paid is?
MR. ALLEN:
A. That's correct, yes. I mean, there are two factors. There are price increases on a given amount of insurance, but there's also, certainly in Newfoundland and Labrador, an

increase in the amount of insurance being purchased.
MR. FELTHAM:
Q. And then turning the page, you've got another chart here. Same topic, but I wonder if you can explain this chart for us. This is a little less straightforward, I would suggest, than the last two, at least to me.
MR. ALLEN:
A. Yeah. So what this chart does is it puts all together the increases that we saw – that we've seen in third party liability premium and puts it on the same page, the same chart as the increase – as the premium paid for other coverages. So, the dark blue, that's third party liability coverage and the red is the optional physical damage coverages, that is the collision and comprehensive coverages that I just mentioned that are being bought at a greater rate. And the dotted black line that represents inflation as represented by the consumer price index. As we seen previously, the rate of increase in the

premium for third party liability is less than the consumer price index, so that's why the dotted black line is going up at a higher rate than the dark blue bars. You will see the red bar is increasing in width at a fairly sharp rate, and that's those optional physical damage coverages and that reflects both price increases in those coverages, as well as the greater rate of purchase of them. So what this shows is that it breaks down the increases that people are paying in terms of premium into those components.
MR. FELTHAM:
Q. And over to question 8, page 12, here you are asked, "What is the breakdown of the proportion of premiums charged in Newfoundland and Labrador by insurers for bodily injury claims and for third party property damage claims? If that date is not available, please describe a proportionate breakdown in terms of claims' costs." What are we getting at here, Mr. Allen?
MR. ALLEN:
A. So unfortunately we don't have a breakdown

in premium into its property damage and bodily injury components for third party liability, all we have is the total, so to look at what's happened under the surface, this chart shows the average per vehicle of each of the bodily injury and property damage, and what we see in 2006, the bodily injury component of that was $282.00 per vehicle. That has increased to $350.00 per vehicle by 2017, it actually had increased and then had since fallen, it increased to a peak by about 2015 and has since fallen. The cost of property damage claims per vehicle was $65.00 in 2006, it's increased to $100.00. So between 2006 and 2017 the average annual rate of increase of total third party liability claims is 2.4 percent, but the rate for bodily injury is only 2 percent per year. The rate for property damages double that, 4 percent per year. So the year-by-year increases in cost in bodily injury are significantly lower, percentage wise, than property damage.
MR. FELTHAM:
Q. And then over to Question 9, which is your

last question on this particular section concerning the drivers of increases in total premium, you were asked, “What appear to be the drivers of increases in average total premiums charged to Newfoundland and Labrador since 2006”, and we’re talking about auto insurance, of course, “And how do bodily injury claims settlement costs figure into those increases if at all?” And take us through your answer to that, Mr. Allen.

MR. ALLEN:

A. Yes, so certainly as previously covered, the total premium increased at a rate of 2.3 percent per year between 2006 and 2017 and that’s higher than the rate of CPI increase, which is 2 percent per year. Third party liability premium has only increased at 1.3 percent per year, so we’ve covered all that already, and why the difference between the 2.3 percent for the total coverage and the 1.3 percent, the third party liability, it’s the optional physical damage coverage, that is made up of both price increases for optional physical damage coverage, as well as increased take up of the optional

coverage. The price increases had been 3.6 percent per year on average and the rate of increased of take up of those coverages had contributed 1.2 percent per year. So the total increase in physical damage, layout for physical damage coverages is 4.8 percent per year upon average. So, the bodily injury loss cost, as mentioned, is increased at 2 percent per year, property damage, third party liability property damage at 4 percent per year, so as we see the bodily injury increase in loss cost is not the largest of those percentage increases. The physical damage and property--and third party property damage coverages are increasing at higher rates and those are hence the drivers of the 2.3, the primary drivers, the 2.3 percent increase per year in premium.

MR. FELTHAM:

Q. And, Mr. Allen, I’ll draw your attention to the last paragraph on page 13, first sentence, “Bodily injury claim settlement costs appear to have a minor role, if any, in increases in average premiums in

Newfoundland and Labrador since 2006.” So in your view, what you’re telling us is that to the extent that there have been increases in the average premium charge for auto insurance in this province since 2006, that’s not being driven in any meaningful way by bodily injury claim settlement costs?

MR. ALLEN:

A. That’s correct. I mean, they certainly have—they have contributed to an increase, but they’re certainly not the largest contributor to that increase and in fact, they’ve gone up only at the rate of inflation.

MR. FELTHAM:

Q. And if we look at your chart on page 14, Chart 12, which goes with the answer here, what are you showing us with that?

MR. ALLEN:

A. That’s moving the CPI dotted line up from tracking the blue bars to tracking the total height of the bars, and what it shows is that since 2006 the total premium paid for auto insurance has risen at a higher rate than CPI, so it’s gone up by more than the

rate of inflation.

MR. FELTHAM:

Q. So it’s somewhat above, I gather, if you look at the top of the red, well top of each bar, say from, looks a little under in 2006 and then it starts to get above in 2009 and, you know, in the last three years, 2015 to ’17, we see it’s a little above the CPI line. Even still, I would suggest it’s tracking CPI fairly closely, would you agree?

MR. ALLEN:

A. Yes, pretty closely. To quote the numbers as pointed our earlier so that the total bar is increasing at a rate of 2.3 percent that I had previously mentioned, CPI increases at a rate of 2 percent per year, so that’s that .3 percent per year difference.

MR. FELTHAM:

Q. All right, Mr. Allen, that does it for Section 1 or Part 1 of your report. I’d like now to move on to Section 2 which deals with the anticipated cost savings and premium reductions that might come with proposed caps, and this part of your report involves some consideration of the work that Oliver Wyman consultant did on this topic as well, is that correct?

MR. ALLEN:

A. Yes.

MR. FELTHAM:

Q. Okay, and the first question is rather long, but I'd like to go through it and it says, "Examine the assumptions made by Oliver Wyman concerning percentage change in frequency, the assumptions are that the proportion of minor injury claimants would reduce by 5 percent, 10 percent or 15 percent." And that's the notion that frequency would change, claim frequency would change with minor injury reforms with a cap, and Oliver Wyman notes, "It is difficult to determine the degree to which the minor injury regulations contributed to decline in frequency of BI claims in other provinces." And then you were asked, "What does the corresponding decline in frequency in bodily injury claims in Newfoundland and Labrador over the same historic time period examined mean for the reasonableness of this

assumption?" So Ms. Elliott maintains that the minor injury reforms in New Brunswick, Nova Scotia, they had an impact on claim frequency in those provinces. What is your opinion as to whether the minor injury regulation in those provinces could be said to have contributed to a decline in frequency of bodily injury claims?

MR. ALLEN:

A. Yes, looking at the historic patterns, as we saw in the Taxi Report, frequency peaked in most provinces about 2000, so if we can move forward to Chart 13 –

MR. FELTHAM:

Q. That's page 16 of your report?

MR. ALLEN:

A. Yes. So there we see frequency year by year for Newfoundland and Labrador and for Nova Scotia and we see that in both provinces the frequency peaked in 2000, 2001, it has been mostly falling ever since. The reforms in Nova Scotia took place in 2003, looking at the green line there, we see a drop that started in 2000 and beginning about 2003, the rate of decrease actually slowed down,

that is we're seeing the green line dropping at a certain rate between 2001, 2003 and then there's a kink in the line, it flattens out somewhat. And when I calculate the average rate of decrease, when I fit a regression line to that green line, what I find is that if I fit that line between 2001 and 2003, it decreases at an annual rate of 10.9 percent. When I add 2004 to that, the decrease between 2001 and 2004 drops to 9.8 percent, and then it keeps dropping as I add additional years to that. When I add 2005, it drops to 8.2 and then go all the way to 2009, it drops to 7.4. So there was a decrease between 2001 to 2003 of almost 11 percent in frequency that started slowing down once the, coinciding with the introduction of the reforms. What that suggests is that the reforms, at least there was not a decrease in frequency that coincided with the reforms. The other point that I would make is that the Newfoundland and Labrador line, which is red, it is higher. There is indeed a higher frequency per vehicle of bodily injury claims in

Newfoundland and Labrador; however, changes in that frequency have largely tracked what happened in Nova Scotia. Those two lines are fairly close, you know, generally parallel, so that too suggests that perhaps the reforms in Nova Scotia and New Brunswick—or Nova Scotia in this case, have not added additional effect. Whatever was driving frequencies down, whether it's improved vehicle safety, better roads, changes in weather patterns, those things all seem to have affected both Nova Scotia and Newfoundland and Labrador. The reforms that only affected Nova Scotia or the cap, anyway, that did not affect Newfoundland and Labrador does not appear to have added additionally to that change in frequency. Moving forward to Chart 14, we see similar results for Prince Edward Island, although the volume is very low. Moving further forward to Chart 15, in New Brunswick the frequency has declined at a greater rate than it has in Newfoundland and Labrador, but thereto, once the reforms were put in place in New Brunswick, the rate of decline declined. It actually increased in one year, 2004, but subsequent to that it declined, so from 2001 to 2003, there was a very steep decline there at 16.1 percent per year. You can see the blue line going down quite steeply starting at about 2001. That continues through to 2004, then there's an uptick in 2005, so there was actually an uptick after the introduction of the reforms. So by the time you get to 2009, the average rate of decrease has gone down from 16 percent, down to 9.9 percent. So the reforms themselves in New Brunswick did not accelerate the rate of decline in frequency, the decline was higher than in Newfoundland and Labrador, but that decline was in motion before New Brunswick's reforms.

(10:15 a.m.)

MR. FELTHAM:

Q. So let me see if I can distil this a little bit. So your opinion then, if I understand it correctly, is that minor injury regulation reforms in New Brunswick and Nova Scotia did not have an impact on claim

frequency?

MR. ALLEN:

A. They did not have an impact on over and above trends that were already in place.

MR. FELTHAM:

Q. And to the extent that there would be no change in claim frequency with it, as a result of the cap, if we take a lesson from New Brunswick and Nova Scotia that the trends may have already been in place and we can't come to that conclusion that it's as a result of the minor injury regulation, it follows from that, I take it, that we would not expect then to see savings in claim costs due to reduced frequency?

MR. ALLEN:

A. That's correct.

MR. FELTHAM:

Q. And I'll mention this because there are a number of questions on this topic that were put to Ms. Elliott in written form by the Campaign around her opinion as it relates to the change in frequency and whether it was brought about by minor injury regulations in Nova Scotia and New Brunswick after the

reforms, and I gather you read her responses to those, have you?

MR. ALLEN:

A. Yes, I have.

MR. FELTHAM:

Q. And have those responses that she's provided as to explain her analysis and why she comes to this conclusion, has that changed your view in any way?

MR. ALLEN:

A. It hasn't changed my view. Now I will say that the responses did not include what the full model was, the full statistical model that was used, so to some extent I'm inferring from statements what's in that model. I will say that I had requested or I suggested, asking what would the results be if the break point, instead of being 2003, 2004, if it had been other years, let's say 2002, 2005, 2006. The response did a statistical test that took into account both 2004 and those other years, and it was a statistical test that didn't show the respective magnitudes, but it would be, the test in, according to my understanding, does

not necessarily allocate how much the change in 2004 contributes and how much those other years contribute. It just looks at is it due to random fluctuation or not, so I didn't see in the response a complete description of what the respective effects of the reforms and other impacts were. As well I would like to mention that on Chart 15, we see in 2004 a decline in frequency offset by an increase in 2005, that the response remove the 2005 data point and showed an inordinate test, whether 2004 was an outlier, I might have removed the 2004 data point, rather than the 2005 data point.

MR. FELTHAM:

Q. Now if we move on to Question 2, Mr. Allen, page 18, you were asked to "examine and comment on the assumptions made by Oliver Wyman concerning the proportion of claims that would be subject to a cap, if implemented. Note the discrepancy between this feature reported by Oliver Wyman and Intact Insurance. In the event that Intact's assessment is accurate, what are the impacts on cost reductions and premium savings?" And then you were also asked, "Are there concerns arising from the validity of reliability of the Closed Claim Study that may be a factor"—and we're talking about the IBC Closed Claims Study, "that may be a factor in this measurement." So I guess to break this down a little bit, the first thing is, you know, there are two Closed Claim Study numbers, one arising from the Insurance Bureau of Canada Closed Claim Study, but then Intact had done its own and had given some figures in its submission, and you were asked to look at what the outputs would look like if Intact's Closed Claim Study sample were considered.

