

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

June 11, 2018

PRESENT:

The Board:

Darlene Whalen, Chair and CEO
Dwanda Newman, Vice-Chair
James Oxford, Commissioner

Board Counsel/ Staff:

Jacqueline Glynn, Board Counsel
Ryan Oake, Board Staff

Parties (Alphabetical Order)

Atlantic Provinces Trial Lawyers Association
Ernest Gittens

Presenters

James Cameron, Cameron & Associates

Campaign to Protect Accident Victims

Colin Feltham
Jerome Kennedy, Q.C.

Consumer Advocate

Dennis Browne, Q.C.
Andrew Wadden

Insurance Bureau of Canada (IBC)

Amanda Dean
Kevin Stamp, Q.C.
Terry Rowe, Q.C.
Trevor Foster

Spinal Cord Injury NL

Thomas Fraize, Q.C.
Lara Fraize-Burry
Michael Burry

Page 1	<p>1 (9:02 a.m.)</p> <p>2 CHAIR:</p> <p>3 Q. Good morning, everybody. We'll get started.</p> <p>4 I guess, go to you, Ms. Glynn, to get us</p> <p>5 underway.</p> <p>6 MS. GLYNN:</p> <p>7 Q. Yes, Madam Chair. Good morning, everybody.</p> <p>8 The Board retained Cameron & Associates to</p> <p>9 aid in our review for the taxi claim audit.</p> <p>10 Cameron and Associates provided a report</p> <p>11 entitled, Report on Taxi Claims Review. Mr.</p> <p>12 James Cameron, the President of Cameron &</p> <p>13 Associates, is here today to speak to his</p> <p>14 report, and with that, I would ask Mr.</p> <p>15 Cameron to start his presentation.</p> <p>16 MR. CAMERON:</p> <p>17 Q. Thank you, Jacqui. Good morning, Madam</p> <p>18 Chair, Commissioners, and counsel. My name</p> <p>19 is Jim Cameron, and as Jacqui said, I'm</p> <p>20 President of Cameron & Associates, and I</p> <p>21 appreciate being asked here to talk to you</p> <p>22 today and I appreciate having been</p> <p>23 commissioned to do the work that I did for</p> <p>24 the Commission.</p> <p>25 My background is in insurance;</p>	Page 3	<p>1 starting in 1990. At the time, I was</p> <p>2 President of the Ontario Insurance Adjusters</p> <p>3 Association, and did a presentation to the</p> <p>4 Osborne Commission, which was one of the</p> <p>5 first big commissions on auto insurance that</p> <p>6 the Ontario Government had, and led to a</p> <p>7 number of changes in the Ontario auto, which</p> <p>8 I'm sure someone will talk about today. In</p> <p>9 the past several years, our company in</p> <p>10 performing claims audits, we have audited</p> <p>11 bodily injury and accident benefit claims on</p> <p>12 behalf of insurance companies, and actually</p> <p>13 6 of the top 20 insurance companies we've</p> <p>14 audited in the last five years, and we're</p> <p>15 trying to get a number, the number of files</p> <p>16 that we've looked at collectively as a team,</p> <p>17 but certainly it's in the thousands,</p> <p>18 probably 10,000 perhaps, so we have had –</p> <p>19 our team has had a significant amount of</p> <p>20 experience in Ontario auto and auto across</p> <p>21 the country, auto insurance.</p> <p>22 I've also taught auto insurance on</p> <p>23 behalf of the Insurance Institute to teach</p> <p>24 the legislative changes that come out. I've</p> <p>25 designed courses to bring those to the</p>
Page 2	<p>1 insurance claims since – well, for almost 50</p> <p>2 years now, actually. I think it is 50 years</p> <p>3 this year I've been in the insurance</p> <p>4 business. I've had my own consulting</p> <p>5 company since 1994, and providing consulting</p> <p>6 services to the insurance industry, the</p> <p>7 insurance companies, reinsurance companies,</p> <p>8 to self-insured entities risk managed</p> <p>9 accounts, such as municipalities. I've also</p> <p>10 been commissioned by, for instance, taxi cab</p> <p>11 owners to help them look at their claims</p> <p>12 experience and how that translates into what</p> <p>13 they pay for insurance. Over these years, I</p> <p>14 have conducted a number of audits, the</p> <p>15 company. What we do is perform claims</p> <p>16 audits of insurance companies or self-</p> <p>17 insured entities, or we conduct audits of</p> <p>18 claims handled by insurance adjusters,</p> <p>19 independent adjusters, on behalf of</p> <p>20 insurance companies to determine if they're</p> <p>21 handling the claims in accordance with</p> <p>22 procedures and in accordance with the</p> <p>23 contract, and achieving the best results.</p> <p>24 I've been involved in the auto</p> <p>25 insurance segment for a number of years</p>	Page 4	<p>1 attention of adjusters and help adjusters</p> <p>2 work through how to interpret the changes,</p> <p>3 or at least how the changes will impact what</p> <p>4 they do.</p> <p>5 So we were commissioned by the Public</p> <p>6 Utilities Board to look at taxi cab losses</p> <p>7 and we were given the years 2010 to 2016,</p> <p>8 and this was a qualitative review to analyze</p> <p>9 the handling of claim files by adjusters and</p> <p>10 lawyers to determine if any factors would</p> <p>11 affect the loss experience, and factors that</p> <p>12 could improve the loss experience of taxi</p> <p>13 cabs.</p> <p>14 We looked at in excess of 100 closed</p> <p>15 claim files from three companies writing</p> <p>16 taxi business in Newfoundland and Labrador</p> <p>17 for the time period we audited, and all the</p> <p>18 policies for claims that we audited were</p> <p>19 placed through Facility Association, and I</p> <p>20 can talk about that. We did not identify</p> <p>21 any issues with the handling by the</p> <p>22 insurance companies, the handling by the</p> <p>23 adjusters, or the handling by the lawyers,</p> <p>24 by the defence lawyers, that would have</p> <p>25 adversely affected, in our opinion, the</p>

Page 5

1 outcome of the case or would have increased
 2 the loss costs, and the files that we
 3 reviewed generally were well handled and
 4 were escalated to management at the
 5 appropriate time within what would be
 6 accepted procedures. Legal opinions were
 7 obtained when appropriate, and there was no
 8 evidence that the interest of the insureds
 9 were not being adequately protected, and
 10 that's the role of the insurance company is
 11 to protect the interest of the insured
 12 person, which they are charged under the
 13 policy to defend and assume the liabilities
 14 of someone who's insured and is liable for
 15 an accident.
 16 Claim settlements were provident, fair,
 17 and expeditiously handled, and we tried to
 18 determine other factors that might influence
 19 the outcome, and one of the biggest factors
 20 was a delay in reporting of claims by the
 21 taxi cab owners or drivers, and many
 22 incidents of late reporting, and this
 23 created issues because it hampers the
 24 ability of the insurance company to
 25 investigate those claims, which could lead

Page 6

1 to a less desirable outcome, or at least it
 2 doesn't give you the opportunity to collect
 3 enough evidence to properly defend or to
 4 defend the case successfully.
 5 One of the other issues that came to
 6 the fore was the non-identification of
 7 drivers on a policy. There were many, many
 8 drivers driving these cabs and in some cases
 9 up to 10 drivers on one cab, and even then
 10 the driver who had the accident wasn't
 11 listed on the policy, so it was a rather
 12 surprising factor to us to see that.
 13 We looked at accident benefit claims as
 14 well as bodily injury claims as part of our
 15 mandate, and we identified that the majority
 16 of the accident benefit claims were actually
 17 for injuries to drivers of the taxi cabs,
 18 and some of them unlisted drivers as well as
 19 listed drivers, although that doesn't affect
 20 their entitlement. You're still entitled to
 21 the accident benefits if you're in the
 22 vehicle.
 23 Our overall conclusion was that the
 24 claims were handled within the existing
 25 legislation and in accordance with the

Page 7

1 existing jurisprudence on bodily injury
 2 claims, and settlements were, as I had said
 3 earlier, provident and expeditious, and
 4 overall the insurance companies there was no
 5 - you couldn't assess the insurance
 6 companies with a cause of the loss costs
 7 being that severe. They did their best to,
 8 so basically wake (phonetic) they up with.
 9 So we selected 100 files, closed claim
 10 files, from a random selection, but also
 11 random with some other input. Like, we did
 12 look at every claim that was over
 13 \$100,000.00 that was closed. We looked at
 14 that and we analyzed the handling by the
 15 adjusters involved and the handling by the
 16 lawyers involved, the defence lawyers that
 17 is involved. One of the things that did
 18 stand out was that the claims were being
 19 handled almost exclusively by in-house
 20 adjusters, not independent adjusters, and
 21 independent adjusters, of course, act for
 22 any number of different insurance companies
 23 with whom they have contracts, whereas staff
 24 adjusters are employed by the insurance
 25 company.

Page 8

1 We looked at claims. We looked at
 2 claims at Unifund Insurance Company, which
 3 had the vast majority of the claims, and AXA
 4 Insurance which is owned by Intact Insurance
 5 Company, and we looked at some claims from
 6 the Co-operators Group as well. All this
 7 business was written through the Facility
 8 Association, which is the insurer of last
 9 resort. I'm sure it isn't by choice that
 10 insureds go to the Facility Association.
 11 Facility Association is a group that's
 12 established to take the risks where other
 13 insurance companies don't want to write that
 14 risk, but they still require insurance, so
 15 they have this facility. It is a facility
 16 to place those risks, and that's why they
 17 ended up in Facility, 95 percent of the taxi
 18 business is in Facility.
 19 So we had our audit team comprised of
 20 people that we've used before on a number of
 21 audits; Sharon Cameron, Len Bondi, and Susan
 22 Saksida, and their resumes were in the
 23 package and attached as part of my report,
 24 and collectively they have over 100 years
 25 experience between those three, and add my

Page 9

1 50, so we have 150 years of experience going
 2 in to look at the files.
 3 If we could look at perhaps Table 3 in
 4 my report on page 7. Table 3, and this is –
 5 as I indicated, we looked at Unifund, AXA,
 6 and Co-operators claims, and certainly the
 7 vast majority are Unifund claims because
 8 that’s where the vast majority of the claims
 9 were, vast majority of the policies were,
 10 actually. Those are the numbers of closed
 11 files and open files, and we looked at some
 12 open files, and you might say why would we
 13 look at open files if we’re being
 14 commissioned to look at closed claim files,
 15 but we use that as a guide really to – as a
 16 check on how the claims were being handled,
 17 were the files that were still open being
 18 handled any differently than the files that
 19 had been closed. That gave us some insights
 20 which I did talk about in the report, and
 21 the short answer was they were not handled
 22 any differently, the open files. They were
 23 still open for various reasons that files
 24 remain open. The parties can’t come to a
 25 settlement essentially.

