

**Insurance Manufacturers of
Australia (IMA) and Insurance
Australia Limited (IAL)**

SUBMISSION

TO

**REVIEW OF ACCIDENT TOWING
AND STORAGE FEES**

**ESSENTIAL SERVICES
COMMISSION**

DATE OF SUBMISSION: 16 November 2009

Submitted to:

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TABLE OF CONTENTS

1.	EXECUTIVE SUMMARY.....	3
2.	SUMMARY OF QUESTIONS	4
2.1	LEVEL, STRUCTURE AND COMPONENTS OF REGULATED CHARGES.....	4
2.2	PROCESS FOR FUTURE FEE VARIATIONS.....	12
2.3	WHETHER CHARGES FOR CLEARING A ROAD ACCIDENT SHOULD BE REGULATED.....	13
2.4	NON-COMMERCIAL TOWS.....	13
2.5	BOUNDARIES FOR THE ACCIDENT ALLOCATION ZONES.....	14
2.6	OTHER ISSUES	15
3	CONCLUSIONS.....	17

1. Executive Summary

Insurance Manufacturers of Australia Pty Limited (IMA) is an alliance between Insurance Australia Group (IAG) and RACV Group (RACV). IMA's responsibilities include the management of certain claims for insurance policies issued either by IMA or Insurance Australia Limited (IAL) under the following brands: NRMA Insurance, SGIO, SGIC and RACV. (Note that this submission is made by IAL and IMA and not by RACV).

This submission is provided in accordance with the 'Issues Paper' as provided by the Essential Services Commission. The aim of this submission and that of the review process is to critically evaluate the appropriateness of current and future Towing and Storage fees, including controlled area boundaries and fee review processes.

We are of the view that:

- the current fee structure for the 'controlled area' is appropriate at existing levels;
- tow operations should be considered as a stand-alone business;
- any increase in towing and storage fees is likely to result in a direct increase in insurance premiums;
- the boundaries for the 'controlled area' should be extended to include the Gippsland, Yarram, Bairnsdale, Seymour / Bendigo and Ballarat; and
- greater disclosure and transparency are required on Tow Operator invoices to substantiate, itemise and differentiate fee components.

Where deficiencies of the Act have been identified within this submission, potential improvements have been offered by means of suggested changes to the current towing and storage fee regulations.

2. Summary of Questions

2.1 *Level, structure and components of regulated charges*

We conduct general insurance operations and are affected by towing and storage fees in all Australian states and territories. Within Victoria, we require more than 18,000 vehicles to be towed within the controlled and uncontrolled areas. The towing and storage fees associated with these requirements vary considerably, including those within the controlled area. When these towing and storage fees are averaged, they are at parity with the other states and territories and therefore should be, all things being equal, commercially viable for the operator.

In the competitive New South Wales environment, for example, we recently conducted a commercial tender process, requiring Tow Operators to submit a response in order to receive “Preferred Supplier” status and recommendations for future work.

The New South Wales tender called for Tow Operators to respond with specific criteria relating to how the respondent would:

- provide for a high level of customer service at the accident scene, liaison between the Insurer and driver, driver training and development;
- attend the accident scene within 15 minutes of notification, effectively and efficiently clear the scene of the damaged vehicle and debris;
- record details of the accident scene, including taking digital photos; and
- specifically not coerce the driver into towing services conditional on the basis that the customer must also acquire smash repair services.

Tow operators submitted their responses, including setting their own rates and fees based on commercially viable criteria. We gave preference to respondents that did not have any legal, financial or operational interest in a

motor vehicle smash repair or recovery agent business. We believed this to be an important element of the tender process to avoid any potential conflict of interest and / or unprofessional conduct in unduly coercing the driver into accepting smash repair services.

In our experience with the towing & storage, smash repair and recovery agent industry, the level of disclosure and transparency in relation to payments, commissions and rebates is inadequate. This lack of disclosure and transparency, in our view potentially encourages unprofessional behaviour.

Such behaviour may include:

- Tow Operators taking vehicles to smash repairers based on commission levels rather than customer requirements;
- Vehicles being stored for excessive periods without notification to insurer (thus, deliberately increasing storage fees); and
- Vehicles being repaired and smash repair recovery action commenced against the insurer without the provision for proper and fair assessment of the damage by the insurer.

Within Victoria, there remains significant disparity of fees from both within and outside the controlled area. Further analyses relating to the extent of disparity is illustrated in figure 1 below. Anecdotal evidence suggests that whilst most tow operators conduct their businesses within fair and reasonable terms, there remain elements of unprofessional conduct.