MR. ALLEN:

A. Yes.

MR. FELTHAM:

Q. So looking at that and then there's a secondary piece of the reliability on the IBC and concerns you might have there with respect to that Closed Claim Study, but dealing with the first item first, if we look at proportion of claims estimated to be subject to a cap with Intact versus what the

IBC's Closed Claim Study finds and how does that factor into the results?

MR. ALLEN:

A. Yes, so Intact's study only found 55 percent of its claims that it examined would be subject to the cap and that compared to Oliver Wyman's finding of between 66 and 76 percent. The result of that is that for a $5,000 cap which was examined by both studies, the savings, the cost reduction by Intact was estimated only to be 19.9 percent; whereas it was estimated by Oliver Wyman, assuming no change in frequency, to be 21 to 27 percent. Oliver Wyman estimated a larger saving.

MR. FELTHAM:

Q. So I'll just stop you there for a second. So if Intact's study is more accurate or gives us a better picture of what reality would be in terms of the $5,000 cap, the result is is that a $5,000 cap minor injury reform would not translate into a level of cost savings that we see produced by Oliver Wyman.

MR. ALLEN:

A. Correct, it would be a lower cost saving.

MR. FELTHAM:

Q. Okay, and can you comment then, because I think the rest of your answer goes into this, reliability or considerations with respect to both of these Closed Claim Studies and what are your views on that?

MR. ALLEN:

A. So the Oliver Wyman study does have a feature that increases what one would expect to be its reliability and that is that it draws from a larger population of claims. The Oliver Wyman study draws from 1,425 claims, 1,741 claimants and that's drawing from six different company groups. So all else being equal, there would be less sampling—sorry, in contrast, Intact's study only drew from 388 claims, so that's 1400 claims for Oliver Wyman, 388 for Intact. So all else being equal, a larger sampling size would have less sampling uncertainty, so the Oliver Wyman study has an advantage in that regard. That said, the Oliver Wyman study taken from the 2018 Closed Claim Study uses data drawn from 18 different insurers from

six different insurer groups, and those insurers will have different claims handling practices. Intact will have set out policies and procedures that will be uniform throughout its operations. Six different companies will have six different sets of procedures, and so that will, that can be expected to lead to differences in the judgments that are used as to whether a claim fits as a minor injury or not, so it can just be expected that there will be less consistency from company to company in the Oliver Wyman study or in the study that Oliver Wyman used, rather. And I'll quote from the Oliver Wyman study, "Each insurer operates with its own set of underwriting rules", and these, as Oliver Wyman says, "these rules may lead to conclusions that are not applicable to any particular insurer." So a given claim, classified as minor injury within one insurer, that same conclusion may not hold in another insurer. The next point I would make about the use of the Closed Claim Study is that the Closed Claim Study was prepared without independent audit and IBC managed the collection of data for that study and IBC is certainly experienced in that field, but it was only IBC, and so in a previous Closed Claim Study done in 2004, the Board engaged three independent consultants also to assure or to try and maintain the quality and objectivity of the study, Bern Fitzpatrick, an independent insurance consultant; the accounting firm, MKHK Chartered Accountants; and a medical consultant, Sue Rideout-Vivian. They were all retained in order to ensure that there was a consistent injury definition and that the classification of claims followed that.

(10:30 a.m.)

MR. FELTHAM:

Q. And Mr. Allen, just on that point, as an actuary being provided with data to utilize to make calculations, do whatever you are going to do, based on that data, how do you view that in terms of we look at the Closed Claim Study done in this review and no MKHK, no Bern Fitzpatrick, no medical mapping through physician, no audit process, how

would you compare the two in terms of the data if it was provided to you on one Closed Claim Study versus the other, what would your concerns be, or would you have any?

MR. ALLEN:

A. Well, we're often, as actuaries, working with the data that's available, so you know, I think Oliver Wyman, that was what he had available and they're making an estimate. The more quality assurances in place, the more weight one would put on the conclusions drawn from those statistics.

MR. FELTHAM:

Q. If we go to Question 3, page 20, and this question has to do with ALAE costs and an assumption that Oliver Wyman made and that was that ALAE costs would decrease with a cap, and you were asked, "Have ALAE costs decreased post-cap in other jurisdictions and if there's no substantial decrease in ALAE costs, what are the impacts on cost reductions and related premium savings?" So I guess what you're looking at here is, you know, can we assume that ALAE costs would decrease if we look at the Nova Scotia and

New Brunswick experience with those costs post reform, and if that's not the case, what happens in terms of the impacts on any kind of premium savings that we might see from a reform?

MR. ALLEN:

A. Yeah, so what Chart 16 shows is the average ALAE cost per vehicle and for New Brunswick and Nova Scotia, blue being New Brunswick, green being Nova Scotia, and so as we've seen on other charts, there's a high point early in the 2000s, so this chart begins in 2001 and average ALAE cost per vehicle is relatively, it's higher at the beginning of this period, and it starts to decrease. The reforms in those two provinces which took place in 2003, in New Brunswick between 2003 to 2004, we see a drop in ALAE cost per vehicle, but then we see a rebound in 2005. If you take out 2004 which appears to be unusual relative to the trend that's operating under the other points, we see a pretty smooth line from 2004 through to about 2008, see a reduction in ALAE per vehicle. That reduction was in place before

the reforms, so what that calls into—what that suggests is that the reforms did not, themselves, cause the decrease in ALAE, that there was a trend already in place there.

MR. FELTHAM:

Q. If minor injury regulations don't bring about savings in the ALAE costs, what's the conclusion we reach or should reach with respect to any cost reductions and related premium savings from those?

MR. ALLEN:

A. Yes, we would expect—we would not expect savings due solely to caps. And that follows from the frequency—we've seen evidence that frequency does not decline or hasn't been appreciably affected by the reforms. So, once a claim is opened, their allocated loss adjustment expenses that are involved with resolving that, so if the frequency remains where it was going to be, ALAE is probably going to remain fairly close to what it was. So, looking at the green line, we see there—and in an even more pronounced fashion from 2002 to 2008, the ALAE cost per vehicle has, in Nova Scotia, declined in a fairly smooth fashion. It appears not to have been significantly affected by the cap that was put in place in 2003.

MR. FELTHAM:
Q. And they've actually risen since 2008 in both provinces.

MR. ALLEN:
A. Yes, it can be expected that just inflation and the cost of ALAE will do that. You know, as I pointed out earlier, the severity per claim has increased in those two provinces since 2004. So, that can be expected.

MR. FELTHAM:
Q. And in question 4, if you would go to page 21 please, I'm thinking this is more for illustrative purposes, but you're asked to assume all other Oliver Wyman assumptions and applicable factors remain as postulates. I guess, in other words, let's assume that Oliver Wyman's conclusions with respect to decrease in frequency that will come with the reform, changes in the ALAE costs to a decline, and the other items changing

nothing in terms of those assumptions that Oliver Wyman has built into their calculations. You were asked what are the impacts on cost savings and premium—I'm sorry—and reductions for a cap equal to the present day Nova Scotia cap value of 8,579 versus the 7,500 examined by Oliver Wyman? So, Oliver Wyman has a category of cap of $7,500.00. It was what was put to them, I understand. Nova Scotia being the example here, their cap today is actually 8,579.00 and if we use that figure instead, what is the difference in terms of the changes in savings and reductions cost?

MR. ALLEN:
A. Yeah, so the Nova Scotia cap was 7,500 in 2010 and it is now increase with CPI each year. So, that's why it's now at almost 8,600 compared to 7,500. And what you see, looking at the table, the first row of the table is an estimate of what the savings would be just based on Oliver Wyman's results for 7,500 and 10,000 and it will just be—I just project that it will be somewhere in between those two. I used a

straight line approximation to show that the savings will be less than for 7,500. It would be more than for 10,000.

MR. FELTHAM:
Q. Okay. And then if we go to the final item here, Question 5 in your report. You were asked, "what is the current profitability of private passenger third party liability insurance in Newfoundland and Labrador"? How does that compare to the results for New Brunswick and Nova Scotia"? So, what are you being asked here?

MR. ALLEN:
A. Yes, so this report which is produced by GISE, the General Insurance Statistical Agency, breaks down, it allocates premiums, claims and expenses between jurisdictions. And in order to estimate profitability in each jurisdiction, it is inherently an estimate because there are many costs and revenue sources within an insurance company that will be generated throughout the company that may not be ear marked to specific provinces. But what this does, at least as an approximation this shows what

the net income was to the industry of in each province for the third party liability coverage. And what we're seeing is that in 2016, the profitability, the net income in Newfoundland and Labrador is a loss of 4.6 million. However, that's that less of a loss than we're seeing in New Brunswick and Nova Scotia. New Brunswick almost 31,000,000; Nova Scotia, 27,000,000. So, the point that I would just make is that the reforms for what they've done, they haven't resolved the issue of stability of premium in those two provinces. If the coverage is not making money in those provinces, then rate increases are likely to be necessary.

MR. FELTHAM:
Q. Mr. Allen, I guess it's fairly obvious from the chart, but in fact, this would suggest insurers are doing better in Newfoundland and Labrador on this particular piece.

MR. ALLEN:
A. Yes. You know, I mean, all the caveats about how this is, this depends on allocations that may or may not—that are approximate.

MR. FELTHAM:
Q. Allocations, who is doing the allocating?
MR. ALLEN:
A. GISA is.
MR. FELTHAM:
Q. Okay. Chair and Commissioners, that concludes the presentation of Mr. Allen's report and he's available for questioning.
CHAIR:
Q. Thank you, Mr. Feltham; thank you, Mr. Allen. Mr. Gittens, do you have any questions?
MR. GITTENS:
Q. Thank you, Madam Chair. Mr. Allen, I just want to go back, first of all, to your background and the breath of what you do. And I want to find out a little bit what you currently do. First of all, it's obvious from your CV that you've been in the industry for many years. I take it you've worked on behalf of the insurance companies for many of those years.
MR. ALLEN:
A. That is correct.
MR. GITTENS:

Q. Okay. And you have gone into consulting over the last eight years, was it?
MR. ALLEN:
A. Yes.
MR. GITTENS:
Q. And in that capacity, do you still work for the insurance industry at times and for persons or organizations challenging the industry, on occasion?
MR. ALLEN:
A. Yes, I currently do work for insurance companies and I'm also retained by plaintiffs as well as defendants to provide expert testimony on economic damages.
MR. GITTENS:
Q. So, you're on both sides of the fence depending upon the retainer, as it were.
MR. ALLEN:
A. I'm independent, yes.
MR. GITTENS:
Q. Yes, that's another way of putting it, you're right. Okay, so with that background, my next series of questions is to assist myself, quite frankly, and hopefully the Board, in some of the basic

concepts of what was going on when we were talking about the taxi industry study. Because as a novice, as a neophyte in this area, my understanding of insurance is that the basic concept was to have a pool of insurance purchasers so large that within that pool, people who may be higher risk or end up costing more will be covered by the great majority of—their costs will be eaten up or covered by the great majority of the participants. Am I getting that correct? You can probably put it much more elegantly that I just did, but please try.
MR. ALLEN:
A. Yes, it is true that those whose claims costs are unforeseeable in the year coming up, yes, those who have claims will, their costs will be borne by, on those who have smaller or no claims. The distinction that I would make is if it can be ascertained in advance, that some insureds have a higher propensity, either for incurring a claim or incurring larger claims, then the rate making principles as promulgated by actuarial organizations propose

differentiating that indicating a higher rate for those who are more likely to have claims and lower rates for those who are less likely.
MR. GITTENS:
Q. Okay, so therefore I think what you're saying is what your current president calls the bad actors. If you can identify the bad actors, you can segregate them and charge them a higher premium and leave the pool undetermined or more regular folk to pay their premiums to cover that group and within that group, any additional bad actors would be covered that group.
(10:45 a.m.)
MR. ALLEN:
A. I'm sorry, when you mentioned the second group, additional bad actors, and I'll use the term, higher claims costs or higher loss cost insured, are you speaking of an additional unidentified group of higher costs –
MR. GITTENS:
Q. Yeah, I'm thinking that in part of any large group you're going to find some people who

are higher costs—what did you say—higher costs –
MR. ALLEN:
A. Yes, higher loss cost insureds.
MR. GITTENS:
Q. - higher loss costs and the intention of the insurance program is to have their costs spread among the larger population.
MR. ALLEN:
A. Yes, those who have claims will be higher loss cost and yes, their claims will be spread amongst the larger group. Those who could be identified as higher claims costs, ideally they would not be in included in that group. They would be in their own group. There is always the risk that there are individuals who cannot be identified in advance and that's why there are things like claims surcharges to try to equalize their subsequent premiums. But yeah, there is always a risk that there are individuals who, at the current state of the art in insurance, are not yet identified.
MR. GITTENS:
Q. Okay. Because it strikes me that if you

segregate out the taxi industry and you say, well those guys are going to be higher loss cost participants and you put them in a separate group, you being-essentially put a group that needs to pay more or higher premiums from the get go. Am I getting that correct?
MR. ALLEN:
A. It is correct that if you use taxi or driving a taxi as the primary identification of those individuals, yes, as a group, they will have higher loss cost than other vehicles and that's as demonstrated in the statistics that I showed. Within that group, there will likely be some who have lower loss costs and other who have higher loss costs and with skill or with statistics, that could be predicted in advance. As the Facility Association told us, there are the statistics at the moment to identify those individuals and there aren't the incentives at the moment, there isn't the confidence in the insurance industry that its expertise will identify those higher, or lower loss cost

individuals. So, at the moment, there's an impasse, but it's conceivable that the taxi group can be subdivided into smaller groups, some of which have higher loss costs, other have lower loss cost.
MR. GITTENS:
Q. And I take it, we just identified a taxi group, but the reality is that there are any number of factors that can be applied to discriminate to segregate parts of the population. I believe years ago that we segregated young drivers, anybody under 25 have a higher premium if they were just getting into the driving industry and so on. Was that—am I getting that correct or am I making that up in my own head.
MR. ALLEN:
A. Yes, that's correct.
MR. GITTENS:
Q. Okay. So, you may have young people, you may have elderly drivers. Whatever designation you want to put on it, you are able then to create a separate group for them which would be at a higher premium than your general population group.

MR. ALLEN:
A. To the extent they've been identified as higher loss cost, yes.
MR. GITTENS:
Q. Okay. So, when we are dealing with the taxi industry in this province, and you were telling us that essentially the studies took in about 800 or 900 taxis compared to 300,000 of the general population drivers.
MR. ALLEN:
A. Yes.
MR. GITTENS:
Q. Which obviously is an extremely small group of high loss cost individuals as identified either by the insurance industry or by government agency or however they were determined to be in that group. Is that a fair statement?
MR. ALLEN:
A. Yes.
MR. GITTENS:
Q. Okay. So, using another American expression I guess, from the old banks in 2008, too big to fail. What we've actually done is created a systemic designed group that's

designed to fail. If they're all going to be put into the Facility Association and we've all grouped all these high loss cost individuals—I prefer bad actors because it's such an easier thing to say—but higher loss cost, we've put them all in there. We have to expect that their premiums are going to go through the roof. Fair statement?

MR. ALLEN:

A. To the extent that they're not being differentiated and you know, based on the loss cost or the statistics that have been presented, yes, their premiums will need to, well their loss cost are higher. Through the mechanism at the Facility Association, some portion of their costs are being distributed amongst the industry as a whole, but yeah, without—if the only identification is that they drive a taxi, then yes, the loss costs will be high.

MR. GITTENS:

Q. So, we've grouped them into one group where we would expect that their loss cost experience is going to be substantially higher than the general population group.

MR. ALLEN:

A. Yes, they have been grouped like that, yes.

MR. GITTENS:

Q. Fair statement, okay. So, we can say, however we do that's been systemically designed to operate in that fashion.

MR. ALLEN:

A. I would hesitate to say systemically. Facility Association has identified that it's unfortunate that there are not more detailed statistics available to differentiate individuals within that group. And has also indicated that underwriting expertise, the insights that come from experience are also, that insurers have within their skillset, that that expertise is also capable of identifying lower loss cost individuals. At the moment there's an impasse in the sense that there's neither the statistics nor an incentive or confidence within insurance companies that there is a large enough market there. Someone needs to demonstrate that to the insurance industry.

MR. GITTENS:

Q. So, we're not going to put his on the taxi drivers, they are not going to keep those type of statistics. But this is 2018 and I would think the insurance industry has the capacity to create those statistics to be able to make the informed decisions that people like yourself do, the calculations of risk and so on to be able to price or to identify the low loss cost individuals in that group. Is that a fair statement?

MR. ALLEN:

A. I would say there is a number of bodies that could take the initiative on that, you know. It could be the government, it could be an across Canada organization of taxi drivers, perhaps if there's a large enough number of individuals with an interest in it, it could be them. It could be the insurance industry, although the insurance industry has, as pointed out by the Facility Association, has questions as to whether there's enough volume to, for it to be financially sustainable for them to do that. So, the question is, who is going to take the initiative? That's what I've seen as

the question in what's being presented.

MR. GITTENS:

Q. So, if we go back to the source of the complaint, shall we say, the taxi drivers can complain that they're being charged too much in the Facility Association book of rates. The insurance industry can say gee, sorry, we don't have enough information to segregate out the low cost individual taxi drivers and have a different level for them. So, you're going to be lumped in with all the high cost taxi drivers, in this very small sample, 8 or 900, and what you're telling us is until somebody breaks that impasse, it's just going to remain that way.

MR. ALLEN:

A. That's my understanding, yes.

MR. GITTENS:

Q. Okay, fair enough. So, we know who can do something and who is just sitting back and complaining about it in the sense of saying that we don't have the information to make those decisions. When you spoke earlier about the issue—and you had a fair number of charts showing the frequency of incidents and I'm moving on now from the taxi drivers to the third party liability claims. The take away I got from pretty much everything you were saying in that regard was that, let's face it, whether we put in caps, deductibles, get up in the morning and swear you're going to be a good person, whatever mechanism you put in there is not going to change the frequency of accidents and then as a result of that, the frequency of claims. Am I getting that correct or am I making that one up because I've tended to do that, you know.

MR. ALLEN:
A. The empirical evidence suggests that the measures that have been put in place haven't taken the frequency off the path that it was already on. Now, in terms of the true cause, you know, looking at the metaphysics of it, that perhaps, you know, we don't know the precise reason that claims have declined. We do know that they started declining before reforms and that the rate of decline didn't accelerate in a sustained fashion after the reforms.

MR. GITTENS:
Q. Okay. So, I get it. I take it what you're saying there is that we're talking for weeks now about putting in caps and not putting in caps and so on, but on the issue of the frequency of the occurrence, caps/no caps are not going to make a hell of a difference.

MR. ALLEN:
A. It could be that individuals knowing, individual drivers knowing that they're more, that they are taking more risk when they get behind the wheel, may choose not to drive. There could be factors like that. Maybe they would drive more carefully—the empirical evidence doesn't suggest that that's happened, but it is possible that there is what's called more hazard that is when someone doesn't face the consequences of their negligent actions. They may be more likely to engage in those negligent actions. The empirical evidence that we have that I've seen is that the reforms themselves didn't change the frequency from the path that it was already on.

MR. GITTENS:
Q. That's fair to say, I think, from your own experience, that for at least three to five minutes after I see a police car on the opposite side of the road, I drive a lot better, but after seven, eight, nine minutes, I go back to my normal driving which may not be as good as it should be. That's the normal experience, is it not? So, if we're told about caps for a period of time, it might come to our attention when we get into the car, but by and large we revert back to the norm in some degree of time.

MR. ALLEN:
A. That's possible. And I don't have any evidence on that. I've seen the rate at which claims occur. I mean, as we saw yesterday people are often, unfortunately, not necessarily aware of the extent of coverage that they have in light of the fact that insurance is fairly technical.

MR. GITTENS:
Q. We'll get to that in a second in terms of the coverage that Newfoundlanders seem to carry and why. But at the end of the day we

can, as a bottom line for this Board, say that there is no empirical evidence to tie in that there will be a drop in the frequency rate simply because a cap is instituted.

MR. ALLEN:
A. My interpretation of the empirical evidence is that that has not happened. And that Oliver Wyman has done a study that says it has, that based on what I see, I haven't seen a sustained –

MR. GITTENS:
Q. You're not convinced.

MR. ALLEN:
A. I don't see it in data that I've seen, examined.

MR. GITTENS:
Q. Okay, so when we talk about things like frequency however, you did mention that there may be some very practical things that can be do not within your expertise. You talked about certifying taxi driver or driver education, probably improving road signs and road quality and things of that sort, but certainly not simply by the

Page 89

introduction of some form of cap or insurance product.

(11:00 a.m.)

MR. ALLEN:

A. Well, a cap, a low enough cap could reduce the cost of insurance and did, we have seen in New Brunswick and Nov Scotia in the year following the introduction of the cap, severity has dropped, although it has rebounded somewhat. But in terms of what would reduce the amount of loss, what would reduce the amount misery? The elimination of an accident will eliminate much more loss than a cap. A cap would shift the burden of the loss from one party, an insurer to claimant.

MR. GITTENS:

Q. They went onto the general population.

MR. ALLEN:

A. That's possible too, yes.

MR. GITTENS:

Q. Okay.

MR. O'FLAHERTY:

Q. Madam Chair, I've noticed a lot of the counsel looking at me and I thought it was

Page 90

at me, but I see there's a close behind me.

CHAIR:

Q. Yes, I'm just trying to—I was trying to find a good spot to stop. I didn't want to interrupt, Mr. Gittens. This might be a good time for break?

MR. GITTENS:

Q. Thank you.

CHAIR:

Q. Thank you, Mr. O'Flaherty.

(BREAK – 11:02 a.m.)

(RESUME – 11:30 a.m.)

CHAIR:

Q. Back to you, Mr. Gittens.

MR. GITTENS:

Q. Thank you, Madam Chair. Mr. Allen, this may be an unfair question because I'm just trying to deal with your broad experience, as I said. And I had forgotten to ask you a question on the taxi stuff. Essentially are you aware of the manner in which taxi drivers are dealt with in other Provinces in Canada, as opposed to through the Facilities Association?

MR. ALLEN:

Page 91

A. No, I haven't looked into that.

MR. GITTENS:

Q. Fair enough, just thought I'd try. Okay, I wonder if you could move to your response to question number 4, second part of your second presentation. Yes. I noted that from your analysis there you've indicated that the cost of the third party liability premiums in this province since 2006/2007 to the current time, 2017 at least, there has been an increase that has been lower than the consumer price index. Am I correct in that?

MR. ALLEN:

A. Yes.

MR. GITTENS:

Q. Okay. I would suggest to you that the perception of the public is that their insurance premiums have continued to increase. So, I think what we're dealing with here would be a question of the facts versus the feelings. The facts, you're saying, is that third party costs, third party liability costs have not increased the same amount as the consumer price index, but

Page 92

the public perception is that their insurance keeps going up. Would you agree that that is a statement that covers both the general population and the facts as you found them here?

MR. ALLEN:

A. Certainly with respect to the facts that I presented here, yes. The premium has gone up less than the rate of inflation. As to what the public's understanding is, I have no comment.

MR. GITTENS:

Q. You don't know, but you indicated that in addition to finding that the third party liability cost of premiums has increased somewhat, but not at a level of the consumer price index. But in fact the overall cost to the Newfoundland population, Newfoundland and Labrador population as far as insurances go, that, in fact, has gone up because they have been purchasing additional insurance products. Am I getting that correct?

MR. ALLEN:

A. Yes. There have been price increases in excess of the rate of inflation on physical

Page 93

damage coverage as well, but yeah, certainly there's been an increase in the rate at which people are purchasing that.

