

NEW ZEALAND INSURANCE LAW ASSOCIATION CONFERENCE

Compulsory Motor Vehicle Insurance

The title of this presentation is possibly slightly misleading, in that Compulsory Motor Vehicle Insurance generally refers to Compulsory Third Party Motor Insurance (CTP).

Compulsory Third Party is an insurance issue that tends to raise its head every three years, that is, in line with each Election. Frequently new politicians come to Parliament and indicate that they would like to see an increase in compulsion for Third Party insurance, that will hopefully raise standards of safety and responsibility on the roads. However, for many years now the process has been examined and found to be too difficult to implement due to some of the complications of its implementation, and common misunderstandings about how it would work.

Recently the issue has been raised by a number of local authorities and other people concerned with the increasing danger being posed by street racers, otherwise known as boy racers, in and around city centres in particular, but also in some rural areas. The view that has been taken is that if you were to apply Compulsory Third Party Insurance to these individuals, then they are likely not to be able to obtain it, and as a consequence be taken off the road.

So it is often the safety issue that compels people to raise the issue of Compulsory Third Party Insurance, but it is the view of the Insurance Council that the issue is far more complex than this, and is frequently misunderstood by people who discuss it.

The term Compulsory Third Party Motor Insurance is confusing at best. We do currently have Compulsory Third Party Motor Insurance for Personal Injury in New Zealand. It comes in the form of the ACC, and it is compulsory to have ACC cover which covers you when driving a motor vehicle.

The Compulsory Third Party Motor Insurance that the Government and local authorities have been referring to is for Property Damage. Many, however, in that group assume that when they look at the Australian model and see described their Compulsory Third Party Motor Insurance, that it refers to Property Damage. It does not, it refers to Bodily Injury, and that is the first and most critical misunderstanding that often accompanies the debate on this issue.

Then there is the issue of safety, which frequently drives the debate. And, here again, there are some significant misunderstandings about how effective requiring Compulsory Third Party Motor Insurance to be in place would be in increasing the safety, particularly on the roads from street racers.

Simply put, the people who would be targeted by this legislation would generally speaking ignore it. They would ignore it, in the way they currently ignore three other compulsory requirements that they should have in order to be legally on the road. It's our view that for any sort of compulsion regime to be effective, all the requirements need to be put in place, and most importantly, policed - not one.

The first requirement would be that all drivers have a current licence and are driving within the conditions of their licence. This is frequently breached, particularly by street racers.

The cars would need to have registration - this of course is compulsory, but many of the cars are not 'street legal' or have no registration, or an expired registration. This must be policed.

Thirdly, there must be a current Warrant of Fitness on the motor vehicle. And frequently, because of modifications, this is difficult to obtain particularly on highly modified racing vehicles.

It is our contention that currently, these three things are compulsory for people to be on the road, but it is not deterring street racers, and effectively not being policed.

The fourth would of course be the new requirement being proposed by the Government of Third Party Motor Liability insurance cover. Making it compulsory does not mean that it will be adopted by these people. Many of these street racers, and other people on the streets, simply ignore their legal requirements both in relation to themselves, their licences, and their cars.

To propose Third Party Motor Insurance requires a commitment to massive policing resourcing, and can only be done in conjunction with a wider range of local and central authorities.

A further point, from an insurance point of view, is that currently many of the most potentially destructive drivers do not have insurance on their motor vehicle simply because it has already been refused. This does not deter them, and that's why we suspect having compulsory insurance will not deter them either. They are currently being refused insurance.

Let's briefly have a look at some of the difficulties on the international scene. I've already mentioned to you that Australia has a scheme described as Compulsory Third Party Motor Insurance, but that this refers to Personal Injury only, and not to the Material Damage to the vehicle. This is a misunderstanding, and New Zealand effectively has the same Compulsory Third Party Motor Scheme here in the form of the ACC model.

But possibly another more long-standing scheme is the United Kingdom model for Compulsory Third Party Motor Insurance. There have been significant difficulties in both compliance and cost of compliance in this scheme.

