WORKERS COMPENSATION INSURANCE

In 1995, all nine Australia Governments agreed that in order to stimulate economic growth and job creation in our increasingly internationally focussed economy, a co-ordinated approach to market reform was required.

As a result, all Governments undertook to implement, on an ongoing basis, a package of reforms to be known as the National Competition Policy. These reforms are designed to help develop a more dynamic and competitive economy.

In its simplest form, 'competition' in a marketplace is about choice and exists when a number of businesses strive against each other to attract customers and sell their goods and services. Generally competition will foster production efficiency and innovation and thus generate lower prices, greater choice and better levels of service for consumers.

One of the most important National Competition Policy undertakings is that each Government will review and reform all laws that restrict competition. The guiding principle is that laws should not restrict competition unless the benefits to the community as a whole outweigh the costs and the objectives of the law can only be achieved by restricting competition.

Governments that restrict the provision of workers' compensation insurance to a single monopoly provider must therefore review their laws to determine if the restriction on competition is of benefit to the whole community.

ISSUES FOR GOVERNMENTS TO CONSIDER

The fact that a number of States currently operate competitive workers' compensation schemes, with apparent success, suggests that the case for maintaining monopolies in this area must be scrutinised closely.

As the existence of both monopoly and competitive schemes demonstrates, the major objectives of workers' compensation can be achieved in a variety of ways.

Governments can make different choices on issues such as benefit levels and access to common law claims, and these choices can be accommodated under both competitive and monopoly schemes.

Workers compensation premiums are a significant employment cost and as such influence the number of jobs within the community. It is therefore important that insurance schemes not only deliver acceptable benefit levels to accident victims, but are as efficient as possible, to ensure that premiums remain affordable for employers in the long term.

In the last few years there have been substantial changes in the Australian financial and insurance markets. The National Competition Policy reviews of monopoly provided workers' compensation are an opportunity to ensure that the Government restrictions on competition are still serving the interests of the community as a whole.

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WORKERS' COMPENSATION INSURANCE

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THE ROLE OF INSURANCE

Insurance compensates us for loss or injury when something goes wrong. Insurance services are available for a wide range of areas and activities, including life, home and contents and travel.

In most cases, individuals freely choose whether to insure themselves, based on their personal circumstances and their own assessment of the risks they face. However, there are some types of insurance that are required by law. One of these is workers compensation insurance.

WHAT IS WORKERS' COMPENSATION INSURANCE?

Workers' compensation insurance is designed to protect employees and their families from loss of income, health or life resulting from an accident at work.

Governments have mandated workers compensation insurance because the person likely to suffer harm in the work place is not necessarily the person who is in the best position to control the risk.

Employers have a duty to provide a safe workplace. Compulsory insurance ensures that injured employees will receive compensation if they are injured in the workplace.

In addition, given the total number of people, and time spent working, workplaces represent a situation of risk. Therefore, governments are seeking to ensure that the relatively large numbers of people injured at work receive adequate compensation by mandating insurance requirements. This is particularly important given that the costs of claims are, on average, very high.

The absence of mandatory insurance would mean that people injured in the workplace would have to seek compensation through costly private legal action. The financial consequences for those involved would often be disastrous, and could result in the injured party not receiving the medical care they need.

With this in mind, earlier this century governments across Australia decided to make insurance for workers' compensation compulsory by law.

While all Australian Governments agree that the compulsory nature of workers' compensation insurance provides important benefits to the community there are many differences between the current State and Territory schemes.

In particular some States have single or monopoly insurers while others have numerous insurers competing against each other.

WORKERS' COMPENSATION INSURANCE IN AUSTRALIA

While every person employed in Australia must be covered by workers' compensation insurance, paid by their employer, each State and Territory has separate schemes.

Generally, the objectives of workers' compensation schemes are to:

- insure employers against claims of personal injury arising from work place accidents
- compensate accident victims and their families for injuries or death
- assist in rehabilitating injured workers so they can resume active employment
- prevent accident, injury and death by modifying workplace behaviour

WHY DOES THE EMPLOYER PAY WORKERS' COMPENSATION INSURANCE?