MR. GITTENS:

Q. In addition to that and I'm always careful because I could be making this up. I thought you indicated somewhere along the line that the additional coverage that people get or the coverage that people get from insurance, it is your belief that many of them don't know what, in fact, they have purchased. I think that came out as a result of the evidence yesterday, the testimony yesterday.

MR. ALLEN:

A. That's right. The responses to the individuals testifying was that they did not know.

MR. GITTENS:

Q. Which show that they really didn't understand what Section B coverage was and they may not have a real understanding of what collision or comprehensive coverage amounts to. Am I getting that –

MR. ALLEN:

Page 94

A. It's possible that they don't. I mean, the comments yesterday were, yes, indeed about Section B coverage. I don't know to what extent that extends to the physical damage coverage. People are—one might expect that if people aren't aware of physical damage coverage, optional physical damage coverage, they wouldn't be purchasing it in greater amounts than they were. They are buying it in greater amounts. Perhaps it's their broker who is recommending it, perhaps the bank is requiring it as, you know, with a bank loan or a lease. There could be a number of discretionary or inertial reasons that people are purchasing more of the physical damage coverage.

MR. GITTENS:

Q. Okay. So, the bottom line from what you're saying is you're aware and your figures support the fact that Newfoundlanders and Labradorians are buying more of other lines of insurance, other insurance products. I'm taking about collision, comprehensive, property damage. They're buying those, but you're not sure that they may all appreciate

Page 95

what that really amounts to.

MR. ALLEN:

A. I really have no comment about their appreciation of that. I heard a comment yesterday about Section B. I can only speculate as to people's aware of the optional physical damage –

MR. GITTENS:

Q.

A. Of what those options are and what they actually mean.

MR. ALLEN:

A. Just one comment I'd like to make. You mentioned property damage, if you're speaking of third party liability property damage, that's a mandatory coverage. So, there's no discretion there. It's the collision, comprehensive, all perils, those are a separate class of optional coverages.

MR. GITTENS:

Q. And if I remember, I don't remember what table you had, you showed that from Newfoundland and Labrador, started off as being the lowest purchaser of those optional coverages, but currently are the largest

Page 96

purchaser of those coverage compared to the other Atlantic Provinces. Am I correct on that?

MR. ALLEN:

A. Yes, only speaking specifically of comprehensive coverage. With respect to collision coverage, Newfoundland was higher up at the beginning of—higher than other provinces, but –

MR. GITTENS:

Q. If you could just refer—which tables were those again?

MR. ALLEN:

A. Chart 8 and chart 9 on page 10.

MR. GITTENS:

Q. Okay. And 8 is in relation to collision coverage.

MR. ALLEN:

A. Yes.

MR. GITTENS:

Q. And Newfoundland started off at about 63 and now it's 76. And comprehensive coverage started off again at about 63 percent and now are the highest at 81 percent. That's for comprehensive coverage by province

compared to the other Atlantic Provinces.
MR. ALLEN:
A. Correct.
MR. GITTENS:
Q. Alright. So, while we know this Board has to deal with both the fact and the feelings in terms of what it's going to go resolve at the end of the day, the facts are that Newfoundlanders and Labradorians are buying more insurance coverage. Further fact is that third party liability costs, premium costs has not kept up with inflation.
MR. ALLEN:
A. That's correct.
MR. GITTENS:
Q. Okay, good enough. Then I'd like to look at your question 5. You're making some comments in relation to question 5. Okay, in question 5, you're being asked the trend for frequency of third party liability property damage claims. How does that compare to bodily injury frequency? But if I recall you saying that this was not the full story. This is not the chart I'm actually looking for. There was a chart in

which you provided the relative costs losses for the industry in the Province. Could you get to that chart, please?
MR. ALLEN:
A. Are you speaking of losses in terms of profit and loss?
MR. GITTENS:
Q. Yes.
MR. ALLEN:
A. Yes. That's page 22.
MR. GITTENS:
Q. Okay, thank you. We have that chart now. When you were describing the performance of the insurance industry and you were looking at Newfoundland and Labrador, you said there was a loss in, I believe, it was third party liability of four hundred six hundred and twenty million?
MR. ALLEN:
A. 4,620,000.
MR. GITTENS:
Q. I was close, 4,620,000. Then you mentioned that that's not the full picture. I thought you did anyway because it doesn't really account for the allocations. Am I getting

that correct?
MR. ALLEN:
A. There are allocations that are made and my understanding is this is all encompassing profit and loss, but what I was bringing up is that there are expenses and revenues that are, in fact, not allocated, not specific in the operations of the insurance company to either Newfoundland and Labrador, nor to this coverage in particular. Like, for instance, investment income is not— investments aren't made specific to premium brought in from third party liability from Newfoundland and Labrador. The insurance company will invest funds through its— collected from other jurisdictions, other coverages in one pool. And similarly there are expense that are incurred, that are incurred from an office. Let's say an office could be in another province, but serving Newfoundland and Labrador and it's serving other coverages, the rent, the heat, even some of the salaries will, in fact, be shared between this coverage, this province and others jurisdictions, other coverages.

MR. GITTENS:
Q. So, when we look at this 4,620,000, do I understand you to be saying while that's a figure that's here to be compared with the 31,000,000 loss in New Brunswick and the 27,000,000 loss in Nova Scotia. The reality is that there are aspects of those numbers which are not reflected at the current time, in those figures.
MR. ALLEN:
A. If I'm understanding your question correctly, when you say not reflected at the current time, I'm not sure what you're meaning by that.
MR. GITTENS:
Q. Okay. Well, let's break it down then. There's $4,620,000.00 in loss. That's for 2016.
MR. ALLEN:
A. Yes.
MR. GITTENS:
Q. You talked about allocations, but another word for allocations or one component of allocations would be the reserves that are being held to pay off claims that are

associated with the insurance year or claims year 2016. Is that correct?

MR. ALLEN:

A. The reserves are indeed an expense component reflected here. Those are actually—actually that's not what I would first describe as an amount to be allocated. Those are actually more readily identified to this coverage in this province.

MR. GITTENS:

Q. Okay. So, the reserves are something quite different than the allocation, but the reserve for 2016, I take it, would not have settled as yet, because that's very recent. It's two years ago and there may be still claims to be paid out for 2016 which those reserves may be intended to cover and when they're done, there may be some left over that will go back into profit as opposed to being associated with a loss.

MR. ALLEN:

A. No, those amounts, they are not specific to accidents in 2016. They are specific to insurance company operations in the financial year 2106. So, there will indeed

be reserves in that number. There also will be reductions in reserves from previous accident years or increases in reserves from previous accident years. So, it is not the case that this figure represents 2016 claims exclusively at a young age.

(11:45 a.m.)

MR. GITTENS:

Q. Okay, so when the dust settles, taking from your testimony and the figures produced here, there's one thing we can say. We can say that 4,620,000 is not the final word on the performance of the insurance industry in Newfoundland and Labrador for the year 2016.

MR. ALLEN:

A. In terms of financial reporting, it is the final word, although it's allocated. In terms of what had gone into that, there are indeed claims in progress, and so in subsequent calendar years, yeah, those claims, depending how they're –

MR. GITTENS:

Q. That final word will change in a year's time when some more of the 2016 claims have solidified or completed?

MR. ALLEN:

A. That will go into a subsequent row in this table for 2017 or 2018. If those claims – if the estimated value of those changes, then that change will be reflected in the year in which the change is made. So if they change in 2017, that will go into the row 2017. If they change in 2020, then it would go into a subsequent row in 2020. 2016 would not change.

MR. GITTENS:

Q. That really confuses me, I'll tell you, because I'm asking if indeed when the insurance industry reports its performance for the year 2016, and part of that performance reflects that they have had losses as a consequence of payouts for third party liability claims, bodily injury, that, in fact, because that's a recent year and there are still reserves being held to pay for claims that arose in 2016, that that figure is not the final figure that will reflect how they actually performed for the year 2016? Am I making a complete misunderstanding – am I displaying my

complete ignorance here, or can you help me?

MR. ALLEN:

A. No, no, it is correct that for claims that occurred in 2016, the outcomes of those will be distributed over a number of financial statements issued and reported by the insurance company. So those will be seen in subsequent rows of it. To the extent this table is updated, those would be seen in subsequent rows. The income of an insurance company reported its financial year end is the mix of payments and estimates, and if there are changes in estimates, those are assigned to that particular year. If you're speaking of how the 2016 underwriting year performs, yes, that will take a number of years to be finalized.

MR. GITTENS:

Q. So, I guess, my question becomes when we look at figures like this and a claim is being made that there was a loss of $4,620,000.00 in the Newfoundland and Labrador environment, the fact that figure does include an amount that has been reserved for the settlement of claims that

Page 105

occurred in 2016, but may not be settled until 2017, '18, '19, or '20?
MR. ALLEN:
A. That is correct, yes.
MR. GITTENS:
Q. So the profits that they made from what they did underwriting in 2016 may not show up on their books until '17, '18, '19, '20, '21, until that 2016 year has been completely dealt with?
MR. ALLEN:
A. That is correct, yes. Each years financial statements is a measure, it's the best information available at the time, but the best information available at the end of 2016 on claims that occurred in 2016, it is the best information available at the time, but it's subject to adjustment at later years.
MR. GITTENS:
Q. Okay, and I take it you are familiar with the history of what took place because you have the charts between 2003 and 2008 in the other provinces where the cap came in, and the argument for the cap was that the

Page 106

insurance companies were losing money. In fact, for the next five years or so, they made substantial profits in the range of between 20 and 30 percent ROE, simply because what had occurred in 2001, 2002, and 2003, had not come home to roost until '05, '06, and '07, later years?
MR. ALLEN:
A. Yeah, I don't have any comment on what the rates were that were charged in those provinces subsequent to the –
MR. GITTENS:
Q. Yeah, I'm not talking about the rates. I'm talking about the results, the profits that they made after the introduction of caps in Nova Scotia, New Brunswick, and PEI, in 2003, which were presumably brought in to assist the industry in becoming profitable, and then for those next five or six years they were extremely profitable because the results exceeded the expectations, and also exceeded what they had told the various boards they anticipated for those years?
MR. ALLEN:
A. Not having looked at, unlike what you've

Page 107

done, I haven't looked at the results for those years. I haven't referred to this table for those years, so I don't have any comment on that.
MR. GITTENS:
Q. Okay. No further questions for this witness, Madam Chair.
CHAIR:
Q. Thank you, Mr. Gittens. Ms. Fraize, do you have any questions for this witness?
MS. FRAIZE-BURRY:
Q. We have no questions.
CHAIR:
Q. No questions, thank you. IBC.
STAMP, Q.C.:
Q. Yes, thank you. Mr. Allen, just a few questions on the Taxi Report material, if we could. Did I understand you to say that the chart at the second page of your report – I don't guess the pages are there. It's the 2015 accident year results chart.
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. This is the second page of your April 4th

Page 108

letter. Did you say that the 795 FA taxis, the earned vehicles for 2015, that that was about 95 percent or something?
MR. ALLEN:
A. That represents – according to Oliver Wyman, that represents 95 percent of the taxis in Newfoundland and Labrador.
STAMP, Q.C.:
Q. And so should we assume that 5 percent are either uninsured or insured somewhere else?
MR. ALLEN:
A. I would – it could be there are those, I suspect, insured somewhere else, but I don't know.
STAMP, Q.C.:
Q. All right. In terms of, I guess, your Comment 3 which, I guess, picks up on this chart as well, I guess, if I – if I sort of summarize where I think you are, you're thinking that FA should try and download or offload some of the taxi business?
MR. ALLEN:
A. Yes, FA wishes to do so if they can.
STAMP, Q.C.:
Q. But, of course, that issue of who insures

Page 109

the taxis, that only just determines, I guess, what premium those taxis will pay. I mean, if they're moving to a different market from FA, maybe their taxi rates might lower, I don't know, but let's assume that they might, it only – where they are, whether they're in FA or out of FA, only decides how much premium they pay?