Page 10

1 Our audit process, we use a worksheet
 2 that we have specific points on the
 3 worksheet to determine to try to standardize
 4 the approach that we look at certain issues,
 5 like, was the file investigated properly, is
 6 an issue, yes or no, and then make comments,
 7 and we did that process for every file and
 8 then collectively analyzed that data and put
 9 it together and come up with our conclusions
 10 on it.
 11 (9:15 a.m.)
 12 How we looked at the files, and it is a
 13 qualitative judgment, but the actuaries, I
 14 mean, they’re scientists and they do
 15 quantitative analysis of claims, of the
 16 numbers, and they look at the history of
 17 losses and apply factors to that to try to
 18 predict what the future losses are, and our
 19 work is qualitative, which means it’s an
 20 opinion and it’s an opinion on various
 21 issues within the file that we derive, and
 22 we apply our judgment and experience and our
 23 opinions on how the file is being handled.
 24 In fact, we’re retained often by actuaries
 25 if they have issues on some book of business

Page 11

1 or some issue in the business that they
 2 aren’t comfortable with. They can hire us
 3 to look at claim files and give our opinion
 4 of how the claims files were being handled
 5 or how some of the issues were being dealt
 6 with in those claim files, and they then
 7 adjust their numbers or maybe they ignore
 8 it, but they hire us to look at that to help
 9 them add comfort to their own process.
 10 So first of all, the first part of the
 11 report is audit results for accident
 12 benefits, and Newfoundland is, as I’m sure
 13 pretty well everyone in the room knows, is
 14 the only province in Canada where accident
 15 benefits are optional, and it’s important to
 16 note, though, that every file that we looked
 17 at, every policy that we looked at for the
 18 claims that we looked at, had accident
 19 benefits, had purchased accident benefit
 20 coverage.
 21 If we go to Table 5 on page 11, this is
 22 claims handling issues on accident benefits,
 23 and this in the chart is essentially a
 24 breakdown of what our worksheet would look
 25 like for each file. We’d have those

Page 12

1 questions and have the answer from each file
 2 reviewed, and we compiled those together and
 3 come up with an overall score. Again this
 4 is a benchmark score comparing it to what we
 5 would call industry practices, best
 6 practices in the industry, and those best
 7 practices aren’t to be found in a manual or
 8 in litigation. They are just generally a
 9 compilation of how all the insurance
 10 companies handle claims, and a lot of them
 11 have their own claims manuals and they’re
 12 not all the same, but best practices
 13 generally will contain certain features that
 14 are consistent throughout the various
 15 companies.
 16 So we assess the claims on those
 17 issues, on those questions, as the numbers
 18 are identified there, and come out as an
 19 overall score of 86 percent, which is above
 20 average. 86 is a pretty good score. I mean,
 21 it doesn’t say it’s best of class, they
 22 weren’t, like, outstanding – this is a
 23 perfect example of how claims are handled,
 24 but it was very good, it was very good, and
 25 I think the biggest thing to draw from that

Page 13

1 was that the claims handling of accident
 2 benefit claims, there was no evidence that
 3 we saw that the claims handling adversely
 4 impacted the claim result.
 5 One of the things we did note was a
 6 significant proportion of third party
 7 uninsured drivers, which I believe has been
 8 already discussed at this commission, and we
 9 also indicated that where the driver was not
 10 named on the policy, the company did take
 11 internal steps of notifying their
 12 underwriting department, which is what best
 13 practices would be, and then the
 14 underwriting department would either add the
 15 driver to the policy or not. In fact, there
 16 was one where there was a driver not named
 17 in the policy who was involved in a minor
 18 collision and he was not added to the policy
 19 because the owner said he was not going to
 20 drive the cab again, and sure enough he was
 21 driving the cab again and was involved in a
 22 major accident, an \$80,000.00 claim.
 23 We looked at leakage. This is one of
 24 the issues which probably bears explanation.
 25 It's page 13. Leakage is an industry term

Page 14

1 that is used for identifying practices or
 2 activities that cost insurance companies
 3 money, basically, leaking money, and those
 4 are not settling a claim when there's an
 5 offer to settle that is appropriate and
 6 should have been taken, and the adjuster is
 7 on vacation for two months and no one looks
 8 at the file, and they don't settle, and then
 9 the settlement is off the table. That's an
 10 example of leakage, a pretty egregious
 11 example. There's other examples of pain
 12 claims without proper documentation, and it
 13 is the adjuster's role to determine that a
 14 claim is paid and ought to be paid. It
 15 doesn't serve the insured justice to pay
 16 claims more than they should be paid, or
 17 claims that shouldn't be paid, and sometimes
 18 there are some mistakes made that cause that
 19 kind of leakage, and we really didn't see
 20 much leakage at all. The 80 percent score
 21 was pretty good in that, and there's a
 22 couple of examples given in there of some
 23 leakage that we did see. Again these are
 24 looking at files, and you're looking at a
 25 claim file that it's hindsight. I mean,

Page 15

1 things have happened and decisions have been
 2 made when the file is before you at that
 3 point in time with the outcome, but really
 4 at the time you make the decision, you may
 5 not have all those facts and you certainly
 6 don't know that the outcome might be that.
 7 You can predict the outcome. So hindsight is
 8 always 20/20, as they say, so that's the
 9 score.
 10 One of the other points, if you'll go
 11 to Table 6 on page 14, this was to determine
 12 who was receiving the accident benefit
 13 claims, who were the claimants, and the way
 14 the policy works in Newfoundland and
 15 Labrador, the coverage follows the vehicle
 16 that anyone in that vehicle, any passenger
 17 or occupant of the vehicle, is entitled to
 18 claim under that vehicle's policy, which
 19 differs from other provinces and so there's
 20 more claimants might claim on accident
 21 benefits under a policy in Newfoundland
 22 under that particular policy.
 23 So the type of claimants we had were
 24 drivers, only 86 claimants, and the numbers
 25 are there for what was paid on those, and

Page 16

1 pedestrian/cyclist, if you hit a pedestrian
 2 with the vehicle, they come after your
 3 policy, whereas in other jurisdictions if
 4 the pedestrian had insurance coverage, they
 5 would go after their own insurance policy
 6 for the accident benefits portion. You'd
 7 still be responsible for the bodily injury
 8 portion, for the liability. The same goes
 9 to cyclists. Passengers had 36 claimants,
 10 and so all accident benefit claims, 155
 11 claimants we looked at out of the files we
 12 looked at, and there was 96 driver claims.
 13 So that's 53.8 percent of the accident
 14 benefit claims were to drivers of the
 15 insured taxi, and the balance, of course,
 16 was paid to claimants, the claimants who
 17 were other passengers, cyclists, or
 18 pedestrians.
 19 Then in Table 7, accident benefit
 20 claims with drivers listed or unlisted, you
 21 can see there there's a fair number of not
 22 listed drivers who've had accident benefit
 23 claims. Again as long as they're driving
 24 the vehicle with consent, they are entitled
 25 to accident benefits. In fact, even if they

Page 17	Page 19
<p>1 are not with consent, they're entitled to 2 accident benefits because they're in the 3 vehicle at the time and they're responsible. 4 We thought that that might be a significant 5 – certainly it demonstrates that controlling 6 who the drivers are and maintaining lists of 7 drivers certainly has some significance in 8 terms of the outcome on accident benefit 9 claims. 10 Overall the conclusions were that the 11 accident benefits were handled by the claims 12 staff in the same manner as all other claims 13 within that company were handled. They used 14 all the same service providers, the same 15 legal counsel that they generally used to 16 handle their whole book of business, and 17 again we couldn't identify anything that you 18 could attribute the cause of the poor 19 results to poor handling. That was just not 20 the case. 21 So then we looked at the third party 22 liability coverage, and third party 23 liability, of course, consists of bodily 24 injury and property damage, and we start 25 with bodily injury and the audit results.</p>	<p>1 where I was before, pardon me. The overall 2 score, 86.6 percent, is again above average 3 claims handling. On the settlement 4 proactivity on page 18, 6.6, we looked at 5 claims and expressed our opinion of the 6 claim in terms of the deductible, how the 7 deductible factored into ultimate 8 settlements, and our conclusion was that the 9 \$2,500.00 deductible was meaningless in the 10 sense that really we didn't see it had any 11 impact on reducing the claim settlements. 12 You might think that that's a harsh 13 statement, but, I mean, the claim 14 settlements are always a negotiated number. 15 There's no – it's not like a property damage 16 claim where you have a repair bill that says 17 this is the cost. Bodily injuries are very 18 subjective in terms of what the value is, 19 and many things go in, as these counsel 20 know, many, many factors go into the 21 assessment of a bodily injury claim, and all 22 are subject to negotiation. So the 23 \$2,500.00 basically was just used as a 24 starting point, while my claim is excess of 25 the deductible, here's my claim, and we</p>
Page 18	Page 20
<p>1 This is on page 16 at the bottom, Table 9, 2 we'll go to. Thank you. We looked at 50 3 closed and 60 open bodily injury claims, and 4 the benchmark scoring with that is on the 5 chart on Table 9, and was coverage 6 adequately investigated, was the 7 investigation timely and appropriate, 8 liability assessment, and was litigation 9 handled appropriately, and settlement 10 proactivity, which is a very important 11 score, 96 percent, that's excellent. 12 Proactivity on the defence side of a claim 13 when you're defending a bodily injury claim, 14 it benefits being proactive, to keep 15 prodding the plaintiff's counsel to present 16 the claim to present the claim, to 17 crystallize the claim, to give you enough 18 details to assess the claim to come to a 19 number that you can justify is a proper 20 assessment to settle that claim, and you 21 achieve that by being proactive in your 22 claims handling in chasing everyone up, 23 basically. 24 The initial claims reporting on page 25 17, we did not – sorry, I should go back to</p>	<p>1 didn't see that it really had any impact at 2 all. 3 We did see the use of the mandatory 4 seatbelt legislation being used to reduce 5 settlements. 6 Our overall conclusions on bodily 7 injury claims were that the claims were 8 handled again with the same care and 9 attention that the claims staff would pay to 10 all claims, all bodily injury claims that 11 they handled within that company, and using 12 their same worksheets and procedures and 13 practices, and they used proactive measures 14 to try to drive settlements and they were 15 successful in closing claim files. We also 16 saw that settlements were within the range 17 of jurisprudence. In most of the files we 18 looked at, there were actual - the 19 plaintiff's counsel were, of course, willing 20 to provide case law jurisprudence that 21 demonstrated that their claim was worth a 22 certain amount of money, and defence counsel 23 acting for the insurers also presented to 24 the adjusters case law where appropriate 25 that helped and tried to assist them with</p>

Page 21

1 how a court would assess the damages to come
 2 up with a number, so there was extensive use
 3 of that, and settlements were within the
 4 ranges generally that were set out in the
 5 jurisprudence. Again we felt that the
 6 manner of claims handling could not be – was
 7 not a negative factor in the loss experience
 8 on the bodily injury side of the ledger.
 9 (9:30 a.m.)
 10 Property damage claims we looked at,
 11 property damage claims are again generally
 12 more straightforward, and the numbers are
 13 not large. I don't think that's really an
 14 issue here. It's something that exists and
 15 there are methods that they use, such as the
 16 inter-company settlement agreement, which
 17 was used, and controlling repairs of third
 18 party vehicles.
 19 Generally, the property damage claims
 20 were being handled appropriately, and again,
 21 there was no critical issues in the
 22 adjustment of the claim that could—that we
 23 felt had negatively impacted the results.
 24 And although just empirically the cost of
 25 physical damage repairs we see, and there's

Page 22

1 a number of—a large discussion in the
 2 insurance industry right now about the cost
 3 of physical damage repairs to vehicles,
 4 which applies on both your collision
 5 coverage and your third-party liability
 6 coverage you're paying. The costs of
 7 repairing vehicles are going up
 8 significantly and across the country, and
 9 that's blamed on the newer vehicles and the
 10 costs of the new technology for them, but we
 11 didn't really see that in these, in these
 12 claims. We didn't see that yet. Perhaps
 13 the vehicles weren't as new or as
 14 suffocated—had all the options of these
 15 automatic driving cars. So, the additional
 16 considerations we did—since the mandate was
 17 to talk about—I'll go back to it here.
 18 Yeah, factors. Our mandate was to analyze
 19 findings and prepare a narrative report
 20 which would include our assessment of
 21 factors affecting the loss experience or
 22 factors that may improve the loss
 23 experience, and that's on page 5 in the
 24 bottom and page 6 at the top, and that was
 25 our mandate to do that. So, with that,