It is our view that further regulation and control that encourages the following would be beneficial to the industry:

- disclosure of financial interests in transactions, including fees, commissions, rebates;
- a requirement to immediately notify the driver, vehicle owner or his / her insurer of a vehicle's whereabouts; and
- Tow Operators to act fairly and reasonably in relation to setting towing and storage fees in uncontrolled areas.

Figure 1: Disparity of Towing and Storage Fees

Towing and Storage Fees incurred FYE 2009	Controlled Area (Excl GST)	Uncontrolled Area (Excl GST)
Mean	\$232.85	\$393.50
Median	\$167.59	\$330.00
Maximum	\$2,456.00	\$2,355.00

Figure 1 illustrates that variances remain in the level of tow fees that are being charged. Closer scrutiny of “maximum” fees has provided some interesting insights into the determination of fees with some substantial differences evident and little transparency to support such a fee structure.

The following examples illustrate a) the lack of suitable detail of the components of fees and b) incorrect fees and charges for towing and storage services, within the ‘controlled’ area. Whilst further investigation is required to understand the extent of this problem, this is believed to be widespread throughout the industry.

As can be seen within figure 2, a Tow Operator provided towing and salvage services to us. The towing services were incurred within the ‘controlled’ area, although incorporated salvage work, thus the salvage fees remained unregulated. Within the invoice, the first tow was charged at \$900.00 plus salvage costs of \$450.00. Towing services within the controlled area are regulated at \$168.45 and VicRoads has suggested that salvage fees charged may be in the order of \$100.00¹. The lack of transparency within the invoice provides little assistance for the Insurer to make a determination of fair and reasonable charges. Of a lesser value, but equal importance is a storage fee being charged at \$40.00 per day rather than the regulated \$8.60 - \$12.90 daily fee. Interestingly, but perhaps not surprisingly, we have found that almost all storage fees are charged at \$12.90 per day or greater without any

¹ Essential Services Commission “Review of Accident Towing and Storage Fees Issues Paper, October 2009, P.32

supporting evidence that the vehicle had been stored 'under cover' rather than simply in a 'locked yard'.

Figure 2: Towing invoice A



Tax Invoice

<p>INVOICE TO</p> <p>RACV Insurance P O Box 3030 MELBOURNE VIC 3000</p>	<p>RECEIVED</p> <p>2 4 NOV 2008</p> <p>161 COLLINS STREET MAIL ROOM</p>
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DATE	INVOICE NO
19/11/2008	██████████

P.O. NO.	TERMS
██████████	Due on receipt

DESCRIPTION	AMOUNT
<p>Accident tow of ██████████</p> <p>On arrival find Isuzu Tautliner Tray Truck on its side after being hit from behind and rolling over.</p> <p>Make scene safe and prepare to salvage truck back onto its wheels with 45 tonner slider crane heavy salvage unit.</p> <p>Once truck uprighted, prepare truck for towing and tow back to depot at ██████████ for storage.</p> <p>Towing</p> <p>Salvage Charges</p> <p>2nd Tow to Pickles Auctions</p> <p>Storage at Depot \$40.00 per day</p>	<p>900.00</p> <p>450.00</p> <p>600.00</p> <p>120.00</p>

Figure 3 (below) also illustrates unexplainable towing fees for towing services incurred within the 'controlled' area. Within this example, the Tow Operator also imposed an additional charge for "preparing to tow and salvage charges".

Figure 3: Towing Invoice B



<p>INVOICE TO RACV Insurance P O Box 3030 MELBOURNE VIC 3000</p>	<p>RECEIVED 27 FEB 2009 161 COLLINS STREET MAIL ROOM</p>	<p>Tax Invoice</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">DATE</th> <th style="width: 50%;">INVOICE NO</th> </tr> <tr> <td style="text-align: center;">22/02/2009</td> <td style="text-align: center;">[REDACTED]</td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">P.O. NO.</th> <th style="width: 50%;">TERMS</th> </tr> <tr> <td style="text-align: center;">[REDACTED]</td> <td style="text-align: center;">Due on receipt</td> </tr> </table>	DATE	INVOICE NO	22/02/2009	[REDACTED]	P.O. NO.	TERMS	[REDACTED]	Due on receipt
DATE	INVOICE NO									
22/02/2009	[REDACTED]									
P.O. NO.	TERMS									
[REDACTED]	Due on receipt									