MR. ALLEN:
A. No, I would actually make the comment, I think I made it here, that to the extent that the lower loss cost risks are moved out of FA, then there's less opportunity to subsidize the higher loss cost.

STAMP, Q.C.:
Q. Yes, I was going to come to that, but what it means is that if you take some of those drivers, the taxis, out of FA, leaving we'll say the worst taxis who can't get out, those worst drivers will pay more and the people who come out will pay less? Is that the broad strokes of what you're saying?

MR. ALLEN:
A. Yes.

STAMP, Q.C.:

Page 110

Q. But the taxi loss, that deals with premium, does it not? That discussion deals with premium. Where these people are insured, there's a focus of premium payments, premium costs?

MR. ALLEN:
A. If they were to be moved from Facility to a commercial insurer, it would result in a different premium, is that what you're asking?

STAMP, Q.C.:
Q. I'm assuming that's what would happen.

MR. ALLEN:
A. Yes, in that I would expect that the commercial – well, I would expect that the commercial insurers would choose the lower loss cost taxis in the sense that – to the extent they're able to identify them, that would be their first choice. If they were able to charge the premium sufficient for the other risks – Facility Association hasn't been able to do that, but if commercial insurers were able to do that, they presumably would also – they might also choose to insure higher loss cost taxis at a

Page 111

commensurate premium.

STAMP, Q.C.:
Q. But the taxi loss issues, which is what you were focused on in that chart we looked at, I guess, the loss cost per vehicle, you know, a factor of ten or so, or whatever it was, higher than private passengers, that loss cost, that exists based not on who insures the taxis, but on who drives the taxis?

MR. ALLEN:
A. That's correct, yes.

STAMP, Q.C.:
Q. Isn't that right?

MR. ALLEN:
A. Yes.

STAMP, Q.C.:
Q. So the theory that you've, I guess, suggested could play out is you make the worst taxi drivers pay that much more. They can't stay in the market, they can't even live in the market of last resort. It's just so expensive, they can't stay?

MR. ALLEN:
A. Uh-hm.

Page 112

STAMP, Q.C.:
Q. Is that – is that the thinking?

MR. ALLEN:
A. Yes.

STAMP, Q.C.:
Q. So when I look at – when I look at the Cameron Report, which you are commenting on, at page 15, I think, of the Cameron Report – so when I look at this page, Mr. Allen, I see that there are, I guess, 31/110 non-listed individually rated taxi drivers. I guess, some, I don't know, 28 percent maybe or so. So about 28 percent of the drivers are not listed?

MR. ALLEN:
A. Yes.

STAMP, Q.C.:
Q. According to this commentary here?

MR. ALLEN:
A. On this sample of claims, yes.

STAMP, Q.C.:
Q. Right, and then when I compare that to the 251,000 to the 663, that's about 38 percent roughly?

MR. ALLEN:

A. Oh, yes, okay, yes. I'm sorry, could you repeat the percentage?
STAMP, Q.C.:
Q. Well, I observed that it's about 28 percent for the number of files, and about 38 percent for the total of the expenses?
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. More or less?
MR. ALLEN:
A. Okay, yes.
STAMP, Q.C.:
Q. And, I guess, what I'm focused on is this not listed individually rated driver, and there's a discussion above that says, "One of the areas of leakage identified was with respect to drivers not listed on policies. Although fleet policies do not always have to list their drivers, individual rated policies do". Cameron found some 30 - 38 percent, which is what we just spoke about. So what I'm wondering is this, if you, for example, do what you talked about, you know, you leave the worst of the drivers in FA

paying the highest premiums, what happens if they just move to taxi operations where they're not listed and they're still driving? Doesn't that defeat the objective?
(12:00 p.m.)
MR. ALLEN:
A. That could be an unintended consequence, yes.
STAMP, Q.C.:
Q. I know this is speaking about accident benefits, but I presume if they're getting accident benefits, they're involved in third party claims as well?
MR. ALLEN:
A. Most – yeah, quite likely, yes.
STAMP, Q.C.:
Q. Sure. So you'd have to be able to say not only are they out of Facility themselves as a listed driver, they somehow can't get back in as an unlisted driver?
MR. ALLEN:
A. Oh, you mean if what I'm suggesting would work, it would be that they could not get back in as an unlisted driver?
STAMP, Q.C.:

Q. They could sneak right back in again as an unlisted driver. The word "sneak" is probably not the right word, but, you know, they could come back in?
MR. ALLEN:
A. Yeah, I'm not sure what the process would be by which they would do that, who they would – they would have to get the cooperation of a currently listed driver or – a currently operating taxi, so that perhaps – perhaps there are individuals who would do that. I suspect those who would allow them in would have their own difficulties with if the premium has risen.
STAMP, Q.C.:
Q. But that is certainly a potential that those worst drivers become unlisted drivers on another policy?
MR. ALLEN:
A. Perhaps.
STAMP, Q.C.:
Q. I wanted to look at your – I think it's in your Comment 6, but it's a chart, in particular. I'm looking at Chart 1 and 2 on page 7 of your taxi report.

MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. And the two charts, Mr. Allen, are they not comparing a TPL BI and ALAE in Newfoundland with Nova Scotia?
MR. ALLEN:
A. Yes, they are.
STAMP, Q.C.:
Q. So the difficulty I have is that those costs, when I look at the Nova Scotia chart, particularly for, say, 2009 – maybe I should go to 2010. 2010, it looks to me like every year – because the scale on the left side is different, is it not?
MR. ALLEN:
A. No, the scale is the cost per vehicle.
STAMP, Q.C.:
Q. Sure, but the scale doesn't go as high in Nova Scotia as it does in Newfoundland?
MR. ALLEN:
A. Oh, that – yes, that's correct.
STAMP, Q.C.:
Q. And as a result, when I look at 2010 – when I look at the two scales, the two charts, 1

and 2, when I look at 2010, '11, '12, '13, '14, '15, '16, in the Nova Scotia chart, the Newfoundland costs will be off the chart, won't they?
MR. ALLEN:
A. Yes, they would be – well, they would be higher, yes.
STAMP, Q.C.:
A. Yeah, they don't fit on your chart. They don't even fit on the Nova Scotia chart?
MR. ALLEN:
A. Correct.
STAMP, Q.C.:
Q. They're that high?
MR. ALLEN:
A. That's true, yes. Yeah, one chart goes to $350.00; the other goes to $500.00, yes.
STAMP, Q.C.:
Q. Now on your – I guess, the other report, the July 18 report, it's presented as a series of – is it nine questions in the first grouping and maybe five questions, I think, in the second group?
MR. ALLEN:
A. Yes.

STAMP, Q.C.:
Q. So tell me how those arrangements were put in place? I mean, by whom were you contacted to assist in this presentation?
MR. ALLEN:
A. I was contacted by the Campaign.
STAMP, Q.C.:
Q. And who particularly?
MR. ALLEN:
A. Brad Wicks and Colin Feltham.
STAMP, Q.C.:
Q. Okay, and did you have phone discussions with them or did you come and meet with them, how did that work?
MR. ALLEN:
A. Both by phone and I met with them.
STAMP, Q.C.:
Q. Okay, and the series of questions that we're looking at here, are these questions that they put to you and you gave the answers, or are these questions you posed that should be answered and you posed the questions and you posed the answers?
MR. ALLEN:
A. They posed the questions to me.

STAMP, Q.C.:
Q. So the questions are not your questions, they are their questions?
MR. ALLEN:
A. Correct. I had had communications with them before, and I'd done analyses before that I had shared with them, but subsequent to that they had these questions.
STAMP, Q.C.:
Q. And did the analysis that you had done before suggest questions or focuses that you should bring to their attention or bring to the Board's attention?
MR. ALLEN:
A. Some did, yes.
STAMP, Q.C.:
Q. We've heard quite a bit about the, I guess, rate of change in certain coverages and expenses and so on in the various provinces, Newfoundland and Nova Scotia and New Brunswick. And I take it the general, I guess, conclusion that you've come to is that the rate of change doesn't appear to be driven by the caps in some of the other provinces that have been imposed? Is that

fair to say?
MR. ALLEN:
A. Yes. Some rates of change have been; some have not. Frequency—the timing of changes in frequency has not been directly aligned with the timing of the reforms.
STAMP, Q.C.:
Q. But is a rate of change--I mean, when we look at absolute numbers, absolute dollars and so on, doesn't the rate of change sort of—don't you lose something when you look at just the rate of change and don't look at the absolute numbers?
MR. ALLEN:
A. Oh yes, yes.
STAMP, Q.C.:
Q. So, coming right to the question that I guess the Board is primarily interested in, is you know, would the introduction of a cap of 5,000 or 7500 or whatever the number might be, is it not very realistic to assume it would bring about a lowering of cost of BI costs?
MR. ALLEN:
A. All else being equal?

Page 121

STAMP, Q.C.:
Q. Sure.
MR. ALLEN:
A. Yes, it would.
STAMP, Q.C.:
Q. Sure.
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. I mean, it sounds—it doesn't sound like it's very much even in debate if everything else is equal, if you cap certain claims that are presently being paid. If you cap them at $5,000, there will be a reduction in loss costs?
MR. ALLEN:
A. That's correct. The frequency has—the frequencies that I've seen don't appear to have changed as a result of the caps, but severity, its BI severities did decrease in 2004 compared to 2003.
STAMP, Q.C.:
Q. But is it possible that those changes would have been different without the caps?
MR. ALLEN:

Page 122

A. Yes.
STAMP, Q.C.:
Q. I mean, the –
MR. ALLEN:
A. Yeah, the severity would, I have to imagine would be higher without the caps than it would have—than it was with the caps.
STAMP, Q.C.:
Q. Sure, right. So, the caps are doing something?
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. It just may not be revealed in the percentage changes?
MR. ALLEN:
A. You know, the percentage changes do reflect the—I would expect that they would reflect changes such as the introduction of caps.
STAMP, Q.C.:
Q. Sure.
MR. ALLEN:
A. Frequency has not shown evidence of being affected. Severity, yes. It did decline in—sharply declined in those provinces when

Page 123

it was introduced.
STAMP, Q.C.:
Q. And let's assume that even when it—when the decline flattened--the severity I'm talking about now, not frequency.
MR. ALLEN:
A. Yeah.
STAMP, Q.C.:
Q. Even when the severity of the decline seemed to flatten with the caps in place, would it not be reasonable to suppose that if the caps were not in place, that the decline would not have been more gradual? It might have been an increase in fact in costs?
MR. ALLEN:
A. That's a reasonable conclusion.
STAMP, Q.C.:
Q. Sure.
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. Okay.
MR. ALLEN:
A. That has the offsetting impact of claimants receiving less money for their injuries.

Page 124

STAMP, Q.C.:
Q. Oh, I understand, sure.
MR. ALLEN:
A. But yes, it—what we saw, what I saw on the severities, the severities were lower. And I don't know precisely that the caps were the cause, but that's the most likely explanation.
STAMP, Q.C.:
Q. But the very concept of a cap as in Nova Scotia or New Brunswick or Prince Edward Island, or the very concept of the threshold in Ontario for example, which is around 35 or more thousand dollars, all of those features are reducing claims costs, are they not?
MR. ALLEN:
A. From what they would have been?
STAMP, Q.C.:
Q. Yes.
MR. ALLEN:
A. That's likely the case. Yeah, that would be the case in those Atlantic Provinces that have adopted them. Ontario there is a question as Coulter—as Coulter Osborne

raised that perhaps the costs of—with respect to a verbal threshold are eaten away by the cost of expert reports as the two sides make their case for whether it has exceeded the threshold or not.

STAMP, Q.C.:

Q. But if you say you're not going recover the first $35,000 in expenses or in claims in Ontario, that a number, that appears to be a significant reduction in what you can recover. If your claim is $40,000 without any kind of threshold, and a threshold of 35 applies, your claim is significantly affected?

MR. ALLEN:

A. Yes, yes.

STAMP, Q.C.:

Q. I want to just turn to one of the—I guess the table or the table in—on August the 8th you gave certain responses to the IBC?