Page 23

1 we've added in the report some additional,
 2 yeah, there it is right here, factors that
 3 may improve the loss experience and
 4 certainly factors that may improve the loss
 5 experience were risk management issues which
 6 have been talked about and I understand
 7 there's a report being filed. There's a
 8 report being filed by the—where is it here?
 9 Insult to Injury Group or has been filed
 10 already I believe. Is it in the—it's
 11 already in as an exhibit I think.
 12 MS. GLYNN:
 13 Q. It is already on the record, yes.
 14 MR. CAMERON:
 15 A. Yes. Which their actuary—they retained an
 16 actuary and looked at that. I reviewed that
 17 report. I agree with virtually everything
 18 in the report really. I agree with most of
 19 the report. It talks about risk management
 20 of the taxi business which is probably the
 21 most important consideration that could
 22 reduce loss experience is to, again,
 23 control—controls over selection of drivers,
 24 training of drivers, and other practices and
 25 procedures, standard procedures and what you

Page 24

1 do with a taxi in certain situations. An
 2 example could be just forbid U-turns. I
 3 mean, you know, that's—you get—you know,
 4 you're more exposed. Factors like that that
 5 are risk management factors that could help
 6 control the loss costs and help avoid losses
 7 which is really everyone's ultimate goal.
 8 If you don't have the loss, you don't have
 9 to worry about how you pay for it. So, and
 10 I think everyone is in agreement that fewer
 11 accidents and fewer people hurt are better,
 12 ultimately better, but having said that, you
 13 have to deal with the ones that do have an
 14 accident and get hurt. So, I looked at the
 15 tort deductibles on bodily injury and just—
 16 these are just considerations. I mention
 17 them in the report because I'm not
 18 recommending that you do that. I'm just
 19 saying if you're looking at how other
 20 methods that might reduce loss costs, this
 21 is what other provinces have done. And you
 22 probably know that already, I'm sure, but—
 23 and you will be looking at that from other
 24 sources, but I thought I would, because we
 25 have that experience in looking at files

Page 25

1 before and after such recommendations have
 2 been put forth and such changes have been
 3 put forth. And you know, our experience,
 4 our opinion is that there—they have made a
 5 difference in terms of the payouts on
 6 claims. And the actuaries will give you all
 7 kinds of number that say they have and
 8 there's other factors. Of course, there's
 9 other factors as well, but a deductible at a
 10 proper amount or a cap is certainly—can be a
 11 factor that would reduce loss costs, and of
 12 course, the supplies to accident benefits as
 13 well. In Ontario, a huge problem. Not so
 14 much here, you know, the accident benefits
 15 here were not—the average cost was not as
 16 severe as Ontario, and they made some major
 17 changes on accident benefits, restricting
 18 the right to—restricting rights of the
 19 individual of course, but that's—that was
 20 consider a trade-off, that you trade off the
 21 rights of claims in certain situations for
 22 the benefit of reducing premium for everyone
 23 across the board. And you know, like that's
 24 a philosophy and obviously I'm not going to
 25 say that it doesn't reduce victim's rights,

Page 26

1 because it does and that's the trade-off.
 2 And the same with minor injury caps and the
 3 thresholds. In Ontario they've had some
 4 amazing things on thresholds. A lot of law
 5 in it, a lot of cases on it, and I think it
 6 was pointed out in the Insult to Injury
 7 Actuarial Study that the cost of assessing
 8 cases can be very significant, and when you
 9 have those types of controls on a claim, a
 10 threshold or a cap, if a claimant is trying
 11 to argue or is arguing that they don't fit
 12 the exception, they're an exception to that
 13 cap, their claim is different, then there's
 14 costs on both sides by the claimant to get
 15 medical reports to produce to say that they
 16 are an exception, and of course the insurers
 17 spend money on defending that or getting
 18 their medical reports, getting medical
 19 reports to perhaps come up with a different
 20 conclusion that they do fall within the cap.
 21 And there's a lot of money spent in those,
 22 what I call transaction costs. And I think
 23 the numbers that were pointed out in the
 24 Insult to Injury Report, the—Mr. Allen's
 25 report were actually appropriate, that

Page 27

1 we're—you know that it can cost significant
 2 amount of money to investigate and determine
 3 factors that would--whether a claim falls
 4 within a certain limit or not. And that
 5 money doesn't go to the claimant; that's
 6 money spent on medical doctors, consultants,
 7 and it can be a very significant number. In
 8 fact, in Ontario, this is not in the report,
 9 but in Ontario we've audited claims files
 10 where the issue—where that was a major issue
 11 and we've seen on claims—on a claim that had
 12 a total incurred loss of \$80,000, \$40,000 of
 13 that being spent on medical reports on both
 14 sides, paying for the other side's medical
 15 report and paying for the insurer's medical
 16 report. That money doesn't go to the
 17 claimant. So, I mean, that is one of the
 18 difficulties of coming to a definition of
 19 what is a threshold, what is a cap, how is
 20 it defined? And the difficulty then also
 21 of, in our experience, of getting that
 22 definition tested by the courts, tested. It
 23 takes some time to do that and ultimately it
 24 becomes clearer through the case law, but
 25 there's a lot of money spent in the interim

Page 28

1 on expenses in trying to get to that right
 2 place where this is how everybody
 3 understands what the legislation means. And
 4 the last thing we mention was territorial
 5 differences. We were asked to look at that,
 6 the territories. And Territory 1 which is
 7 essentially—which includes St. John's had
 8 very significantly more claims, far more
 9 claims than the other two territories. And
 10 I don't think that's surprising given the--
 11 just the economic activity and the number of
 12 vehicles in the Territory 1 versus Territory
 13 2 and Territory 3. And that is—that was my
 14 report.
 15 CHAIR:
 16 Q. Thank you, Mr. Cameron.
 17 MS. GLYNN:
 18 Q. Mr. Cameron, you're finished with your
 19 presentation?
 20 MR. CAMERON:
 21 A. Yes, thank you.
 22 MS. GLYNN:
 23 Q. Yes, so Mr. Cameron is available for
 24 questions.
 25 KENNEDY, Q.C.:

Page 29

1 Q. Yes, thank you, Commissioners. Good day,
 2 Mr. Cameron. My name is Jerome Kennedy.
 3 I'm here on behalf of the Campaign to
 4 Protect Accident Victims.
 5 MR. CAMERON:
 6 A. Yes.
 7 KENNEDY, Q.C.:
 8 Q. And I have a few questions for you, sir.
 9 MR. CAMERON:
 10 A. Sure.
 11 KENNEDY, Q.C.:
 12 Q. So, if we can just go to page 5 of your
 13 report.
 14 MR. CAMERON:
 15 A. Yes.
 16 KENNEDY, Q.C.:
 17 Q. And so, you outline in there essentially
 18 what you're asked to do, and you refer to
 19 that. It's to conduct an audit of closed—
 20 taxi closed claims and provide any
 21 recommendations to reduce claims costs and
 22 reduce rates. So, that's your goal here, is
 23 it, sir?
 24 MR. CAMERON:
 25 A. That was the terms of reference of the

Page 30

1 Board.
 2 KENNEDY, Q.C.:
 3 Q. Yes, okay. Did you—do you feel that you
 4 complied with those terms of reference?
 5 MR. CAMERON:
 6 A. Yes.
 7 KENNEDY, Q.C.:
 8 Q. Okay. Now, sir, does that involve or your
 9 terms of reference, does that involve not
 10 only identifying problems, but suggesting
 11 solutions?
 12 MR. CAMERON:
 13 A. Well, it's part of our mandate on page 5,
 14 the bottom of page 5, "factors affecting the
 15 loss experience" and "factors that may
 16 improve the loss experience." I think that
 17 speaks to that.
 18 KENNEDY, Q.C.:
 19 Q. Did you speak to any —?
 20 MR. CAMERON:
 21 A. At least that's how I interpreted it.
 22 KENNEDY, Q.C.:
 23 Q. Sorry, sorry.
 24 MR. CAMERON:
 25 A. Sorry.

Page 31

1 KENNEDY, Q.C.:
 2 Q. Did you speak to any of the representatives
 3 of the taxi companies in Newfoundland and
 4 Labrador?
 5 MR. CAMERON:
 6 A. No.
 7 KENNEDY, Q.C.:
 8 Q. Did you speak, for example, to Tom Lambe of
 9 City Wide?
 10 MR. CAMERON:
 11 A. No.
 12 KENNEDY, Q.C.:
 13 Q. Doug McCarthy of Newfound Taxi?
 14 MR. CAMERON:
 15 A. No.
 16 KENNEDY, Q.C.:
 17 Q. Donny Earle of Gould's Taxi?
 18 MR. CAMERON:
 19 A. No.
 20 KENNEDY, Q.C.:
 21 Q. George Murphy of Jiffy Cabs?
 22 MR. CAMERON:
 23 A. No.
 24 KENNEDY, Q.C.:
 25 Q. So, you didn't speak to any of the actual

Page 32

1 representatives of the taxi companies?
 2 MR. CAMERON:
 3 A. No.
 4 KENNEDY, Q.C.:
 5 Q. Now, sir, you're aware--and again, my
 6 numbers may be a little bit off, I'm doing
 7 this by memory, sir, but I think that the
 8 rates of the taxi drivers, we saw a
 9 reference from \$8200 to \$12,500 for a
 10 premium. Were you aware of that?
 11 MR. CAMERON:
 12 A. That wouldn't surprise me, that number.
 13 KENNEDY, Q.C.:
 14 Q. Wouldn't that be important for you to know
 15 that, sir?
 16 MR. CAMERON:
 17 A. Well, the—I went by the Table 1, Incurred
 18 Loss Ratio, but we didn't really look at the
 19 individual premium that the drivers pay. We
 20 didn't think that that was in our mandate.
 21 Our mandate was to look at the claim side to
 22 see if anything on the claim side affected
 23 the experience that would adversely affect
 24 the rate.
 25 KENNEDY, Q.C.:

Page 33

1 Q. Again, if you look, at your—what you said in
 2 page 5, “And provide any recommendations to
 3 reduce claims costs and reduce rates.”
 4 MR. CAMERON:
 5 A. Well, that’s the—that’s a direction to the
 6 Board. That’s not my direction.
 7 KENNEDY, Q.C.:
 8 Q. Yes.
 9 MR. CAMERON:
 10 A. That was what the Board’s terms of reference
 11 were. That’s the way it was quoted.
 12 KENNEDY, Q.C.:
 13 Q. So, basically you didn’t see it as part of
 14 your job to look at the actual rates that
 15 these taxi drivers were paying and to see if
 16 there was a way that you—from a practical
 17 perspective, that those rates could be
 18 reduced?
 19 MR. CAMERON:
 20 A. That wasn’t our mandate. In fact, that’s
 21 not my expertise. That would be more of an
 22 actuarial review.
 23 KENNEDY, Q.C.:
 24 Q. Sir, you make recommendations or excuse me,
 25 you make suggestions in relation to

Page 34

1 alternative solutions such as the cap,
 2 verbal thresholds and higher deductibles?
 3 MR. CAMERON:
 4 A. Yes.
 5 KENNEDY, Q.C.:
 6 Q. Okay. So, that was a view I would assume to
 7 reducing rates or reducing premiums, is that
 8 correct?
 9 MR. CAMERON:
 10 A. Well, I put those out there as—just in the
 11 event that like that would help the
 12 discussion because we—I have had experience
 13 and my team have had experience with various
 14 jurisdictions on caps and from the practical
 15 experience. I’m sure you’re hear on the
 16 actuarial side how they worked, and you’ve
 17 seen some exhibits on that, but from the
 18 practical claims experience approach, I
 19 thought that would add some value.
 20 KENNEDY, Q.C.:
 21 Q. So, are you saying, sir, are you telling us
 22 that basically you prepared a report without
 23 knowing the actual premiums that were being
 24 paid by the taxi drivers in Newfoundland and
 25 Labrador?