DESCRIPTION	AMOUNT
Accident tow of [REDACTED] On arrival prepare bus for towing. Supply lights and make safe to tow. On owners instructions tow bus to [REDACTED] to repair shop. On arrival repairer unable to accommodate this size bus and repair involved so owner instructed us to tow back to our depot in [REDACTED] until he could organise a repairer. On the following day the owner contacted us and instructed we tow his bus to [REDACTED] at [REDACTED] so the bus was reloaded and towed to [REDACTED] 21/2/09. Tow bus from [REDACTED] and back to [REDACTED] for weekend. Prepare to tow and salvage charges [REDACTED]. 22/2/09. Tow bus from [REDACTED]	1,500.00 300.00 600.00

Figure 4 (below) for towing services incurred within the 'controlled' area provides for a) towing fees in excess of regulated fees without differentiation for any salvage costs, b) 'fuel levy' surcharge despite Department of Infrastructure previously determining 'fuel levy' within the 'controlled' area to be not allowed, and c) storage fees being charged at \$50.00 per day instead of the regulated \$8.60 - \$12.90 daily storage fee.

Figure 4: Towing invoice C

TAX INVOICE

Invoice No. [REDACTED]

Date 3/02/2009

Customer ABN: [REDACTED]

Account To

IMA Insurance
PO Box 3030
MELBOURNE 3001

RECEIVED
9 - FEB 2009
161 COLLIER STREET
MELBOURNE

19 FEB 2009

Description	Amount
To attend at accident scene at [REDACTED] Liaise with all emergency crews as to their requirements. To salvage vehicle back to upright position. To prepare vehicle to tow. Remove tailshaft. Supply lights.	\$1,240.00
10% fuel levy	\$124.00
Tow vehicle to [REDACTED]	\$150.00
To store vehicle for three days	\$520.00
To tow vehicle from [REDACTED]	\$52.00
10% fuel levy	\$52.00
Road tolls	\$18.38
Owner - [REDACTED] Claim No. [REDACTED]	
GST:	\$210.44
Balance Due:	\$2,314.82

PAID

Your Order No.: [REDACTED]

Vehicle Towed: [REDACTED]

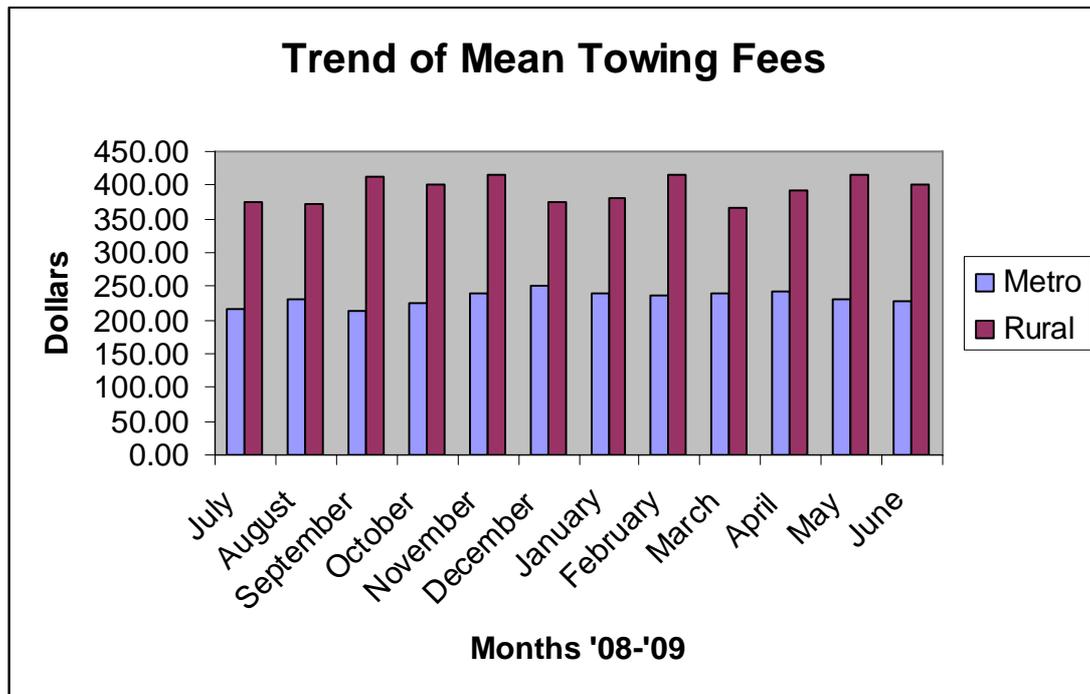
If you are paying by direct credit our [REDACTED]
Please forward payment advice to our fax number - [REDACTED]