MR. ALLEN:

A. Yes.

STAMP, Q.C.:

Q. And it's comprised in I think maybe four pages. I want to turn to page 3 if we

could, the bottom of page 3. The very bottom of the page, please. Yes, thank you. That's the part I want to see. So, you have that in front of you now, Mr. Allen. We're looking at bodily injury loss costs, and despite coverage, so we have bodily injury loss cost for Newfoundland, New Brunswick and Nova Scotia. And it appears that the bodily injury loss cost in dollars, in absolute dollars, forget about rates of change and adjustments that way, is significantly higher in Newfoundland than in the other provinces?

MR. ALLEN:

A. Yes.

STAMP, Q.C.:

Q. Why is that?

MR. ALLEN:

A. The frequency of bodily injury claims is higher in Newfoundland than in the other two provinces. It was in Nova—it was higher than Nova Scotia before Nova Scotia's reform. So, there could be a number of explanations for that. Perhaps the topography, the roads, the kind of vehicles

that individuals buy, the safety features that they purchase. There's a number of reasons that could be—could explain the higher frequency in Newfoundland compared to the other two, those other provinces.

STAMP, Q.C.:

Q. Well, it's certainly dramatically higher, isn't it?

MR. ALLEN:

A. It is higher. Yes.

STAMP, Q.C.:

Q. I mean, would you say dramatically higher? Like 440 versus 232 for example?

MR. ALLEN:

A. It's roughly a factor of two.

STAMP, Q.C.:

Q. Yes.

MR. ALLEN:

A. In terms of the—the benefits that come from it, there may well be higher benefits that come to claimants as a result of that.

STAMP, Q.C.:

Q. So, but those numbers when you speak about the, you know, the developments over time and you talk about rates of change and so

on, the—somehow the rates of change being moderate and so on, maybe flattening as you described, that doesn't pick up on the absolute numbers which are developed here?

MR. ALLEN:

A. It does not, although it raises the question of what would be the measure that would bring the Newfoundland premium in line with the other provinces? Would it be caps? There are factors that the statistics have shown that show that the frequency before the caps was introduced in Nova Scotia, was lower. So, I—the question would be what the measures are that would equalize premiums between the two provinces.

STAMP, Q.C.:

Q. Well, I mean this is loss costs now. I mean, obviously premium is -

MR. ALLEN:

A. Or would equalize loss cost.

STAMP, Q.C.:

Q. Yes.

MR. ALLEN:

A. Yeah.

STAMP, Q.C.:

Page 129

Q. As you said, when you talk about loss costs in Nova Scotia, and I think New Brunswick you spoke about as well, you saw it coming down, and then you saw it flattening out?
MR. ALLEN:
A. Yeah.
STAMP, Q.C.:
Q. And you know, so we—so you were describing modification or a reduction in the rate of change, but in absolute dollars, this is where the absolute numbers are. Right here for two thousand and—is it '15? I'm sorry?
MS. GLYNN:
Q. '16.
STAMP, Q.C.:
Q. '16, I'm sorry. Yes, 2016. That's the absolute numbers right there?
MR. ALLEN:
A. It is, true, yes. The –
(12:15 p.m.)
STAMP, Q.C.:
Q. So, rates of change give one kind of perception, absolute dollars give a different perception?
MR. ALLEN:

Page 130

A. Yes, although the rates of change illuminate what the effectiveness of various measures would be or what the impact of measures such as a cap would be.
STAMP, Q.C.:
Q. Sure. Well, on that point, how do you--when you say for example that the rate of change, you know, in Nova Scotia is what it is, if the cap wasn't there, don't we expect a different rate of change?
MR. ALLEN:
A. Yes, yes. The severity I would expect would be higher.
STAMP, Q.C.:
Q. Sure.
MR. ALLEN:
A. Without a cap.
STAMP, Q.C.:
Q. Yes.
MR. ALLEN:
A. Yeah.
STAMP, Q.C.:
Q. Okay.
MR. ALLEN:
A. With that said, we've seen in New Brunswick

Page 131

a severity that for accident year 2017 for bodily injury is higher than that we're seeing in Newfoundland. Now, the 2017 claims are very early in their lifespan. So, we—will that holdup, is the question, but at least based on the information that GISA has compiled to date, the New Brunswick severity has—is how equal to that of Newfoundland, or greater than that of Newfoundland and Labrador.
STAMP, Q.C.:
Q. Right. And Mr. Allen, wouldn't that suggest to you that without the cap in New Brunswick, it would be higher yet again for '17?
MR. ALLEN:
A. Yes, yeah, most likely.
STAMP, Q.C.:
Q. Sure.
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. I want to just ask you if you could turn to your—the July report, at question 7, which is at page 10 I believe. What I'm wondering

Page 132

is what was the theory behind looking at—I'm sorry, maybe I'm in the wrong chart. I was looking at the RNC information. Is this the RNC information you have here at chart 8 and 9 or is that—no –
MR. ALLEN:
A. Page 8 has the frequency per vehicle of the RNC, and chart 1 I think it is has—yeah, that also has –
STAMP, Q.C.:
Q. I may have taken you to the wrong document.
MR. ALLEN:
A. So, pages 8 and pages—and page 8 and page 4.
STAMP, Q.C.:
Q. I'm sorry, Mr. Allen, I've taken you to the wrong document. I meant to go to the questions in the Response to the Public Utilities Board.
MR. ALLEN:
A. Oh yes, okay.
STAMP, Q.C.:
Q. My mistake. So, that's an August 8 document?
MR. ALLEN:
A. Yes.

MS. KEAN:
Q. What page?
STAMP, Q.C.:
Q. Page 15. So, I'll start with this document, and what I'm wondering is why are we looking at the RNC jurisdiction as opposed to the province as a whole?
MR. ALLEN:
A. Okay, the reason is that those are the statistics that are available for a number—for the number of accidents. And yeah, the issue—the matter to be addressed on insurance claims is the propensity to make a claim once there's been an accident. So, we—certainly I look, as you've seen, I've looked very closely at the accident or the claims frequency, but that raises the question, how—are there more claims being raised per accident or are there fewer? And to obtain the most objective measure available of the number of accidents, not of the number of claims, that was the available source of information. The fact that the two lines on—back on page 8 of my July 18th report.

STAMP, Q.C.:
Q. Yes.
MR. ALLEN:
A. The fact that the PD line, the property damage liability claim frequency, the fact that it moves largely in parallel with the RNC's accident count suggests that the property damage frequency is reasonable indicative of the number of accidents.
STAMP, Q.C.:
Q. But aren't those number of accidents available through GISA for the whole of the province?
MR. ALLEN:
A. The number of claims are. I don't believe the number of accidents are. The number of property damage claims are and that's what's reported here. I don't believe that the number of accidents.
STAMP, Q.C.:
Q. I had been under the impression that one of the Oliver Wyman documents showed number of claims and number of accidents and it's a different number.
MR. ALLEN:

A. Okay. Yeah, I'd be interested -
STAMP, Q.C.:
Q. I'm not sure if I'm right.
MR. ALLEN:
A. I'd be interested in seeing that.
STAMP, Q.C.:
Q. Yes, okay. In any event, this is sort of 40 percent of the population.
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. And there's 60 percent not accounted for in this process?
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. So, I don't know what the – it's a bit like taking property values for assessment purpose and going to one neighbourhood and saying well, we'll do them here and then we'll apply them across the board to everybody. It's a bit like that because you're only doing a segment.
MR. ALLEN:
A. That's true, and statistical sampling

unfortunately has that drawback in that it's not taking account of everyone. It's taking a sample and then extending those conclusions to broader population.
STAMP, Q.C.:
Q. Mr. Allen, are you familiar with the requirement – what level of apparent accident or accident damage or injury triggers the RNC responding or making a note?
MR. ALLEN:
A. No, I'm not.
STAMP, Q.C.:
Q. There is a provision in our – I think it's in the Highway Traffic Act – which requires that the police be notified if the apparent property damage is, I think, $2,000 or there's an injury or death, of course. So that would mean if that is the rule that's imposed on drivers, so to approximate the apparent damage, only have to notify the police if it's $2,000 or higher, there's a whole subset that are under the radar, so to speak.
MR. ALLEN:

A. Um-hm.

STAMP, Q.C.:

Q. That you don't get – you don't even have in the RNC report?

MR. ALLEN:

A. Yes.

STAMP, Q.C.:

Q. But that, all those claims would be revealed in the GISA data, would they not?

MR. ALLEN:

A. I don't believe they would be. Are there accidents where there's no third party liability claim reported? I suspect there are. If the damage – if the magnitude of the accident is small enough, an insurance claim may not be made. You know, perhaps there's no damage or there's too little damage for it to be worth the process of making a claim. So, my understanding is that – and I look forward to you pointing me in the direction of what Oliver Wyman found. My understanding is that GISA has compiled the number of claims, not the number of accidents. And the gap between those two would be the number of accidents that are of

low enough severity that no insurance claim is made.

STAMP, Q.C.:

Q. But if there's – I mean, if there's an accident that does no property damage or no bodily injury, we'll call that no accident at all, I guess.

MR. ALLEN:

A. Ah -

STAMP, Q.C.:

Q. What would be the – what would make it an accident if it results in neither property damage nor bodily injury?

MR. ALLEN:

A. A lucky occurrence and people go through – you know, they might – you know, there could be contact between vehicles without – either without damage or such minor damage that the driver and the other party are willing just to accept the scuff on the vehicle. That's my thought as to what the difference is between an accident and insurance claim.

STAMP, Q.C.:

Q. When – I don't know if it would help if we brought up Oliver Wyman's Closed Claim

Study, which is April 19th, 2018.

MR. ALLEN:

A. I don't have a printed copy of that.

STAMP, Q.C.:

Q. They'll bring it up on the screen for you, if you want, Mr. Allen.

MR. ALLEN:

A. Oh, put it up on the screen, okay, sure.

STAMP, Q.C.:

Q. I'm not sure if it's what I'm looking for to tell you the truth, but it may be some help. So, when we see a claim count at Appendix A1 – this is a Closed Claim Study now, so it's come from insurance folks.

MR. ALLEN:

A. Yes.

STAMP, Q.C.:

Q. I guess to some extent. Does the claim count that's referred to in Column 2 of that package, is that an accident count or a claim – is that the same thing?

MR. ALLEN:

A. I would take that to be – and you know, I hadn't even considered the alternative. I would take that to be claim count, claims

that have been reported to insurance companies, not – excluding accidents where no claim was filed.

STAMP, Q.C.:

Q. Is there a number that – I vaguely recall from what we've been doing here that the accident numbers sort of translated into maybe 1.2 or 1.3 claim counts. Is that something you've come across in this discussion?

MR. ALLEN:

A. What I have come across, if this is what you have in mind as the distinction between occurrences or between claims and claimants.

STAMP, Q.C.:

Q. Yes.

MR. ALLEN:

A. Because one insurance claim which corresponds to an insured event like an accident -

STAMP, Q.C.:

Q. Yes, sure.

MR. ALLEN:

A. - can affect more than one party. And so, I think I have seen a factor referring to that. It would still be the case that if the accident is of such low severity or for whatever reason the parties don't report it as a claim, it wouldn't appear in these statistics.

STAMP, Q.C.:

Q. Okay. And so when I look, for example, at – just I'm going to see if I can figure out from your own documentation. When I go back to your July 18 report, when I look at the Chart 7 and Chart 8, does this in some way – well, when you see it, I'm sorry. Wait until you get them up. Tell me when you have that, Mr. Allen, please.

Sorry, does that – do Charts 8 and 9 give anything at all, information at all about accident – about accidents?

MR. ALLEN:

A. No, they don't. They are just the percentage of drivers who've purchased the optional coverage.

STAMP, Q.C.:

Q. Okay. So, back to the RNC as a proxy of some sort.

MR. ALLEN:

A. Yes.

STAMP, Q.C.:

Q. Which is what I guess you're – it's used for.

MR. ALLEN:

A. Yes.

STAMP, Q.C.:

Q. That is some four-tenths of the population?

MR. ALLEN:

A. Correct.

STAMP, Q.C.:

Q. We don't know if it's four-tenths of the vehicles or not, do we? We don't know that either I guess?

MR. ALLEN:

A. No, no.

STAMP, Q.C.:

Q. And to the extent that there is a requirement in the Highway Traffic Act to report accidents of a certain, I guess, intensity or, you know, certain level, if you're under that, that's also coming off the reported stats as well. So, the RNC wouldn't know about all those accidents, whatever they are, whatever numbers there

are that don't get reported to them because they're not required to be reported?