Page 35

1 MR. CAMERON:
 2 A. We knew the premiums I think in total.
 3 That’s part of the charts that was given,
 4 earned premium on Table 1.
 5 KENNEDY, Q.C.:
 6 Q. Yes. Individual premiums either being paid
 7 by taxi drivers or taxi companies?
 8 MR. CAMERON:
 9 A. Individual premiums, no.
 10 KENNEDY, Q.C.:
 11 Q. No. Wouldn’t that be a starting point don’t
 12 you think, Mr. Cameron, when you have an
 13 individual coming forth and saying, “I’m
 14 paying \$12,500 per car” or “I’m paying \$8200
 15 per car”? Wouldn’t you think that would be
 16 an important issue?
 17 (9:45 a.m.)
 18 MR. CAMERON:
 19 A. I’m not saying it’s not important, but it
 20 wasn’t within my mandate. My mandate was
 21 restricted to look at the claims and
 22 determine if the claims were handled
 23 appropriately, and if anything, that was
 24 being done in that claims handling process
 25 impacted the results negatively.

Page 36

1 KENNEDY, Q.C.:
 2 Q. So, the role of an expert witness, sir, as
 3 you—I think you’ve indicated somewhere in
 4 your—it might have had been in your bio is
 5 to be independent and objective?
 6 MR. CAMERON:
 7 A. Yes.
 8 KENNEDY, Q.C.:
 9 Q. Yes. And so, do you feel that you’ve
 10 complied with that requirement in this case?
 11 MR. CAMERON:
 12 A. Yes.
 13 KENNEDY, Q.C.:
 14 Q. Okay. Now, I’m going to ask you a few
 15 questions about your connections to the
 16 insurance industry.
 17 MR. CAMERON:
 18 A. Of course.
 19 KENNEDY, Q.C.:
 20 Q. But that’s not a criticism, sir; that’s just
 21 the way it is.
 22 MR. CAMERON:
 23 A. Of course, yeah.
 24 KENNEDY, Q.C.:
 25 Q. It’s your background.

Page 37

1 MR. CAMERON:
 2 A. Of course.
 3 KENNEDY, Q.C.:
 4 Q. Fifty years in the insurance industry?
 5 MR. CAMERON:
 6 A. That's correct.
 7 KENNEDY, Q.C.:
 8 Q. Now, what was your role in 1990 in front of
 9 the Osborne Commission? What did you say?
 10 You were president of the Insurance
 11 Adjusters Association?
 12 MR. CAMERON:
 13 A. The Ontario Insurance Adjusters Association.
 14 KENNEDY, Q.C.:
 15 Q. Okay.
 16 MR. CAMERON:
 17 A. Yes.
 18 KENNEDY, Q.C.:
 19 Q. And then, if we look at the people who are
 20 in your company, formed part of your audit
 21 team, all again extensive background in the
 22 insurance industry?
 23 MR. CAMERON:
 24 A. Yes.
 25 KENNEDY, Q.C.:

Page 38

1 Q. Claims adjusters, claims assessment,
 2 casualty, and things like that?
 3 MR. CAMERON:
 4 A. Yes.
 5 KENNEDY, Q.C.:
 6 Q. Yes. And so, that's just the nature of your
 7 business. Your business comes from the
 8 insurance industry, doesn't it?
 9 MR. CAMERON:
 10 A. Well, that's not—I mean, yes, some of it
 11 does, but certainly a lot of our business
 12 comes from outside the insurance industry.
 13 In fact, as I alluded to, hopefully I
 14 covered in my earlier comments, we've been
 15 retained by the taxi industry, but the
 16 industry itself, by taxi owners, fleet
 17 owners, owners of insurance captives who had
 18 the wrong insurance captive on taxi cab
 19 fleets to assist them in determining whether
 20 the insurance companies handled their claims
 21 appropriately, because they were arguing
 22 that the insurance companies had mishandled
 23 the claimed and therefore their loss
 24 experience was worse.
 25 KENNEDY, Q.C.:

Page 39

1 Q. In what province did—were you consulted by
 2 the taxi cab—?
 3 MR. CAMERON:
 4 A. That was in Ontario?
 5 KENNEDY, Q.C.:
 6 Q. Sorry?
 7 MR. CAMERON:
 8 A. Ontario.
 9 KENNEDY, Q.C.:
 10 Q. That was in Ontario.
 11 MR. CAMERON:
 12 A. Yes.
 13 KENNEDY, Q.C.:
 14 Q. Now, what was this Osborne Commission you
 15 had talked about? Was that the commission
 16 which led to the changes in the Ontario
 17 system?
 18 MR. CAMERON:
 19 A. That was, yes, before the introduction of
 20 Ontario Motorist Protection Plan in 1990.
 21 It was the commission that—they made a
 22 number of recommendations that are still
 23 quoted today, but the legislation was
 24 changed, but it didn't actually—I mean, it
 25 didn't actually follow the recommendations

Page 40

1 in the Osborne Commission Report. It had—it
 2 touched on some of them, but it wasn't—I'm
 3 not sure Mr. Osborne was happy with the—with
 4 how the changes came through in terms of his
 5 report.
 6 KENNEDY, Q.C.:
 7 Q. So, in 1990 were advocating changes to the
 8 Ontario system such as a cap, a verbal
 9 threshold, a higher deductible? Is that
 10 what—were you suggesting that or
 11 recommending that?
 12 MR. CAMERON:
 13 A. No, we weren't—yeah, see, the Adjusters
 14 Association, we were there—our mandate as
 15 independent adjusters acting for a number of
 16 different companies, we thought we could add
 17 some, again, of our own empirical experience
 18 combined collectively and opinions on how
 19 claims were being handled, how claims were
 20 being settled. And it was part of that
 21 submission really that we felt that minor
 22 injuries were being overcompensated and
 23 serious injuries were being undercompensated
 24 in the current system, prior to 1990. And
 25 in fact, I think that made it to his report,

Page 41

1 recommendations, I believe. He did come to

2 that conclusion. I'm not saying it was our—

3 that he accepted our version, but he did

4 come to that conclusion ultimately.

5 KENNEDY, Q.C.:

6 Q. So, in your report, sir, you outline that

7 the deductible in Ontario today is \$37,385?

8 MR. CAMERON:

9 A. I think it's--actually 2018 it's up again.

10 KENNEDY, Q.C.:

11 Q. Okay.

12 MR. CAMERON:

13 A. It's 38,000 and something.

14 KENNEDY, Q.C.:

15 Q. Well, approximately, yes.

16 MR. CAMERON:

17 A. It's like it's –

18 KENNEDY, Q.C.:

19 Q. It's a high deductible?

20 MR. CAMERON:

21 A. It changes every year by inflation

22 adjustment.

23 KENNEDY, Q.C.:

24 Q. When was that changed or the change to the

25 high deductible and the verbal thresholds?

Page 42

1 When was that brought in? Do you know the

2 year?

3 MR. CAMERON:

4 A. Well, the verbal threshold is another issue.

5 KENNEDY, Q.C.:

6 Q. That's another issue.

7 MR. CAMERON:

8 A. It's a separate issue.

9 KENNEDY, Q.C.:

10 Q. Okay.

11 MR. CAMERON:

12 A. The verbal threshold was brought in in 1990.

13 KENNEDY, Q.C.:

14 Q. Yes.

15 MR. CAMERON:

16 A. That was the Ontario Motorist Protection

17 Plan, and the concept being that if they

18 increased the accident benefit coverage,

19 that victims would be able to—the accident

20 victims would be able to access their own

21 insurance policy for most of the medical and

22 rehab expenses and get paid more quickly

23 with that and including loss of income

24 expenses. So, their out-of-pocket expenses

25 would be reimbursed much more quickly

Page 43

1 through an enhanced accident benefit

2 coverage, and the converse of that was to

3 achieve that, there'd be some restrictions

4 in tort.

5 KENNEDY, Q.C.:

6 Q. Okay.

7 MR. CAMERON:

8 A. That you would have to restrict the tort

9 liability or –

10 KENNEDY, Q.C.:

11 Q. In which year were those changes brought in?

12 Do you know that?

13 MR. CAMERON:

14 A. That was 1990, was the Ontario Motorists

15 Protection Plan. The first -

16 KENNEDY, Q.C.:

17 Q. Now, sir, essentially you were advocating

18 for, if not the elimination of the tort

19 system, the significant restrictions on the

20 tort system. Is that a fair comment?

21 MR. CAMERON:

22 A. I don't think we were advocating really. We

23 weren't advocating one system or the other.

24 We were, if anything, we were trying to just

25 present our view and we—not advocating.

Page 44

1 Just to say this is how—this is what we've

2 seen and leave it up to the commission at

3 the time to come up with their own

4 recommendations.

5 KENNEDY, Q.C.:

6 Q. And you were suggesting though that there

7 needed to be significant changes to the

8 automobile industry system in Ontario?

9 MR. CAMERON:

10 A. I think that was—I don't think we were

11 suggesting that actually at the time. It's

12 1990. It's a long time ago. I don't think

13 we were suggesting there should be changes.

14 I think the government had already—the

15 commission had been to look at changes.

16 They were looking at Michigan for example.

17 They were looking at no-fault systems

18 throughout the US and accident benefit

19 systems. They wanted to do this trade-off,

20 that they felt the insurance rates were too

21 high. This is in 1990 and it's been going

22 on. I mean, it's been a wheel almost. It's

23 been going on since then, the various

24 problems with--perceived problems with—

25 perceived problems on insurance costs, on

Page 45

1 auto insurance costs.
 2 KENNEDY, Q.C.:
 3 Q. And today, Ontario has the highest insurance
 4 rates in the country, doesn't it?
 5 MR. CAMERON:
 6 A. That's correct.
 7 KENNEDY, Q.C.:
 8 Q. Yes. Sir, in terms then now if your
 9 engagements within the insurance industry,
 10 you've indicated that you were retained, or
 11 you had been consulted by taxi companies.
 12 What percentage of your business comes from
 13 the insurance industry?
 14 MR. CAMERON:
 15 A. It fluctuates every year. It depends on
 16 various projects, but you know, some years
 17 it can be less than 50 percent. Some years
 18 we actually, on the risk management side, we
 19 derive more income on that side than from
 20 the insurance companies.
 21 KENNEDY, Q.C.:
 22 Q. Okay. And what would be the most that it
 23 would be?
 24 MR. CAMERON:
 25 A. At most?