Summary

- It is our view that the level and structure of the charges a) be no more than at parity with other states where fees are not controlled but are commercially competitive and b) comprise of a component that encourages Tow Operators to pursue efficiency and effectiveness improvements in the interests of improving customer service (e.g. this may include an “at risk” component of their fees) (Question 1);
- The Commission, when determining the appropriateness of current towing and storage fees, should take into account: a) fees and charges in other Australian states, b) independent and qualified assessment of the financial structure of tow operations, c) work volumes, and d) levels of change, innovation and efficiency improvements within the industry (Question 2);
- There are examples of cost inefficiencies from the customer’s perspective where a Tow Operator deliberately exploits its power whilst in possession of motor vehicles. We have found instances where Tow Operators tow a vehicle to their depot in an effort to then generate storage fees and secondary tow fees (Question 7);
- Whilst further analyses are required to accurately determine the extent of the relationship between Smash Repairers and Tow Operators, anecdotal evidence suggests between 75% and 85% of Smash Repairers also perform Tow Operations (Question 10);
- It is appropriate, given the commercial viability in other Australian states, that the commercial viability of the accident towing industry is treated on a stand-alone basis (Question 12), however in doing so, the Commission would also need to consider requiring greater disclosure and transparency requirements being imposed on the industry;
- The mean revenue derived from each of our contracted tow services is \$232.85 (‘Controlled’ area) and \$393.50 (‘Uncontrolled’ area) (Question 16);
- Analyses of towing fees and storage costs have shown trends as illustrated within figure 5, which shows minor fluctuations. However,

notably Rural fees are 69% higher, on average, than Metro fees. Whilst further analyses are required to understand the affects that mileage related costs have on total costs, analyses of Metro based tows suggest total costs vary between \$2.54klm - \$5.45klm (Question 17).

Figure 5 Trend of Mean Towing Fees



2.2 Process for future fee variations

We agree that a systematic and predictable approach toward future fee adjustment is of benefit to industry assuming that such an approach is based on commercially viable criteria (Question 18). Whilst it is acknowledged that there is perhaps limited prospect for Tow Operators to avail themselves of efficiency improvements through technology, innovation and process improvement due to the inherent high portion of fixed costs involved within their field operations, there is provision for Tow Operators to continually improve efficiencies for their customers (as detailed within the previous section).

A process of future adjustments to regulated fees is considered to be appropriate (Question 19) where such a process: a) is of no greater frequency than annual (Question 20), b) remains in line with inflation (e.g. Consumer Price Index) as a commonly accepted and transparent index (Question 22), and c) recognises the relevance of “at risk” components based on performance criteria.

The performance criteria, and a Tow Operator’s exposure to “at risk” amounts may be measured via a formal reporting mechanism or scorecard, to be introduced (Question 25). Tow Operators are to be required to submit their efficiency, effectiveness and customer service levels, such as:

- Efficiency (e.g. time to arrive at scene, time to clear scene);
- Effectiveness (e.g. No. of tow’s prior to delivery of vehicle to Insurer’s designated destination, No. of storage days per vehicle)
- Customer service (e.g. results from customer survey).

Additionally, a process incorporating a customer feedback mechanism would be welcomed and believed to be conducive toward improving customer service levels. Such a feedback mechanism may include a) service provided and offered, b) time of arrival / clearance of scene, and c) any recommendation or offer of additional services.

2.3 *Whether charges for clearing a road accident should be regulated*

Whilst it is our view that the current level of regulation and structure of fees in relation to road clearing are working effectively, it would welcome greater regulation in relation to salvage operations. We find that the lack of transparency and disclosure surrounding fees for salvage operations is hindering its ability to effectively manage its costs. VicRoads has previously suggested that salvage fees be in the order of \$100.00 however, the actual fees being charged by industry are several times greater than this amount.

Other than greater levels of transparency and disclosure being introduced, we do not consider there is a need for further regulation, charge, change or competition in regard to road clearing.

2.4 *Non-commercial tows*

We are of the view that the current level of regulation and structure of fees in relation to non-commercial tows are working effectively. We do not consider there is a need for further regulation, charge, change or competition in this regard.