(12:30 p.m.)

MR. ALLEN:

A. Yes, yeah, that is absolutely true and the comment I would make is that if there's a concern that the rate at which people are making bodily injury claims is – if the concern is that it's increasing or that it's high, comparing it to the RNC numbers will understate – or rather, it'll overstate the rate at which individuals are making claims because the bodily injury claims frequency is of all bodily injury claims that are made in this province.

STAMP, Q.C.:

Q. Yes.

MR. ALLEN:

A. Whereas the RNC is of only a subset. So, there will be accidents that are not accounted for here and so, we're seeing bodily injury claims in response to the number of accidents. There are actually more accidents than that and yet, you know, we're only seeing this rate of bodily injury

claims. So, the fact that this undercounts the number of accidents assists with the conclusion or the view that the number of bodily injury claims is not out of control.

STAMP, Q.C.:

Q. Well, I mean, we're talking about severity on that point. And of course, obviously if you don't have to report an accident because it's under $2,000 – apparently under $2,000 in property damage and doesn't involve an injury -

MR. ALLEN:

A. Yes.

STAMP, Q.C.:

Q. - then obviously that's not going to trigger a bodily injury claim, you would think, because it's under the radar for both damage and injury.

MR. ALLEN:

A. It shouldn't. You know, if there's a concern that minor bodily injury claims are clogging the system, then one might be concerned that claims that are very small are in fact being reported as bodily injury claims.

STAMP, Q.C.:
Q. Well, when we look at one of the charts in Oliver Wyman's materials and I think again it's on the Closed – I think it's again in the Closed Claim Study. Just give me a moment, I'll see if I can find that.
Yeah, what I'm looking at now is the Closed Claim Study which is April 19th, 2018, which I think we had up a moment ago, at page seven. Do you see that, Mr. Allen?
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. So that's a breakdown of, I guess, in 20 percent increments -
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. - of the percentile range of claims and a full 20 percent have an average non-pecuniary damages claim of about $4500.00. So, there's quite a significant number that fall in that fairly minor category, is there not?
MR. ALLEN:

A. Yes. So, you're saying there's a full 20 percent that have a non-pecuniary of less than -
STAMP, Q.C.:
Q. An average of less – of under – of 45 – have an average of 4500.
MR. ALLEN:
A. Yes, yes.
STAMP, Q.C.:
Q. And of course, we look at that same column, the total settlement is 5,000. So, there's – most of that is a BI claim I take it.
MR. ALLEN:
A. Most of it is – sorry, do you mean a non-pecuniary claim or -
STAMP, Q.C.:
Q. I do. I mean a non-pecuniary claim.
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. Yeah, pain and suffering claim essentially, right?
MR. ALLEN:
A. Yes.
STAMP, Q.C.:

Q. Is that true?
MR. ALLEN:
A. I would agree with that, yes.
STAMP, Q.C.:
Q. So, there's quite a few accidents that are relatively minor in nature, even if you look at this chart?
MR. ALLEN:
A. Yes, yes.
STAMP, Q.C.:
Q. I wanted to just – I'm sorry, by the way, just that section of the Highway Traffic Act, for purposes, is – I think it's Section 170.1 for the Board and counsel and for yourself, Mr. Allen.
Can I come back to your loss table, which I think is in Answers, is it not or is it in your main report? I can't remember, Mr. Allen. I think it's in your July report, the last page.
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. So, this is a – is this intended to be all coverages we're looking at here in, for

example, 2016 for Newfoundland?
MR. ALLEN:
A. No, just third party liability.
STAMP, Q.C.:
Q. Okay, just third party liability. And so, we have Oliver Wyman's ROE calculations for years 2012 to 2016. I can tell you they are in their report on their profitability review at two percent for 2012, minus four for 2013, plus six percent for 2014 and minus eight percent for both 2015 and 2016.
MR. ALLEN:
A. I'm sorry, I'll write them down.
STAMP, Q.C.:
Q. Okay, sure, yeah. 2012 is plus two.
MR. ALLEN:
A. Okay.
STAMP, Q.C.:
Q. 2013, negative four. 2014, plus six. And 2015 and '16 each, negative eight. That's an ROE after tax.
MR. ALLEN:
A. Okay.
STAMP, Q.C.:
Q. How does this number here correlate with

ROEs that Oliver Wyman have calculated in those years? You have 2012 to 2016 and I've just given you their ROE calculations after tax for those same years. Is there some connection between your numbers that you have at page 22 and their rates?
MR. ALLEN:
A. Their rates are different certainly. I'm not – I haven't reviewed in detail how those are calculated.
STAMP, Q.C.:
Q. Maybe you could – do you want us to bring this up for you, Mr. Allen? It's page 11 of the March 29, 2018 Oliver Wyman report, Profit and Rate Adequacy. While that's coming up, have you seen all the Oliver Wyman reports?
MR. ALLEN:
A. I've seen most of them, yes.
STAMP, Q.C.:
Q. Okay. Well, maybe you can tell me if you've seen this one?
MR. ALLEN:
A. I haven't – I might have seen it. I haven't reviewed it in detail.

STAMP, Q.C.:
Q. Okay. It's March 29th. You've got a page, of course, but the face page is March 29, 2018 and the subject is Profit and Rate Adequacy Review, Private Passenger Automobiles. So, this is – and at page 11, which we have on the screen now, shows the Oliver Wyman ROE after tax calculations that they've done.
MR. ALLEN:
A. Um-hm.
STAMP, Q.C.:
Q. And so, obviously this is an ROE for the province for auto insurance, private passenger auto, showing the ROE as a result of operations in those years. Is that right?
MR. ALLEN:
A. Okay. And is that for all coverage? Is that for private – yes, for private passenger only?
STAMP, Q.C.:
Q. Private passenger I understand, yes.
MR. ALLEN:
A. Okay. And it includes the coverages other

than third party liability, if I -
STAMP, Q.C.:
Q. I think so, yes. I think it includes all coverages.
MR. ALLEN:
A. Okay. So, that's one difference between these and the GISA numbers that I'm reporting here is that the GISA numbers are for third party liability only.
STAMP, Q.C.:
Q. Right, and I mean, you can't, I presume, conveniently do a rate of return, rate of return on those numbers you have at page 22. You'd have to do a whole lot of analysis to do that?
MR. ALLEN:
A. Um-hm, yes.
STAMP, Q.C.:
Q. But it does reflect the fact that in the last three years, there have been significant losses and even in 2012-13, the amounts that are on third party liability shown as – if you want to call it profit, is still subject to a lot of other adjustments to find out what the overall ROE is for

those – for the companies in that grouping?
MR. ALLEN:
A. I'm sorry, even in 2012, 2013 -
STAMP, Q.C.:
Q. Well, based on the rates that I've given you-
MR. ALLEN:
A. Yes.
STAMP, Q.C.:
Q. - only two of those years, '12 and '14, have an ROE that's positive?
MR. ALLEN:
A. Yes, just as the numbers reported by GISA, same thing, only two years are showing profit. The other -
STAMP, Q.C.:
Q. And they do it on a different basis. I think one is calendar year; one is accident year. I'm not sure about that, but -
MR. ALLEN:
A. Probably. Yeah, what is certainly a difference that I'm seeing is that the Oliver Wyman figures will include all the coverages, including collision, comprehensive.

STAMP, Q.C.:
Q. Right.
MR. ALLEN:
A. Accident benefits. Whereas the GISA numbers do not. They're only third party liability.
STAMP, Q.C.:
Q. Of course, and these amounts that you show in brackets being losses in '14, '15 and '16 at your page 22 is only one part of all the coverages that they're involved with?
MR. ALLEN:
A. Yes, that's correct.
STAMP, Q.C.:
Q. That's all the questions I have, Mr. Allen. Thanks very much.
MR. ALLEN:
A. Thank you, Mr. Stamp.
CHAIR:
Q. Thank you, Mr. Stamp. Consumer Advocate.
MR. WADDEN:
Q. Good morning, Mr. Allen. Just a couple of questions.
MR. ALLEN:
A. Good morning.
MR. WADDEN:

Q. I want to go back to your April 4th, 2018 report just briefly, if we can. Go to page three, sixth paragraph down. Mr. Feltham already asked you a couple of questions on this. I just want to get some clarity around it. You're discussing there in terms of the taxis obviously examples presumably to help stop accidents, correct?
MR. ALLEN:
A. Yes.
MR. WADDEN:
Q. Improved driver education, safety training, et cetera. Screening for taxi drivers. I'm just wondering, have you done any studies similar to the one you've done here in any other jurisdictions in Canada or actually in fact anywhere?
MR. ALLEN:
A. Similar in the sense of examining frequency severity or -
MR. WADDEN:
Q. In relation to taxis.
MR. ALLEN:
A. On taxis?
MR. WADDEN:

Q. Yeah.
MR. ALLEN:
A. No, not with respect to taxis.
MR. WADDEN:
Q. Okay. And I only asked because I was curious about what your experiences have been there. Are you able to elaborate on these measures you're suggesting here at all? I appreciate that on page four you make some comments as to what the president of Facility has suggested. And you know, I appreciate this is not your area of expertise, but do you have anything to add to that? Because this is of great interest to us, how to – you know, how to reduce the frequency of accidents amongst vehicles on the whole, but certainly amongst taxis, so we could hopefully alleviate the fact that they're in Facility.
MR. ALLEN:
A. Yeah. Well, Facility Association, the comments made by them I think were primarily around who – well, the reasons for the current impasse, the current unsatisfactory situation, and who would need to take – who

could – who might take the initiative to break that. With respect to the measures that – you know, how that would go about, there's, yeah, what was suggested by the Campaign to me.
MR. WADDEN:
Q. Okay.
MR. ALLEN:
A. But beyond that, you know, I just – in general terms, it makes sense to me that a situation that would improve driving and the condition of vehicles should reduce the number of accidents.
MR. WADDEN:
Q. Okay.
(12:45 p.m.)
MR. ALLEN:
A. With respect to Mr. Gittens' questions earlier about how risks are classified, there are various proxies that have been used, such as age and such that, you know, to – that correlate with higher risk. Ideally, I mean, they're all trying to identify the causes of accidents, the causes of higher cost accidents. This would have

the appeal of being a very direct – or as having addressed the causes of accidents and there's a possibility that some individuals would be more susceptible to higher risk behaviours. This actually would address that directly.

MR. WADDEN:

Q. Mr. Stamp when he was starting off asked you a question around the questions that are posed in your July 18th, 2018 report and where did they come from, who devised them. I understand that, you know, that sort of came from conversations as between you and some of the folks at the Campaign. Are there any questions that perhaps you discussed initially or that may have been in an initial draft of this report that are not in this report?

MR. ALLEN:

A. There might be perhaps.

MR. WADDEN:

Q. Okay, any that you can actually think of off the top of your head?

MR. ALLEN:

A. What prompted this analysis was the increase

in the overall premiums in Newfoundland and Labrador and in my investigation it showed the increase rate of take up of the optional coverages, so that's what prompted looking at the other provinces, but you know, the average vehicle prices in the various provinces is something that I have looked at but that doesn't vary much from province to province and it doesn't vary much between the Atlantic provinces and other provinces in Canada, so we chose not to include anything about that because it wasn't illuminating.

MR. WADDEN:

Q. Okay, and I'm sorry if I need a point of clarification on that, why would you be—why would you have been in the first instance looking at the prices of vehicles at all?

MR. ALLEN:

A. To trying to explain why the increase in the take up of the optional coverages, so the fact that why are more people buying collision coverage and comprehensive coverage. If they're buying higher value vehicles, that could be an explanation for –

MR. WADDEN:

Q. Got you, okay. And what is the answer to that, by the way, that was raised, you raised it just now and you raised it earlier in terms of over the past few years people buying more coverage or opting into the optional coverages. I don't think you gave the reason for that earlier, why is that happening?