Page 46

1 KENNEDY, Q.C.:
 2 Q. Yes.
 3 MR. CAMERON:
 4 A. It's probably 60 percent maybe and -
 5 KENNEDY, Q.C.:
 6 Q. So, 50 to 60 percent of your business?
 7 MR. CAMERON:
 8 A. Yeah.
 9 KENNEDY, Q.C.:
 10 Q. Comes from the insurance industry, okay.
 11 And how often, sir, have you been retained
 12 like you've been retained here by utilities
 13 boards or whatever the equivalent would be
 14 in other provinces?
 15 MR. CAMERON:
 16 A. Three times, I think no, yes.
 17 KENNEDY, Q.C.:
 18 Q. Okay. And when those dates—when would they
 19 have been, sir?
 20 MR. CAMERON:
 21 A. Well, Alberta, we were retained, oh, ten
 22 years ago I would say. Ten. I don't know
 23 offhand. I'd have to look that up.
 24 KENNEDY, Q.C.:
 25 Q. Okay. And is it always relating to taxi

Page 47

1 companies or taxi—the taxi industry?
 2 MR. CAMERON:
 3 A. No, none of the other work has been -
 4 KENNEDY, Q.C.:
 5 Q. Okay.
 6 MR. CAMERON:
 7 A. - on behalf of government, was related to
 8 taxis, no.
 9 KENNEDY, Q.C.:
 10 Q. So, is this the first review for a utilities
 11 board or a review board for taxi companies?
 12 MR. CAMERON:
 13 A. That's correct.
 14 KENNEDY, Q.C.:
 15 Q. Okay.
 16 MR. CAMERON:
 17 A. Yes.
 18 KENNEDY, Q.C.:
 19 Q. Now, sir, if we could bring up—Ms. Glynn,
 20 there was an email that was sent we wanted
 21 to have put forward.
 22 MR. CAMERON:
 23 A. Yes.
 24 MS. GLYNN:
 25 Q. We'll mark that as Exhibit 9.

Page 48

1 EXHIBIT ENTERED AT HEARING AND MARKED AS EXHIBIT NO. 9
 2 KENNEDY, Q.C.:
 3 Q. Now, Mr. Cameron, this is an email from you,
 4 and I'm not as concerned with what the
 5 members of the--representatives of the
 6 Board, or excuse me the employee said. I'm
 7 interested in what you said. But this comes
 8 from a—it's an email in response to an
 9 interview that had been given by a lawyer, a
 10 plaintiff's lawyer, in St. John's, correct?
 11 MR. CAMERON:
 12 A. That's correct, yes.
 13 KENNEDY, Q.C.:
 14 Q. Did you listen to the interview?
 15 MR. CAMERON:
 16 A. Yes, I did.
 17 KENNEDY, Q.C.:
 18 Q. The interview is very critical of you,
 19 wasn't it?
 20 MR. CAMERON:
 21 A. Yes.
 22 KENNEDY, Q.C.:
 23 Q. Yes. In fact, one of the criticisms was
 24 your connection, you and your employees,
 25 your connection to the insurance industry?

Page 49

1 MR. CAMERON:
 2 A. Yes.
 3 KENNEDY, Q.C.:
 4 Q. There was other criticisms of the way you
 5 had done your report?
 6 MR. CAMERON:
 7 A. Yes,
 8 KENNEDY, Q.C.:
 9 Q. Yes.
 10 MR. CAMERON:
 11 A. I believe generally, yes.
 12 KENNEDY, Q.C.:
 13 Q. Yes. And so, you didn't like the comments
 14 that were made by the lawyer, did you?
 15 MR. CAMERON:
 16 A. Well, I mean I found they were interesting.
 17 He made some good points actually.
 18 KENNEDY, Q.C.:
 19 Q. Yes, but you also were offended somewhat by
 20 some of his comments, weren't you?
 21 MR. CAMERON:
 22 A. No, I mean, it's –
 23 KENNEDY, Q.C.:
 24 Q. Yes.
 25 MR. CAMERON:

Page 50

1 A. You know, you write a report and people can
 2 take issue with it. That's—I wasn't
 3 offended. That's part of—that's his job
 4 really.
 5 KENNEDY, Q.C.:
 6 Q. And for the record it was in relation to an
 7 interview conducted by Steve Marshall, a
 8 lawyer from Roebothan, McKay and Marshall?
 9 MR. CAMERON:
 10 A. That's correct.
 11 KENNEDY, Q.C.:
 12 Q. With Paddy Daly of VOCM?
 13 MR. CAMERON:
 14 A. Yes.
 15 KENNEDY, Q.C.:
 16 Q. Okay. Now, let's just look at your
 17 response, sir, to Mr. Marshall's comments.
 18 And you indicate your—the materials had been
 19 provided to you by employees of the Board or
 20 the reference to the actual interview? The
 21 link to the interview had been provided by
 22 members—by employees of the Board?
 23 MR. CAMERON:
 24 A. That's correct, yes.
 25 KENNEDY, Q.C.:

Page 51

1 Q. Okay.
 2 MR. CAMERON:
 3 A. Yes.
 4 KENNEDY, Q.C.:
 5 Q. Now, "Thanks Ryan and Jacqui. I laughed
 6 when the lawyer talked about the error in my
 7 report that the losses had not increased
 8 when the numbers show a reduction from 400
 9 percent to 195 percent or so. I guess he
 10 missed math lessons that if premiums go up
 11 and losses stay about the same, the loss
 12 ratio will go down."
 13 MR. CAMERON:
 14 A. Yes.
 15 KENNEDY, Q.C.:
 16 Q. Those were your comments?
 17 MR. CAMERON:
 18 A. Yes.
 19 KENNEDY, Q.C.:
 20 Q. So, is that an appropriate response from an
 21 independent and objective witness in a
 22 hearing like this, sir?
 23 MR. CAMERON:
 24 A. Well, I mean, those remarks were made, you
 25 know—it was a mistake on my part to say

Page 52

1 that.
 2 KENNEDY, Q.C.:
 3 Q. Yes.
 4 MR. CAMERON:
 5 A. Those remarks were made as I thought it was
 6 a conversation generally.
 7 KENNEDY, Q.C.:
 8 Q. Yes, you didn't know that these comments
 9 were going to come out, did you?
 10 MR. CAMERON:
 11 A. Well, no.
 12 KENNEDY, Q.C.:
 13 Q. No. So, when you say, "I laughed when the
 14 lawyer talked about my error," that's
 15 dismissive of what the lawyer was saying,
 16 correct?
 17 MR. CAMERON:
 18 A. I laughed because I mean he was very
 19 entertaining. Actually, it was a very
 20 entertaining discussion. He's a good
 21 speaker.
 22 KENNEDY, Q.C.:
 23 Q. Yes.
 24 MR. CAMERON:
 25 A. And you know, his facts were wrong in the

Page 53

1 facts—some of his facts were wrong.
 2 KENNEDY, Q.C.:
 3 Q. Yes.
 4 MR. CAMERON:
 5 A. And I laughed when I heard him say those
 6 facts. I thought, “Oh, that’s kind of
 7 funny.”
 8 KENNEDY, Q.C.:
 9 Q. Yes. Now, sir, the difference is –
 10 MR. CAMERON:
 11 A. I thought it was genuinely funny.
 12 KENNEDY, Q.C.:
 13 Q. In his role, as a lawyer, lawyers are
 14 advocates.
 15 MR. CAMERON:
 16 A. Yes.
 17 KENNEDY, Q.C.:
 18 Q. You’re an independent expert?
 19 MR. CAMERON:
 20 A. Yes.
 21 KENNEDY, Q.C.:
 22 Q. Yes. So, “I laughed when the lawyer talked
 23 about”—now, I don’t—and again, you can
 24 please explain this. It doesn’t appear to
 25 me that you laugh because you think it’s

Page 54

1 funny. You laughed showing disrespect at
 2 how stupid the lawyer was being, is that a
 3 fair comment?
 4 MR. CAMERON:
 5 A. No.
 6 KENNEDY, Q.C.:
 7 Q. No, okay.
 8 MR. CAMERON:
 9 A. I laughed because it was genuinely funny.
 10 KENNEDY, Q.C.:
 11 Q. Yes. “I guess he missed math lessons.”
 12 That’s an inappropriate comment, isn’t it,
 13 sir?
 14 MR. CAMERON:
 15 A. It is inappropriate.
 16 KENNEDY, Q.C.:
 17 Q. Yes.
 18 MR. CAMERON:
 19 A. Yes, I apologize to him for that actually.
 20 KENNEDY, Q.C.:
 21 Q. So, have you apologized to him or you’re
 22 apologizing now?
 23 MR. CAMERON:
 24 A. No, I just saw this yesterday, sir. Right.
 25 KENNEDY, Q.C.:

Page 55

1 Q. Yes. Did you send any other emails like
 2 that, sir?
 3 MR. CAMERON:
 4 A. No.
 5 KENNEDY, Q.C.:
 6 Q. No. Now, sir, let’s look at your –
 7 STAMP, Q.C.:
 8 Q. Madam Chair. Excuse me, Mr. Kennedy, for a
 9 moment. Sorry, for interjecting.
 10 KENNEDY, Q.C.:
 11 Q. Oh, no problem.
 12 STAMP, Q.C.:
 13 Q. Just my concern here on this document is we
 14 had only seen this I think on Friday
 15 evening.
 16 MS. GLYNN:
 17 Q. Friday.
 18 STAMP, Q.C.:
 19 Q. And so, what I’m concerned about is there
 20 material or documentation that has come from
 21 the Board to some counsel and not to other
 22 counsel? I just want to make sure that
 23 we’re all—we all have the same materials
 24 available to us. So, I don’t think this is
 25 on the Board’s website if that’s what I’ll

Page 56

1 call it or this -
 2 MS. GLYNN:
 3 Q. No, it’s not.
 4 STAMP, Q.C.:
 5 Q. The package that’s available to us in this
 6 process.
 7 MS. GLYNN:
 8 Q. It’s not part of the record.
 9 STAMP, Q.C.:
 10 Q. So some counsel have material that, I guess,
 11 has gone to the Board and we didn’t have it.
 12 So I’m just wondering if there is some way
 13 we can determine, you know, how this
 14 document gets to some of us but not all of,
 15 until Friday.
 16 MS. GLYNN:
 17 Q. The Board cannot answer how the Campaign –
 18 STAMP, Q.C.:
 19 Q. I’m sorry?
 20 MS. GLYNN:
 21 Q. The Board cannot answer how Campaign came to
 22 have this document.
 23 KENNEDY, Q.C.:
 24 Q. I can, if you want me to.
 25 STAMP, Q.C.:

Page 57

1 Q. Well I just want to make sure –
 2 KENNEDY, Q.C.:
 3 Q. We made application under the Access to
 4 Information and Protection of Privacy Act
 5 for certain documents and these were
 6 documents that were provided through the
 7 ATIPP co-ordinator at the PUB. The PUB, is
 8 my understanding, like other entities, would
 9 be a public body within the meaning of the
 10 ATIPP Act. We made application for
 11 documents and were provided with same.
 12 STAMP, Q.C.:
 13 Q. Thanks for that, Mr. Kennedy, I appreciate
 14 that information. So I guess my next
 15 question will be, can we have some kind of
 16 identification, I don't know what the Rules
 17 are about that, I'd have to check, but can
 18 we have identification as to what was asked
 19 for and what was provided, because that
 20 would complete our understanding as well,
 21 that there is additional information.
 22 MS. GLYNN:
 23 Q. That is something that we would have to look
 24 into, Mr. Stamp. Again, the role of the
 25 Board, as part of the ATIPP request is that

Page 58

1 the Commissioners are not involved in those
 2 ATIPP requests, and personally I'm not
 3 involved either, the ATIPP coordinators
 4 handle that, so we would have to look into
 5 who actually made the request, what was
 6 requested and what was –
 7 STAMP, Q.C.:
 8 Q. And, of course, whether or not you can
 9 provide us with any information.
 10 MS. GLYNN:
 11 Q. Absolutely.
 12 STAMP, Q.C.:
 13 Q. So I'd ask that that could be looked into,
 14 Madam Chair if you would ask that that would
 15 be done.
 16 KENNEDY, Q.C.:
 17 Q. That's fine, I have no problem with that.
 18 CHAIR:
 19 Q. Sure.
 20 STAMP, Q.C.:
 21 Q. Thank you.
 22 KENNEDY, Q.C.:
 23 Q. I'm actually finished, Mr. Cameron, with
 24 that particular document, other than to say
 25 you do admit that the lawyer, Mr. Marshall,