2.5 *Boundaries for the accident allocation zones*

We are of the view that the introduction of regulation and control in relation to the allocation of tow operations has been effective in managing anxiety and stress levels for accident victims. Tow Operators have largely operated in accordance with the spirit of the regulations, therefore improving relations at the scene of an accident.

We are of the view that the current boundaries should be broadened to a) further the benefits on the community, and b) provide greater transparency of legitimate tow fees. From analysis of our tow fee data, fees within 'uncontrolled' areas, on average are 69% higher than the 'controlled area', which is believed to be driven by the absence of regulation.

We are strongly in favour of extending the boundaries to include:

- the Gippsland;
- South / East to Inverloch, Foster, Yarram;
- East to Bairnsdale;
- North to Seymour / Bendigo; and
- West to Ballarat.

2.6 Other issues

Respondents have been requested to detail a) who the stakeholders in the Victorian tow truck industry are, and b) the considerations to be taken into account when assessing changes to existing regulations (Question 42). By definition, a stakeholder “is any group or individual that is affected by or can affect the achievement of the organisation’s objectives”². Following from this definition, stakeholders extend beyond Tow Operators, Smash Repairers and Insurers and include the broader community, government and trade unions, for example.

For the purposes of this response paper, potential changes and their likely impact on us, as an Insurer have been detailed within figure 6 (Questions 42-48).

For us, as an Insurer, the cost of towing and storage is incurred in 8% of claims and represents approximately 1.25% of its claims costs. Thus, these costs directly contribute to the cost of claims and any increase in towing costs will increase claims costs. If the proposed changes to towing regulations / charges in Victoria were to increase claims costs, we would be left in the position of, in all likelihood, having to pass these additional costs onto its policyholders through higher premiums. Based on current average premium levels in Victoria, every 1% increase in premiums would add around \$6 to the average policy.

² R.Edward Freeman (1984) Strategic Management: A Stakeholder Approach, P.46

Figure 6 Changes and impacts on Insurers as Customers

Stakeholder Group	Change	Impact
Customers	<ul style="list-style-type: none"> • Increase in towing and storage fees and charges 	<ul style="list-style-type: none"> • Insurers will be forced to raise insurance premiums, Insureds will pay more; • Towing and storage fees are at parity with other states and no increase is considered to be warranted
	<ul style="list-style-type: none"> • Expansion of controlled area 	<ul style="list-style-type: none"> • Greater transparency and consistency of fees and charges would become evident in newly created 'controlled' areas, therefore would be welcomed; • Presuming regulated fees remain stagnant, towing and storage fees would be reduced.
	<ul style="list-style-type: none"> • Requirement for greater disclosure 	<ul style="list-style-type: none"> • Greater disclosure requirements on tow operators would be welcomed. Such a requirement, and ability to audit the same would see fairer and more consistent fees being charged; • Insurer costs would decrease through greater controls and disclosure on Towing invoices with details including date & time of tow, break-up of costs, including towing, salvage, fuel, tolls, etc
	<ul style="list-style-type: none"> • Introduction of penalties for incorrect invoicing and unprofessional behaviour 	<ul style="list-style-type: none"> • Insurer costs and overcharging would decrease, thus reducing costs for Insureds and the greater community; • Tow operators would adopt a more accurate and professional approach to invoicing, in accordance with the Act.

3 Conclusions

We operate an insurance business within Victoria and incurs costs from Tow Operators through towing and storage fees. We currently contract approximately 18,000 vehicles to be towed within Victoria's 'controlled' and 'uncontrolled' areas. Fees being incurred from these services vary to those fees determined or recommended by the Accident Towing Services Act 2007.

We are of the view that regulation within the towing industry is of benefit to the community in preventing accident victims from being pressured at the scene of an accident by Tow Operators³. To this end, we would welcome an initiative to further the 'controlled' boundaries, thus continuing the benefits to the community.

We are also of the view that greater levels of disclosure and transparency would be of benefit to the towing, smash repair and insurance industries. An initiative requiring tow operators to provide detailed and justified costing, including times, tasks and actions taken would be welcomed.

Essential Services Commission, in its review of towing and storage fees should also consider the introduction of a formal reporting mechanism that takes into account service levels, customer feedback and performance metrics. We are strongly supportive of such an initiative in the circumstances where the rating or scorecard also has the ability to affect the remuneration, or "at risk" component of a tow operators payments.

³ Essential Services Commission "Review of Accident Towing and Storage Fees Issues Paper" October 2009