



CADRI
CANADIAN ASSOCIATION
OF DIRECT RELATIONSHIP
INSURERS

5 June 2020

Mr. Tim Bzowey
EVP, Auto/Insurance Products
Financial Services Regulatory Authority
5160 Yonge St., Toronto, ON, M2N 6L9

Via: <https://www.fsrao.ca/engagement-and-consultations/request-comment-auto-insurance-Take-All-Comers-rule>

Dear Mr. Bzowey,

Re: 2020-4: Request for Comment – Auto Insurance *Take-All-Comers Rule*

Introduction

The Canadian Association of Direct Relationship Insurers (CADRI) is the voice of insurance enterprises that offer automobile, home and commercial insurance directly to Canadians. We advocate for flexible and evolving regulatory and legislative frameworks governing automobile, property and commercial insurance to enable product and service innovation so that Canadians can easily choose insurance that serves their needs through the delivery channels of their choice.

CADRI members are of the view that if there are issues with the application of the Take-All-Comers rule, they are reflective of an overall regulatory framework that is unnecessarily restrictive and does not promote a truly competitive market.

It's worth observing that Ontario is only one of three jurisdictions in North America that have a Take-All-Comers rule.

CADRI believes that moving to a principle-based, outcome-focused regulatory environment would best serve consumers and eliminate the need for the current rule by creating a more competitive environment.

Conditions for a Competitive Market

From a CADRI member perspective, the following conditions must exist to create a truly competitive marketplace:

- Consumers can easily access competitive information on options and premium rates among insurers.
- Consumers' policy premiums are aligned with the inherent risk presented and are intrinsically fair.
- Premium rates are set at an overall level that allows the industry to expect a reasonable margin of profit and affords insurers the resources to reinvest to the benefit of policy holders.
- An efficient mechanism exists to deal with the limited number of cases that cannot be underwritten with that profit expectation, because of factors such as irresponsible driving behaviour or other forms of moral hazard.

Root Causes of Market Issues

While Ontario has seen progress recently in moving toward a more competitive marketplace, unfortunately, the conditions above do not fully exist. CADRI submits that this can be attributed to the following:

- Overall rate levels in recent years have been inadequate to cover expected claim costs and operational expenses. This is an issue that government has endeavoured to address and progress has been achieved.
- Due to the restrictions that are in place with respect to the use of proven rating variables, the premium rates for a significant number of drivers are inadequate when compared with their expected costs. Hence significant cross-subsidies have been created, under which many lower-risk drivers are paying more than they should to cover the costs of higher-risk drivers.
- Problematic restrictions include a prohibition on the use of an individual's credit score and a cap on the number of territories insurers could create to better reflect driving habits.

The adoption of the Take-All-Comers rule is a direct consequence of the restrictive regulatory environment. In difficult market conditions, the Take-All-Comers rule can lead to outcomes that are disruptive and that unlikely were part of its original intent: it can force some insurers to deal with an inflow of new business that exceeds their operational capacity or, at the extreme, their financial capacity.

Current Market Situation

CADRI's members seek to position themselves as the preferred option for consumers who are increasingly comfortable shopping in a multi-channel universe. In doing so, they aim for long-term growth and invest significant financial resources in communications, advertising, ease of doing business, user-friendly web platforms, customer service, process efficiency, and other aspects of new business acquisition.

In their experience, CADRI members find that current conditions are not optimal to achieving a fair distribution of subsidized risks among all market participants. Because of direct-relationship insurers' high visibility and accessibility they are particularly exposed to attracting a disproportionate share of subsidized risks, negatively impacting their overall underwriting performance.

In this environment, the risk-sharing pool is a critical element as it allows for a greater sharing of subsidized risks among all participants. However, CADRI members believe that some of its current rules unnecessarily limit its intended purpose. For example, the rules penalize insurers who make a greater use of the pool by assigning them a higher proportion of the pool's results. To the extent that the risk-sharing pool is there to respond to a critical need for a well-functioning market, such a rule appears counter-productive.

The Way Forward

In our estimation, there would be no need for a Take-All-Comers rule in a truly competitive market. We recommend that FSRA focus its efforts on eliminating or reducing regulatory obstacles to an efficient market so consumers can be assured that the price they pay for auto insurance fairly reflects the risk their insurer is assuming.

CADRI appreciates the steps FSRA has taken and is taking towards a more flexible and efficient rate filing system. We encourage FSRA to continue to provide flexibility to allow insurers to offer consumers premium rates which reflect their risk profile. This would significantly reduce the cross-subsidies discussed above. We recommend that restrictions on the use of proven and fair rating variables should be lifted. In addition, the more efficient and timelier the process is to change rates, the easier it is for insurers to consumers' changing behaviour.

While it may not be entirely possible to bring an end to cross-subsidization altogether, CADRI submits that Ontario drivers would be well served with the elimination of as many regulatory anomalies as possible. So long as FSRA:

- publishes a streamlined list of prohibited factors that are clearly discriminatory and not in the public interest,
- eliminates caps on territories, and
- lifts the credit score embargo,

other measures, such as the Take-All-Comers rule would not be necessary.

To the extent that some cross-subsidies likely will continue to exist, the risk sharing pool would continue to play an important role but it should do so in an unbiased way that allows for a fair and optimal distribution of these risks across all market participants.

Conclusion

CADRI urges FSRA to take a step back and to examine the issues that led to the creation and maintenance of the regulation. FSRA has embraced principle-based regulation and this should not be an exception. In our estimation, a more flexible regulatory regime, which allows insurers to price insurance products to reflect consumers' risk profile and needs, accompanied by a sound risk-sharing mechanism, would negate the need for a Take-All-Comers rule, and ensure that there's no overt cross-subsidization for Ontario drivers.

CADRI members have extensive internal, corporate policies focused on good governance, compliance, and customer service. In addition, they seek to comply with market conduct measures including guidance to ensure fair treatment of customers. We would be pleased to discuss with FSRA means to ensure Ontario drivers have reasonable access to automobile insurance in a more competitive environment in the context of regulatory change.

Yours sincerely,



Alain Thibault
CEO and Chairman
CADRI

cc:
CADRI Board of Directors
CADRI Risk Classification Task Force
CADRI Ontario Committee