The U.K. Road Traffic Act requires that if you own and use a vehicle on the road it must be insured for the liability risks of Bodily Injury to your passengers and other third parties, as well as Third Party Property Damage.

Motorists can in fact legally avoid purchasing Third Party Motor Insurance by lodging a £500,000 bond with the Accountant General of the Supreme Court. Most people would rather take out an insurance policy.

The Association of British Insurers estimate that 5% - 10% of vehicles on the road are uninsured.

In 1947 the UK Government set up the Motor Insurance Bureau which pays compensation to victims of uninsured drivers for Bodily Injury costs and Property Damage losses. The Motor Insurance Bureau is funded by all motor insurers who are licensed to write motor insurance in the UK. The Association of British Insurers say that the cost of uninsured drivers adds £30 (that's almost NZ\$100) to each law abiding vehicle owner's premium each year.

In contrast to New Zealand, the UK does not operate a 'no fault' Motor Bodily Injury compensation system.

Compulsory Motor Liability Insurance compliance

In the UK you can't register your vehicle unless you have the minimum level of insurance. Still 5% - 10% of vehicles on the road are uninsured.

Police are able to verify immediately (via a link to the Motor Insurers' Information Centre) whether or not a vehicle is currently insured. More recently automated number plate recognition technology has allowed the Police to confirm whether moving vehicles on roadways are insured.

For the UK to maintain compliance of Compulsory Third Party Motor Insurance, a lot of money has to be spent each year on developing and maintaining information systems and technology.

The UK Police operate dedicated traffic units whose job it is to identify uninsured motorists. This is publicly funded.

The idea of Compulsory Third Party insurance for Property Damage Liability seems like a great idea, but the experience of the UK shows that the enforcement is costly. And remember, the UK system caters for Bodily Injury costs which are often far greater than Property Damage Liability losses. As you know, most Bodily Injury Motor claims are paid for by ACC here in New Zealand.

A further point that's worth noting is that the proposal for Compulsory Third Party Motor Insurance also is done in the hope of protecting insured innocent parties from the consequences of being hit by uninsured drivers. This is currently covered by existing insurance schemes. The Uninsured Motorist Extension, promoted by the Insurance Council, provides cover for insured drivers who are hit by uninsured drivers, ensuring that they are not financially affected in any way.

Overall, what is the position of the Insurance Council? It is this. We will engage very constructively with the Government in the area of Compulsory Third Party Motor Insurance. However, we have some concerns, particularly in the area of compliance costs, technical underwriting difficulties, and most importantly, the effectiveness of this initiative unless it is highly policed.

On that basis what we have proposed to the Government currently is that we will work towards a model whereby the Government dramatically increases the policing of four compulsory points for all drivers on the road that:

- ⇒ all drivers must be licenced and driving within the conditions of their licence at all times;
- ⇒ the vehicle must be fully registered;
- ⇒ the vehicle must be fully warranted, and that if necessary,
- ⇒ Third Party Motor Insurance should also be compulsory.

If, one of these four compulsory requirements is missing, a driver will not be able to obtain a highly visible sticker which will be placed on the front windscreen of a motor vehicle stating that this motor vehicle and its driver are fully compliant with all four conditions.

Currently there are separate stickers for Warrant of Fitness and Registration licences on the windows. Our proposal would see one sticker on the front windscreen of a motor vehicle which can only be obtained if all four conditions required by the Government, and compulsory, is in place. Were this not to be the case, then the Police, in large numbers, would need to police the vehicle fleet and detect all cars without the sticker and have them removed from the road.

This will be the challenge for any Government implementing a Compulsory Third Party Insurance Scheme, and it will involve massive costs and significant difficulties. We, however, are very much in the same frame as the Government in recognising that irresponsible, and at times highly dangerous, drivers are on the road doing extraordinary damage to other law-abiding citizens and that significant initiatives must be undertaken to reduce the level of danger that these people impose to themselves and others.

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