Page 59

1 made some good points. He just didn't agree
 2 with everything.
 3 MR. CAMERON:
 4 A. He did, yeah, he did make some good points.
 5 It was a very engaging interview, actually,
 6 he's a very colourful speaker. You can see
 7 why he's on radio, it was very good.
 8 KENNEDY, Q.C.:
 9 Q. He's a very experienced lawyer too, sir, do
 10 you know that?
 11 MR. CAMERON:
 12 A. Well I'm sure he is, yes.
 13 KENNEDY, Q.C.:
 14 Q. Okay, let's look, sir, now at your Executive
 15 Summary. I think, Mr. Cameron, a lot of the
 16 points or, I can't say a lot of them, but
 17 there are some points which we're not in
 18 disagreement of, so let's just look at your
 19 Executive Summary. I just want to
 20 summarize, in a way, what you found.
 21 MR. CAMERON:
 22 A. Okay.
 23 KENNEDY, Q.C.:
 24 Q. And basically your Executive Summary
 25 outlines some of the impacts, the factors

Page 60

1 having impacts on losses. The first one,
 2 and you indicate that the factor identified
 3 in the fourth paragraph, sir, as having the
 4 biggest impact on loss experience was the
 5 manner in which the taxi companies reported
 6 claims, often with late reporting or no
 7 reporting.
 8 MR. CAMERON:
 9 A. Yes.
 10 KENNEDY, Q.C.:
 11 Q. Now, sir, when that issue, you've done the
 12 audit and you found that. Is that something
 13 that should be obvious to the insurer? Is
 14 there a way of finding that other than doing
 15 an audit?
 16 MR. CAMERON:
 17 A. I don't understand what –
 18 KENNEDY, Q.C.:
 19 Q. Should the adjustors pick up on that, is my
 20 question.
 21 MR. CAMERON:
 22 A. Well the adjustors can't do anything until
 23 the claim is reported; they don't know
 24 there's a claim, so I mean, that's where the
 25 gap is in not knowing that there's a claim.

Page 61

1 KENNEDY, Q.C.:

2 Q. The second factor I think you indicate that

3 may impact loss experience was non-

4 identification of drivers on a policy.

5 MR. CAMERON:

6 A. Yes.

7 KENNEDY, Q.C.:

8 Q. And perhaps you can explain, I think I read

9 this somewhere, and I'm sure it's in your

10 report, there could be up to 11 drivers on a

11 policy.

12 (10:00 a.m.)

13 MR. CAMERON:

14 A. Yes, I think it was 10.

15 KENNEDY, Q.C.:

16 Q. But there would still be other drivers who

17 weren't named on the policy.

18 MR. CAMERON:

19 A. I think I said 10, but it could have been

20 11.

21 KENNEDY, Q.C.:

22 Q. Okay, 10, yeah. And there were other

23 drivers who were not named on the policy.

24 MR. CAMERON:

25 A. That's correct, yes.

Page 62

1 KENNEDY, Q.C.:

2 Q. These would seem to be factors that could be

3 easily solved though, couldn't they?

4 MR. CAMERON:

5 A. Well easily solved, you could, I mean, it

6 doesn't help the taxi cab owners, you could

7 say, well, all right, let's just charge it—

8 anyone driving a cab, charge additional

9 premium, these unlisted drivers, their rates

10 would go up because they're paying for more

11 drivers, so I don't think it helps their

12 goal, but –

13 KENNEDY, Q.C.:

14 Q. Okay, and the last paragraph, and we'll come

15 back to this one, sir, "Taxi rate increases

16 have been attributed to continuously

17 escalating loss costs.

18 MR. CAMERON:

19 A. Yes.

20 KENNEDY, Q.C.:

21 Q. Now, sir, you were asked to look at the

22 years 2010 to 2016.

23 MR. CAMERON:

24 A. That's correct.

25 KENNEDY, Q.C.:

Page 63

1 Q. Some of the taxi, representatives of the

2 taxi company testified—not testified, they

3 presented or had discussions with the Board

4 and they referred to the fact—again, Madam

5 Chair, please correct me if I'm wrong,

6 because I know it wasn't clear in some of

7 the documents, but that there were no

8 increases or the Facility Association had

9 not applied for any increases for a lengthy

10 period of time, could have been like a 10

11 year gap at least with no applications for

12 increases, did you see anything like that in

13 your –

14 MR. CAMERON:

15 A. I did read and I read something on that, but

16 that wasn't within our mandate. We started

17 in 2010, perhaps we should have started

18 earlier because obviously in 2010, the rates

19 were inadequate.

20 KENNEDY, Q.C.:

21 Q. I'm sure we'll get this figured out somehow,

22 but it appeared to be no rate increases and

23 then significantly increases, four or five

24 years with huge increases, is that what—did

25 you see that anywhere?

Page 64

1 MR. CAMERON:

2 A. We saw through the numbers that were on the

3 chart, yeah, since 2010 there were huge

4 increases, yes. We had no evidence of,

5 nothing was before us on increases prior to

6 that time or even the rates prior to that

7 time.

8 KENNEDY, Q.C.:

9 Q. It would have been helpful to have that

10 information, wouldn't it sir?

11 MR. CAMERON:

12 A. Well, I—perhaps, you know.

13 KENNEDY, Q.C.:

14 Q. Yeah, because the taxi drivers and we'll see

15 some of them here, what they're concerned

16 about and you're doing your audit, but why

17 am I paying \$8,200.00? Why am I paying

18 \$12,500.00? Why do I have to go through

19 Facility? These were their issues, weren't

20 they, you knew that.

21 MR. CAMERON:

22 A. Uh-hm. Well, yeah, that's generally

23 accepted, I think, yes.

24 KENNEDY, Q.C.:

25 Q. So to engage in a theoretical or analysis of

Page 65

1 how you can reduce claims costs, did you not
 2 have the mandate to look at, from a
 3 practical perspective, how we can reduce
 4 claims costs? Or excuse me, how we can
 5 reduce rates or premiums for taxi drivers?
 6 MR. CAMERON:
 7 A. Well no, because my mandate was to look at
 8 the claims costs because the two sides of
 9 the equation, the rates and the costs, if
 10 the costs are “X” and the rates are “Y”, I
 11 mean, if they’re even, it’s a hundred
 12 percent loss ratio. If one is higher than
 13 the other, it’s either a profit or a loss
 14 for the insurance company.
 15 KENNEDY, Q.C.:
 16 Q. Okay, so let’s look, sir, at the last
 17 sentence in your Executive Summary, “Taxi
 18 rate increases have been attributed to
 19 continuously escalating loss costs.”
 20 MR. CAMERON:
 21 A. That’s what it says, yes.
 22 KENNEDY, Q.C.:
 23 Q. Okay, where is the evidence of that, sir?
 24 MR. CAMERON:
 25 A. There is no evidence. In fact, there is no

Page 66

1 evidence in that, in the material we saw.
 2 The material we saw the loss costs actually
 3 had not increased significantly over the
 4 five-year period that was under study, and I
 5 believe that was taken from our initial
 6 mandate that that was the reason. I just
 7 accepted that that was the reason that loss
 8 costs were escalating. I mean, they weren’t
 9 going down.
 10 KENNEDY, Q.C.:
 11 Q. It’s stated, sir, here, as I would suggest
 12 to you, a statement of fact or a conclusion
 13 in your Executive Summary that taxi rate
 14 increases have been attributed, you use the
 15 word “attributed” to continuously escalating
 16 loss costs.
 17 MR. CAMERON:
 18 A. Not by us, by someone else.
 19 KENNEDY, Q.C.:
 20 Q. Shouldn’t you have made that clear?
 21 MR. CAMERON:
 22 A. Yeah, perhaps I could have made it clearer
 23 in my report.
 24 KENNEDY, Q.C.:
 25 Q. In fact, if I could ask to have the Oliver

Page 67

1 Wyman Taxi Report, at Tab 12 brought up, and
 2 I’m looking for the comments that, it’s page
 3 4, when I say Tab 12, that’s my Tab 12.
 4 Sorry, Ms. Glynn.
 5 MS. GLYNN:
 6 Q. I think we have the correct document. Tab
 7 12 or otherwise.
 8 KENNEDY, Q.C.:
 9 Q. Yes, okay, thank you. You’ll see that
 10 Oliver Wyman, under “Loss Experience”, Ms.
 11 Elliott states under the chart, sir, “It
 12 appears that the changes from year to year
 13 are due to random variation. There was no
 14 apparent trend in this data.”
 15 MR. CAMERON:
 16 A. That’s what it says, yes.
 17 KENNEDY, Q.C.:
 18 Q. Do you agree with that statement?
 19 MR. CAMERON:
 20 A. Yes. This was not available to me. The
 21 date of this is March, 2018. I completed my
 22 report prior to that time. This would have
 23 been helpful.
 24 KENNEDY, Q.C.:
 25 Q. Yeah, because then you wouldn’t have made

Page 68

1 the same comment, would you?
 2 MR. CAMERON:
 3 A. I wouldn’t have said—yeah, that’s correct.
 4 KENNEDY, Q.C.:
 5 Q. So do you accept what Ms. Elliott has to say
 6 there?
 7 MR. CAMERON:
 8 A. There is no apparent trend, yes.
 9 KENNEDY, Q.C.:
 10 Q. Okay. Now let’s come back, sir, for a
 11 second to the comments that Mr. Marshall
 12 made about his math was wrong, the 400
 13 percent to 195 percent. Let’s just look at
 14 the Oliver Wyman, same report, at page 5.
 15 Okay, so this is the—were these the charts
 16 or the kinds of information, or the kinds of
 17 comments that were being made by Mr.
 18 Marshall that you took exception to?
 19 MR. CAMERON:
 20 A. No, I didn’t—I don’t believe he talked about
 21 these—he didn’t have this chart, obviously,
 22 I think his discussion was prior to March,
 23 was it? I don’t know the date of that—March
 24 22nd, I believe, was the date of his
 25 discussion, so I don’t think he had that

Page 69

1 chart.
 2 KENNEDY, Q.C.:
 3 Q. But his comments were that your numbers were
 4 wrong, that's what he said, wasn't it?
 5 MR. CAMERON:
 6 A. Yes, he said my numbers were wrong, that the
 7 loss ration from 2012 to '16 was from 350
 8 percent to 175 percent, which is the number
 9 that is pretty well on here, 340 percent
 10 actually to 176, I think it says.
 11 KENNEDY, Q.C.:
 12 Q. Okay, so was Mr. –
 13 MR. CAMERON:
 14 A. Those numbers were correct.
 15 KENNEDY, Q.C.:
 16 Q. Pardon?
 17 MR. CAMERON:
 18 A. Those numbers were correct, his information
 19 is correct.
 20 KENNEDY, Q.C.:
 21 Q. So what was the major difference between
 22 what Mr. Marshall was saying and what you
 23 were saying?
 24 MR. CAMERON:
 25 A. He said well, he said because of that, the

Page 70

1 losses have been cut in half, that was his
 2 comment.
 3 KENNEDY, Q.C.:
 4 Q. Okay, so you said that's where his math—I
 5 guess he missed math lessons?
 6 MR. CAMERON:
 7 A. That's why I said that, yes.
 8 KENNEDY, Q.C.:
 9 Q. Okay, sure. Now let's come, sir, to—I want
 10 to look at page 4 of the Oliver Wyman
 11 report, so we have to go back one page. Now
 12 there's reference to continuously escalating
 13 loss costs, but over the four or five-year
 14 period that Oliver Wyman looked at, that's
 15 not a correct statement, is it? There's no
 16 continuously escalating loss costs?
 17 MR. CAMERON:
 18 A. No, the losses were continuous.
 19 KENNEDY, Q.C.:
 20 Q. Now, if you look at that, sir, it seems that
 21 the losses, average cost per claim, it
 22 appears to be around \$30,000 for those
 23 number of years, it's up and down a little
 24 bit, but around \$30,000?
 25 MR. CAMERON:

Page 71

1 A. That's correct.
 2 KENNEDY, Q.C.:
 3 Q. If we can now go to the IBC report, my Tab
 4 14, of February 14th, 2018, Ms. Glynn, and if
 5 you look, there's a page 4 here, I've got to
 6 get the right number, sir. Yeah, page 4
 7 under "Proposed Regulatory Reforms", this is
 8 –
 9 MR. CAMERON:
 10 A. Sorry, it's not coming up on my screen here.
 11 KENNEDY, Q.C.:
 12 Q. Okay, just one second, sir. Now I could be
 13 looking something here too, Mr. Cameron,
 14 because my math is not that good, but let's
 15 just look at –
 16 MR. CAMERON:
 17 A. Well this is why they have actuaries, it's
 18 complicated—this a science, it's
 19 complicated.
 20 KENNEDY, Q.C.:
 21 Q. It's an exhibit filed by IBC on February,
 22 2018.
 23 MS. GLYNN:
 24 Q. The graph, is that right?
 25 KENNEDY, Q.C.:

Page 72

1 Q. No, it's page 4 at the bottom of the page,
 2 so I don't know how this is—that's the Taxi
 3 Claims Report we still have up there on the
 4 screen.
 5 MS. KEAN:
 6 Q. I'll try and find the document. Has it been
 7 entered as an exhibit?
 8 KENNEDY, Q.C.:
 9 Q. Yes, it's under the Board documents.
 10 MS. GLYNN:
 11 Q. It's IBC's submission to the Board.
 12 KENNEDY, Q.C.:
 13 Q. Yes.
 14 MS. GLYNN:
 15 Q. Yes, and there was two submissions from IBC
 16 –
 17 KENNEDY, Q.C.:
 18 Q. This will be the first one, Ms. Glynn.
 19 MS. GLYNN:
 20 Q. Thank you.
 21 KENNEDY, Q.C.:
 22 Q. It would be February, 2018.
 23 MS. GLYNN:
 24 Q. And which page? Sorry, Mr. Kennedy.
 25 KENNEDY, Q.C.:

Page 73

1 Q. It would be page 4, okay, just down a little
 2 bit. So there's a chart there, sir, that
 3 IBC has filed in relation to Bodily Injury
 4 Claims Costs by Province. Now, if you
 5 remember the Taxi Claims Cost, the average
 6 we just went through was approximately
 7 \$30,000, up and down a little bit for a
 8 five-year period. Do you remember that,
 9 sir?
 10 MR. CAMERON:
 11 A. Yes.
 12 KENNEDY, Q.C.:
 13 Q. Okay, if you look then at the claims costs
 14 or bodily injury claims costs, so that's
 15 what I'm asking you about, my math and my
 16 terms, does this chart speak to the same
 17 thing when you have average claims costs
 18 that go from 51,000 to 78,000?
 19 MR. CAMERON:
 20 A. I can't really tell just from that one
 21 caption. That's one year, I haven't seen
 22 this before, sorry.
 23 KENNEDY, Q.C.:
 24 Q. Okay, sure, because in 2016, it appears to
 25 be comparison of bodily injury claim costs

Page 74

1 per province and it outlines the numbers,
 2 the average for the year 2016, claims costs
 3 per vehicle and these are private passenger
 4 vehicles, sir, and it just outlines claims
 5 costs. I'm just trying to get a comparison
 6 between claims costs per vehicle compared to
 7 taxis.
 8 MR. CAMERON:
 9 A. Per private passenger vehicle.
 10 KENNEDY, Q.C.:
 11 Q. Yeah, private passenger vehicles versus
 12 taxis. And the claims costs right across
 13 the board appeared to be much higher for
 14 private passenger vehicles, the average,
 15 then for taxis that you found, is that—or
 16 Oliver Wyman outlined, is that correct?
 17 MR. CAMERON:
 18 A. I think that's in the Oliver Wyman Report
 19 too, yes.
 20 KENNEDY, Q.C.:
 21 Q. Okay, so do you accept that?
 22 MR. CAMERON:
 23 A. Well, if it was in the Oliver Wyman Report,
 24 I have not actually seen this before, so I'd
 25 have to look at this a little more to take

Page 75

1 it –
 2 KENNEDY, Q.C.:
 3 Q. Okay, so would you agree with me, sir, that
 4 the Oliver Wyman graph certainly debunks the
 5 idea that taxi claims severity are spinning
 6 out of control.
 7 MR. CAMERON:
 8 A. Severity wasn't spinning out of control, no.
 9 KENNEDY, Q.C.:
 10 Q. Now let's look at page 21 of your report,
 11 sir.
 12 MR. CAMERON:
 13 A. Yes.
 14 KENNEDY, Q.C.:
 15 Q. And let's look at the issue in relation to—
 16 and you start the previous page on property
 17 damage.
 18 MR. CAMERON:
 19 A. Okay.
 20 KENNEDY, Q.C.:
 21 Q. So the premiums could be made up of the
 22 costs of third party liability?
 23 MR. CAMERON:
 24 A. Yes.
 25 KENNEDY, Q.C.:

Page 76

1 Q. Collision?
 2 MR. CAMERON:
 3 A. Yes.
 4 KENNEDY, Q.C.:
 5 Q. Comprehensive, whatever insurer projects,
 6 Section B.
 7 MR. CAMERON:
 8 A. Yes.
 9 KENNEDY, Q.C.:
 10 Q. Increased coverage, things like that, okay.
 11 Now, in terms of the physical damage, you've
 12 indicated that could either come under
 13 collision or a third party liability, if
 14 you're determining who has what insurance,
 15 correct?
 16 MR. CAMERON:
 17 A. Sometimes they're a bit combined, yes.
 18 KENNEDY, Q.C.:
 19 Q. Yeah, so property damage, you indicate and
 20 I'm going to first ask in relation to taxis,
 21 but if you look at it here, you state at
 22 page 21 in the last paragraph in "Overall
 23 Conclusion", "The cost of physical damage
 24 repairs are increasing significantly are
 25 blamed for rate increases for many of the

Page 77

1 major insurers across the country.”

2 MR. CAMERON:

3 A. Yes.

4 KENNEDY, Q.C.:

5 Q. Is that only in relation to taxis or is that

6 also in relation to private passenger

7 vehicles, commercial vehicles or are you

8 restricting your comments?

9 MR. CAMERON:

10 A. Well that was a direct quote from the

11 Canadian Underwriter Magazine, which is an

12 industry magazine and my understanding that

13 it applied to all vehicles.

14 KENNEDY, Q.C.:

15 Q. And so you go on to state “This is

16 attributed”—again, you use that word—

17 “predominantly to the cost and replacing car

18 parts in new vehicles or partially automated

19 driving features.”

20 MR. CAMERON:

21 A. That’s what the article –

22 KENNEDY, Q.C.:

23 Q. But you didn’t notice that in the taxi

24 files?

25 MR. CAMERON:

Page 78

1 A. No.

2 KENNEDY, Q.C.:

3 Q. Would that indicate to you that perhaps a

4 lot of the taxis were either older vehicles

5 or just didn’t have all the newer –

6 MR. CAMERON:

7 A. Well I think a combination of both. Perhaps

8 there were older vehicles and they often did

9 not proceed with physical damage repairs,

10 they repaired them themselves, they didn’t

11 go through the insurance perhaps because

12 their rates would go up. I mean, that

13 happens.

14 KENNEDY, Q.C.:

15 Q. And this makes sense, doesn’t it, if you

16 look at an older vehicle, a fender that one

17 point or a bumper that might have been fixed

18 a number of years ago for \$700.00 could cost

19 you \$2,000.00 or \$3,000.00 today, couldn’t

20 it?

21 MR. CAMERON:

22 A. That’s correct, yes.

23 KENNEDY, Q.C.:

24 Q. It depends on the make of the car, the age

25 of the car.

Page 79

1 MR. CAMERON:

2 A. Yes.

3 KENNEDY, Q.C.:

4 Q. Obviously, again, common sense, the fixing

5 of a bumper or a fender or a door on a

6 Mercedes is going to cost you a lot more

7 than to fix it on a Ford, isn’t it?

8 MR. CAMERON:

9 A. Yes.

10 KENNEDY, Q.C.:

11 Q. So your understanding is that’s generally in

12 relation to the—that comment was in the

13 automobile industry in general?

14 MR. CAMERON:

15 A. In general, yes, it really is not specific

16 to the taxis that we saw, no.

17 KENNEDY, Q.C.:

18 Q. Okay, let’s go to page 22 and now we’re

19 talking about the tort deductible.

20 MR. CAMERON:

21 A. Okay.

22 KENNEDY, Q.C.:

23 Q. You indicate, sir, that the deductible seems

24 to discourage actions—again, in your second

25 paragraph, the second last sentence, sir,

Page 80

1 “This seems to discourage actions in soft-

2 tissue injury cases, both have had an effect

3 on reduction of lost costs escalation in

4 Ontario.”

5 MR. CAMERON:

6 A. Yes.

7 KENNEDY, Q.C.:

8 Q. The other thing you indicated too, sir, that

9 as you try to define or determine the verbal

10 threshold or the definitions involved,

11 there’s a lot more litigation that results,

12 isn’t there?

13 MR. CAMERON:

14 A. Well certainly initially there is until both

15 parties, both the plaintiff’s bar and the

16 defence bar and the insurers come to some

17 understanding of what the rules are. The

18 rules are brought in and they’re subject to

19 interpretation.

20 (10:15 a.m.)

21 KENNEDY, Q.C.:

22 Q. So you refer to the cost of medical reports,

23 but then you’ve got very good lawyers, like

24 my friends here, Mr. Stamp and Mr. Rowe –

25 MR. CAMERON:

Page 81

1 A. And like you.

2 KENNEDY, Q.C.:

3 Q. I'm not getting paid the way these guys do,

4 sir, who don't come cheap. So you also get

5 the cost of lawyers and legal fees involved,

6 correct?

7 STAMP, Q.C.:

8 Q. I don't own a teak deck, I just want to

9 mention that to you.

10 KENNEDY, Q.C.:

11 Q. But there's other costs involved. There can

12 be extensive litigation that can go on, I

13 think we heard in Nova Scotia going on for

14 years and I don't know if they're finished

15 yet. That will follow the new definitions

16 or verbal thresholds, thinks like that.

17 MR. CAMERON:

18 A. I think it's a safe assumption, yes, it will

19 be tested and there's a cost of testing that

20 system, yes, for sure.

21 KENNEDY, Q.C.:

22 Q. And if we, sir, then go to—I want to go to

23 Table 8, page 16 of your report, I apologize

24 for jumping back and forth. And this is,

25 sir, again, we're touched upon this, but in

Page 82

1 your, I just want to clarify and apply it to

2 your report, we've talked about Oliver

3 Wyman, so in 2000 and 2016, the costs go up

4 and down somewhat but there's not really a

5 whole lot of difference between, in these

6 years in terms of escalating costs, is

7 there, claims costs?

8 MR. CAMERON:

9 A. Well incurred losses in 2010 are 3.6 million

10 and in 2016, 4.3, so that is an increase.

11 KENNEDY, Q.C.:

12 Q. Yeah, I'm looking at the average cost per

13 claim, excuse me, I should have been more

14 definitive. If you look at, in fact, the

15 average cost per claim in 2010 was \$117.00

16 or \$108.00, whatever it is, told you my math

17 wasn't good, but it's not a lot of

18 difference between 2010 and 2016, with some

19 fluctuation in between?