MR. ALLEN:

A. We don't know specifically, I don't know specifically. It could be, you know, the relative prosperity of this province as economic development in the oil industry has, I mean, it's down from what it was, but it's still has a, it's probably changed people's expectations in terms of their, what they will purchase, so that's a possibility. The other is perhaps more people are borrowing, taking out loans to purchase vehicles because interest rates are as low as they are.

MR. WADDEN:

Q. Okay.

MR. ALLEN:

A. And once a car loan is—and sometimes the lender will require the physical damage coverage.

MR. WADDEN:

Q. Okay. One of the things we were trying to determine, at least on this part of the table, is if auto premiums should be as high as they are in the first place, like should they be as high as they are right now? Okay? Now, I know you looked at current premiums in Newfoundland and Labrador and you've looked at, you know, what they appear to be compiled of, you sort of flushed them out, portions of the premium attributable to what sort of coverage. Let's assume there's no reforms, okay, let's assume everything in Newfoundland stays as is, there's no changes, no cap, no change in deductible or anything like that. Could the premiums here be reduced? Did anything you see suggest some sort of allow ability to have insurance premiums for consumers go down?

MR. ALLEN:

A. I haven't investigated the adequacy of, the overall adequacy of the current premium rates, so I don't have a view on that. Based on the income for third party liability coverage, it appears that, you know, that there's a loss currently on third party liability but that's subject to all kinds of allocations, so I'm –

MR. WADDEN:

Q. Okay. Can you go to page 16 of your report, your main report, July 18th report? So I think we discussed and the obvious thing here in these two tables, in terms of BI claim trends is the fact that the trends seem quite similar, right, as between Newfoundland and Nova Scotia, and Newfoundland and PEI, right?

MR. ALLEN:

A. Uh-hm, yeah.

MR. WADDEN:

Q. Well, what stands out to us here is that the redline is always a lot higher, right?

MR. ALLEN:

A. Yes, it is, yes.

MR. WADDEN:

Q. And you answered a question on a separate table I think that Mr. Stamp put to you in

terms of some rates being much higher in Newfoundland. I can't remember which table it was. Just generally tell us why is it consistently higher here?

MR. ALLEN:

A. Actually, sorry, I should correct myself. In New Brunswick it was not, New Brunswick's was not higher around 2000, they were, the Newfoundland –

MR. WADDEN:

Q. Right early on there, sorry, on page 17, yeah.

MR. ALLEN:

A. Yeah, they were comparable. You know, it could be the weather, it could be the configuration of the roads and topography, the various hills and such. Yeah, I don't have an answer as to why it's higher.

MR. WADDEN:

Q. Okay.

MR. ALLEN:

A. It could be that claimants are better served by the bar. Maybe people who have injuries that need compensation are getting advice that lets them know what they're entitled

to.

MR. WADDEN:

Q. Okay. How do we get premiums down here? Or at least make sure they're stable, what's the answer for Newfoundland?

MR. ALLEN:

A. Well the answer, and it may not be an easy one, is, well for taxis, a fairly small population, a driver certification program. Accident prevention is certainly the best means to reduce, there's already, it seems there's progress that's gone on in the sense that the frequency has declined over the last many years of bodily injury claims, so it appears that fewer people are being, are needing compensation, so that in itself would assist in the process of reducing insurance claims ultimately. To the extent people are—and there's already not a bad situation in the sense that premiums are not going up, third party liability premiums are not going up greater than the rate of inflation and you and the underlying costs are keeping, are only keeping pace with inflation. So I mean, I know that would

leave in place the status quo. The way to bring it down would be most likely to, well one measure would be to reduce the number of accidents.

MR. WADDEN:

Q. Right, okay. And just one final thing, I guess it's been mentioned a number of times and we've come across it in our research in terms of the number of accidents that are reported and those accidents are often used in analysis, your analysis in particular and those numbers come from the RNC, and those numbers in and of itself have some limitations in terms of what actually gets reported to the RNC, et cetera, and what jurisdictions the RNC operates in. Are you aware of any other source from which to get information in terms of accident numbers in this province at least?

MR. ALLEN:

A. No, I'm not aware. I haven't searched, I haven't gone above and beyond to find such statistics, I was primarily looking for whether the property damage frequency statistics were representative of the number of accidents, so I'd be satisfied when I saw some consistency between the RNC numbers and property damage, but as far as I know, I'm not aware of another source.

MR. WADDEN:

Q. Okay. That's all I have, Madam Chair?

BROWNE, Q.C.:

Q. Just two questions. In reference to the deductible, is this the only province that has a deductible, $2,500?

MR. ALLEN:

A. Ontario has a deductible, much higher, and I don't know of other provinces that might.

BROWNE, Q.C.:

Q. From an actuarial perspective everyone's talking cap, but what of the deductible increased to $7,500 or $10,000, would that have the same effect or what is the difference between a deductible and a cap, can you comment on these, please?

MR. ALLEN:

A. Yeah, the deductible affects the smaller dollars, so by taking out the lower end of claims it will, it leaves higher amounts of compensations untouched. But whereas a cap

will cut off the higher amount. Now in terms of the caps that the IBC would propose that would be minor injuries only, so the extent of cutting off the higher amounts would be limited. One effect of a deductible is that it erodes over time, that's a term that the Oliver Wyman studies have used, so you know, as claims get larger with inflation over time, the proportion of the claim dollars that are eliminated through the deductible decreases; whereas with a cap, as inflation continues, the proportion taken out by the cap increases as inflation continues. Those are the differences that I see between the two.

BROWNE, Q.C.:

Q. You mentioned in your evidence that in terms of the threshold where minor injuries and cap jurisdictions are subject to a legislative jurisdiction, there are competing expert reports from time to time to argue whether or not such and such's injury is into the threshold or outside of it, are you taking about court applications in reference to these expert reports or are

there arbitration provisions that the parties rely upon to make these determinations?

MR. ALLEN:

A. I think both are situations that give rise to those costs. Are you speaking of mandatory arbitrations or mandatory mediation?

BROWNE, Q.C.:

Q. Yeah, mandatory arbitration, are there mandatory arbitration provisions which probably would be less costly, as opposed to going to court to decide whether a matter falls inside the legislative jurisdiction or it does not.

MR. ALLEN:

A. Ontario has a tribunal to resolve at least some of those disputes, and it did have, when the Osborne report came out, so that may reduce costs, there is still, even in the tribunal there is still the competing experts, so my understanding is it may reduce costs, maybe by a portion, that's my understanding.

BROWNE, Q.C.:

Q. But that's in Ontario where they have the larger deductible as well, right?

MR. ALLEN:

A. Yes, actually I'm speaking of their accident benefits, their no-fault benefits and the limits that apply to that, so that actually may be only analogous to—unless there's an attempt to put a similar accident benefits put into place.

BROWNE, Q.C.:

Q. But in the other jurisdictions here in Atlantic Canada where the cap is, are you familiar, can you comment on whether or not there are arbitration provisions which can govern to decide whether the injury is threshold or not?

MR. ALLEN:

A. I'm not familiar with that. I suspect that may not be as much of an issue, I believe that the Osborne report was primarily commenting on verbal thresholds and the caps in the other Atlantic provinces would be purely money oriented or limiting the amount of money that's paid. So my understanding is that the Osborne report was referring to

verbal as opposed to financial limitations.
BROWNE, Q.C.:
Q. Thank you.
CHAIR:
Q. Thank you, Mr. Browne. Mr. O'Flaherty, any questions?
MR. O'FLAHERTY:
Q. Thank you, Madam Chair. I don't have any questions for the witness.
MR. FELTHAM:
Q. Madam Chair, I do have something that arises from Mr. Stamp's questioning on the frequency piece.
CHAIR:
Q. Absolutely.
MR. FELTHAM:
Q. Thank you. Mr. Allen, I want to take you to Oliver Wyman's April 19 report on Minor Injury Reform Cost Estimates.
MR. ALLEN:
A. Is that the one that was subsequently amended?
MR. FELTHAM:
Q. Yes, that's correct. It was subsequently amended, so I may have the date, I'm not

sure of the date of the amended document, it looks like it's May -
MR. ALLEN:
A. I have May 17th as the amended one.
MR. FELTHAM:
Q. Yes, okay, sorry, yes, that's it. Go to page 3, please. So Mr. Stamp was asking you questions, you know, suggesting, look, we've got to look at real dollars, you're talking about frequency because you've done some analysis of whether minor injury caps correspond with a reduction in frequency of claims being made. And Mr. Stamp's suggestion was, if I can characterize it this way, you have to look at the dollars and cents because a cap saves costs, and I guess I'll put it to you this way, if an insurance company collects premiums and doesn't have to pay claims, it will make more money than if it does have to pay claims?
MR. ALLEN:
A. Yes.
MR. FELTHAM:
Q. That's a logical flow through for that?

MR. ALLEN:
A. Collects a fixed amount of money and if you're contrasting lower—not having to pay for anticipated paying out claims.
MR. FELTHAM:
Q. Right, and if there are no claims, they don't have to pay the money out, then they'll make more money than if they do.
MR. ALLEN:
A. Yes, or lose less money.
MR. FELTHAM:
Q. Or lose less, okay. So if we look, though, at the work that Oliver Wyman has done and in this report—you've read this report, I take it?
MR. ALLEN:
A. Yes.
MR. FELTHAM:
Q. They are providing some estimates here, at Table 2, of what they say the average reduction in premiums can be with caps of different levels. But they don't stop at just absolute dollars here of $5,000, $7,500 or a $10,000 cap, they add on columns to show increase savings with changes in minor

injury frequency. Am I reading that correct?
MR. ALLEN:
A. Yes, they provide a number of scenarios, zero percent change in frequency, five percent, 10 percent and 15 percent.
MR. FELTHAM:
Q. And setting aside for a moment as to whether I agree with the figures in the IBC's Closed Claim Study from which these figures are derived, that first column, that's the absolute dollar figures that Mr. Stamp is talking about, these are what are being suggested as changes that will only come from a cap alone, forgetting frequency changes.
MR. ALLEN:
A. That's correct, yes.
MR. FELTHAM:
Q. And the balance beyond that, all these additional savings that are postulated here for hypotheticals are built upon that because they are suggesting there could be some change in frequency of claims.
MR. ALLEN:

A. That's correct, yes.
MR. FELTHAM:
Q. And if we don't have that, that doesn't happen, we don't have a change in minor injury frequency, we don't get the results in savings that we see in those additional three columns to the right?
MR. ALLEN:
A. That's correct, yes.
MR. FELTHAM:
Q. And then you go further, if you turn the page to page 4, Oliver Wyman adds on again for reductions in average settlement and ALAE costs. Again, going beyond the absolute savings on the claim itself, from a cap, from the bodily injury claim payout, to also say—and also if you get some savings on the ALAE costs, you will also get some savings in required premium?
MR. ALLEN:
A. Yes.
MR. FELTHAM:
Q. But if you don't get those things, you don't have an ALAE cost savings and if you don't have a percentage change in minor injury

frequency, then those savings do not come to fruition, do they?
MR. ALLEN:
A. That's correct. There is on Table 2 a scenario where there that reduction in frequency doesn't come to fruition. There is no scenario where ALAE does not get reduced.
MR. FELTHAM:
Q. Okay, thank you, Mr. Allen.
CHAIR:
Q. Thank you. I guess we're finished with you, thank you, Mr. Allen, that was very helpful. Tomorrow morning we are back to, IBC is making a presentation tomorrow morning?
STAMP, Q.C.:
Q. Yes, Ms. Riis.
CHAIR:
Q. Yes, okay, and do we have another presentation scheduled for tomorrow as well?
MR. FELTHAM:
Q. I believe tomorrow we have the Ontario Trial Lawyers Association.
CHAIR:
Q. Okay, that's good, thank you. We will see

you tomorrow.
Upon conclusion at 1:08 p.m.

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of the 2017 Automobile Insurance Review heard before the Board of Commissioners of Public Utilities, 120 Torbay Road, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John's, Newfoundland and Labrador this 11th day of September, 2018

Judy Moss

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