It is the employer who pays for workers' compensation insurance. However, the benefits are paid to the injured party not the employer.

Laws that require the employer to pay insurance are justified on the grounds that employers control most aspects of the work environment, and are better placed to control potential hazards and improve safety. It is therefore the employer's responsibility to maintain a safe workplace and to compensate employees injured as a result of workplace hazards.

Studies have confirmed that holding employers responsible for work related accidents and illness provides a powerful incentive for businesses to maintain a safe and healthy working environment. (Productivity Commission, Workers' Compensation in Australia, Report No, 36, 1995)

In addition the cost of any particular goods and service should reflect all of the costs of production. This includes the costs of providing a safe work place for employees as well as the cost of work place accidents.

Compulsory insurance is an efficient way of making sure that the occurrence and cost of work place accidents is minimised, and not passed on to the community at large, for example through higher taxes to pay the hospital bills of accident victims.

INSURANCE AND THE COST OF PREMIUMS

The level or cost of insurance premiums is largely determined by the number of claims and the level of benefits paid. If there are a large number of claims and the benefits paid are high then premiums will also be high. If there are few claims and/or low benefits are paid than the premiums will be lower.

HOW ARE GOVERNMENTS INVOLVED?

All State and Territory Governments have taken a major role in determining the characteristics of their workers' compensation insurance. Governments set benefit levels and determine if victims of accidents can also access the Courts for common law claims of negligence by employers. Governments also determine how insurance scheme classifications are used and how premiums are collected. Although these factors may vary from State to State they all have an impact on the overall cost of running a worker's compensation insurance scheme and the premiums that employers are charged.

Another factor that may affect the cost of insurance – and therefore premiums - is the question of who provides the insurance. Is it a state-run monopoly or are there numerous competing insurers?

MONOPOLY OR COMPETITIVE INSURERS?

In many Australian States workers' compensation schemes are operated by a monopoly insurer.

One of the advantages in having a single insurer is that its sheer size enables economies in administration, particularly of the large pool of money derived from premiums.

In addition, monopoly insurers have greater incentive to provide general education and prevention services, as they directly benefit from improved safety through reduced claims. General education services can nevertheless be provided in a competitive market by levying employees or employers to pay for these additional services.

However competition provides additional incentives for insurers to prevent risky behaviour through specific education initiatives for their customers. That is, instead of passing increased costs on to the client through increased premiums, an insurer in a competitive market is likely to seek to modify the behaviour so that they can offer lower premiums, and thus increase their competitive advantage.

Some supporters of monopoly workers' compensation insurance schemes also argue that under competitive arrangements some businesses will be unable to get insurance. Insurance companies may be reluctant to ensure a new business in a new industry if they have difficulty assessing the risk of workplace accidents. Competitive insurance arrangements in other areas, such as product liability, appear to deal with this issue effectively. For workers' compensation insurance this can be done through a number of mechanisms including cross subsidisation or a requirement to insure, both of which are currently employed in some States.

Government owned insurers may provide dividends for the government when they make a profit. However, losses are also ultimately borne by the taxpayer. Unfortunately this has been the experience in many States over recent years. For example, the New South Wales Workcover scheme had an estimated deficit by $2 billion in June 2000. Ultimately this debt will be borne over time either by future employers and/or directly by taxpayers. Higher premiums for employers makes hiring people more expensive and can lead to higher prices for goods and services.

Insurers who face competition for customers do have greater incentives to keep their customers satisfied or risk losing market share. Competitive insurers are therefore more likely to offer a wider range of products at competitive prices.

MONOPOLY OR SINGLE INSURER	COMPETITIVE INSURERS
New South Wales*	Western Australia
Victoria	Tasmania
Queensland	ACT
South Australia	Northern Territory
Commonwealth	

Table correct as at October 2000

**New South Wales has changed its laws to allow competition from a date to be specified.*

 # The Commonwealth Public Service has its own scheme.