20 MR. CAMERSON:

21 A. That's correct.

22 KENNEDY, Q.C.:

23 Q. So there's no trend there in terms of the

24 severity of the loss claim, but there is an

25 increase in the amount paid, is that a fair

Page 83

1 statement?

2 MR. CAMERON:

3 A. In the total amount paid for the book of

4 business, yes.

5 KENNEDY, Q.C.:

6 Q. Sir, have you examined bodily injury claim

7 frequency in taxis compared to that in

8 private passenger vehicles?

9 MR. CAMERON:

10 A. No, that type of study is an actuarial

11 exercise and I don't have the qualifications

12 to do that.

13 KENNEDY, Q.C.:

14 Q. Yeah, I think, sir, and you refer to Mr.

15 Allen's report and we can bring it up and

16 we're going to go through it shortly, but my

17 recollection is, or my notes, it's not a

18 recollection, my note indicates that there

19 was a claim frequency of 228 per 1000

20 vehicles for taxis, versus 29 for private

21 passengers and 22 for commercial vehicles.

22 Does that sound right?

23 MR. CAMERON:

24 A. I remember reading those—are you going to

25 put that on the chart? I remember reading

Page 84

1 those numbers, yes.

2 KENNEDY, Q.C.:

3 Q. For 2015, I'm asking you. Which brings, I

4 guess to the point we're going to come to

5 shortly, is that the suggestion has been

6 made by the taxi companies and I think Mr.

7 McCarthy has a seven-point plan and Mr.

8 Murphy makes certain suggestions, they don't

9 only relate to—they relate to improving the

10 way the taxi business conducts business with

11 more government regulations, is that a fair

12 statement?

13 MR. CAMERON:

14 A. Well, the issue is how the taxi industry

15 regulates the business themselves and

16 whether that's by the government helping

17 them regulate things, imposing legislation

18 or whether the taxi cab owners impose

19 restrictions or qualifications or standards

20 on their drivers, that's risk management

21 basically.

22 KENNEDY, Q.C.:

23 Q. We'll deal with the risk management, we are

24 going to come to that shortly, sir. Now, on

25 page 19 under Section 6.7, you refer to the

Page 85

1 significant there, what I call significant
 2 bodily injury claims of over \$100,000, do
 3 you see that?
 4 MR. CAMERON:
 5 A. Yes.
 6 KENNEDY, Q.C.:
 7 Q. The next paragraph, second sentence, “It was
 8 also observed that small claims appear to
 9 attract higher settlements in other
 10 provinces.”
 11 MR. CAMERON:
 12 A. Yes.
 13 KENNEDY, Q.C.:
 14 Q. Sir, did you conduct any comparative study
 15 in relation to that comment, making that
 16 comment?
 17 MR. CAMERON:
 18 A. No, that was based on our experience of our
 19 reviewers and applying that experience base,
 20 it was an opinion from that experience base.
 21 KENNEDY, Q.C.:
 22 Q. So you did not conduct any analysis.
 23 MR. CAMERON:
 24 A. No.
 25 KENNEDY, Q.C.:

Page 86

1 Q. What other provinces are you talking about,
 2 sir?
 3 MR. CAMERON:
 4 A. Ontario, Nova Scotia and New Brunswick, I
 5 believe.
 6 KENNEDY, Q.C.:
 7 Q. Again, we’ll come to that in a second. So
 8 these are negotiated settlements, correct,
 9 what you reviewed were negotiated
 10 settlements, the closed claims files you
 11 would have looked at?
 12 MR. CAMERON:
 13 A. Well none of the files we reviewed had been
 14 litigated, had gone through trial, so they
 15 were settlements that were negotiated, yes.
 16 KENNEDY, Q.C.:
 17 Q. And I think you referred to, at one point,
 18 and I’m trying to find your exact words,
 19 sir, that some of the files you looked at,
 20 the settlements were in the range set out in
 21 the jurisprudence in Newfoundland and
 22 Labrador?
 23 MR. CAMERON:
 24 A. That’s correct.
 25 KENNEDY, Q.C.:

Page 87

1 Q. Did you look at or review the jurisprudence
 2 in Newfoundland and Labrador?
 3 MR. CAMERON:
 4 A. Yes, well it wasn’t—we reviewed the comments
 5 from counsel on both sides in respect to
 6 that jurisprudence.
 7 KENNEDY, Q.C.:
 8 Q. You didn’t review any jurisprudence
 9 yourself?
 10 MR. CAMERON:
 11 A. No.
 12 KENNEDY, Q.C.:
 13 Q. No, okay. So when I look at this and you’re
 14 saying small claims appear to attract higher
 15 settlements in other provinces, you didn’t
 16 do any analysis or comparative study, it’s
 17 an opinion?
 18 MR. CAMERON:
 19 A. That’s correct.
 20 KENNEDY, Q.C.:
 21 Q. Okay, is that the kind of opinion that
 22 should be in an independent expert’s report,
 23 sir, without any factual or empirical
 24 background to support it?
 25 MR. CAMERON:

Page 88

1 A. Well it was an opinion, I think yes, if it
 2 asked for my opinion. It’s based on my
 3 experience in looking at claim files.
 4 KENNEDY, Q.C.:
 5 Q. Where was that—was that asked for your
 6 opinion, where did in the Terms of
 7 Reference, your mandate, where was that
 8 asked for?
 9 MR. CAMERON:
 10 A. Goes back again to. ii on page 6.
 11 KENNEDY, Q.C.:
 12 Q. Okay, so now I want to go back to the
 13 Executive Summary again, on page 4, your
 14 last sentence there, “Cameron further
 15 concludes that without some major changes to
 16 the private, such as increased deductibles,
 17 minor injury caps, verbal thresholds, a
 18 prescribed framework for treatment of minor
 19 injuries, the loss experience is highly
 20 unlikely to improve.”
 21 MR. CAMERON:
 22 A. That’s what it says, yes.
 23 KENNEDY, Q.C.:
 24 Q. Okay, but the loss experience, we’ve already
 25 gone through that, we’ve shown you the

Page 89

1 Oliver Wyman chart, we've just referred you
 2 to your chart. The loss experience has
 3 been, again, in terms of the average cost
 4 per claim has been stable or fluctuating
 5 between twenty-odd thousand dollars and
 6 thirty thousand for the last seven or eight
 7 years.
 8 MR. CAMERSON:
 9 A. Yes, and if it stays that there, there has
 10 to be premium to support that.
 11 KENNEDY, Q.C.:
 12 Q. That's an issue we're going to come to
 13 shortly, so that comment there, sir, first
 14 do you agree with me that the average cost
 15 per claim and the number of claims have been
 16 relatively stable for the last period of
 17 years that you have looked at?
 18 MR. CAMERON:
 19 A. For those five years, the average cost per
 20 claim, we went through that already, is
 21 relatively stable, yes.
 22 KENNEDY, Q.C.:
 23 Q. Okay, and did you do any analysis, sir, that
 24 the reforms you mentioned will improve the
 25 loss experience?

Page 90

1 MR. CAMERON:
 2 A. No, that's—again, that's an actuarial
 3 exercise that is not within my purview to do
 4 that.
 5 KENNEDY, Q.C.:
 6 Q. How many taxi operators were in the
 7 province, sir, do you know that?
 8 MR. CAMERON:
 9 A. I don't know that number offhand, I'm sure
 10 you could inform me.
 11 KENNEDY, Q.C.:
 12 Q. Okay, well I've got a note it's somewhere
 13 around 800 vehicles, but I'm sure someone
 14 will correct me.
 15 MR. CAMERON:
 16 A. I think that number—I've heard that number
 17 before, yeah.
 18 KENNEDY, Q.C.:
 19 Q. And that could be, the way we've heard it
 20 described there could be—again, we're going
 21 to hear from the taxi drivers, taxi owners
 22 or brokers, they'll explain to us, but they
 23 could have one car with a number of people
 24 on the policy.
 25 MR. CAMERON:

Page 91

1 A. That's correct, number of drivers on the
 2 policy, yes.
 3 KENNEDY, Q.C.:
 4 Q. So there could be more drivers than,
 5 obviously than vehicles?
 6 MR. CAMERON:
 7 A. There obviously is, yes.
 8 KENNEDY, Q.C.:
 9 Q. Are you suggesting, sir, that we should have
 10 in Newfoundland and Labrador verbal
 11 thresholds and deductibles like in Ontario?
 12 MR. CAMERON:
 13 A. No, I wasn't suggesting that, I wasn't
 14 making that recommendation. I was pointing
 15 that those are ways, are methods of, you
 16 know, certainly major methods, I mean,
 17 they're not the easiest fix, but they're
 18 methods of reducing loss costs, if that's
 19 what you want to do.
 20 KENNEDY, Q.C.:
 21 Q. Okay. Sir, does your report include any
 22 examination of what happened to taxi loss
 23 costs in Nova Scotia or in New Brunswick
 24 after they introduced cap reforms?
 25 MR. CAMERON:

Page 92

1 A. No, that's contained in Oliver Wyman's
 2 report, I saw that, a very good analysis of
 3 that, I think.
 4 KENNEDY, Q.C.:
 5 Q. So you basically are suggesting or offering
 6 an opinion that to consider a cap without
 7 any consideration of what happened in these
 8 other provinces?
 9 MR. CAMERON:
 10 A. No, I'm concluding that major changes to the
 11 product, such as some of those, should be
 12 examined if they want to reduce the loss
 13 costs.
 14 KENNEDY, Q.C.:
 15 Q. Sir, you've stated, I think, that
 16 approximately 95 percent of the taxis are in
 17 Facility?
 18 MR. CAMERON:
 19 A. Yes.
 20 KENNEDY, Q.C.:
 21 Q. Facility is an insurer of last resort.
 22 MR. CAMERON:
 23 A. Yes.
 24 KENNEDY, Q.C.:
 25 Q. There are three insurers who write—you have

Page 93

1 Unifund, AXA and Co-operators, correct?

2 MR. CAMERON:

3 A. That's correct, yes.

4 KENNEDY, Q.C.:

5 Q. With the majority of the taxis with –

6 MR. CAMERON:

7 A. With Unifund.

8 KENNEDY, Q.C.:

9 Q. With Unifund, yeah. Now, sir, have you had

10 an opportunity to read the evidence given by

11 the taxi drivers? It's up on the Board's

12 website, have you read what they had to say?

13 George Murphy of Jiffy; Doug McCarthy, New

14 Found; Tom Lambe, things like that?

15 MR. CAMERON:

16 A. No, I have not.

17 KENNEDY, Q.C.:

18 Q. There's one and the Board, I know, were

19 quite engaged and they will probable

20 remember this, and I'll come to it in a

21 second, sir, but there is a discussion

22 where, I think it might be the gentleman

23 from Gould's Taxi, who goes in, Donnie

24 Earle, and he says or the broker says to

25 him, "well don't blame me, it's Facility,

Page 94

1 you got to go through Facility". Why do

2 they have to go through Facility, sir, who

3 makes that decision?

4 MR. CAMERON:

5 A. Well it's not the taxi cab owner's decision

6 to do that. They don't choose to go to

7 Facility, there's no other market, so that's

8 why Facility is there to write risks that

9 other insurers don't want to write.

10 KENNEDY, Q.C.:

11 Q. And we're going to come to this in a second,

12 but if a taxi driver has a 25-year period in

13 the business, no claims, no convictions of

14 any sort, why is that taxi driver sent to

15 Facility the same as a taxi driver who is

16 new into the business or who has previous

17 accident claims? Does that make any sense,

18 sir?

19 MR. CAMERON:

20 A. It's the whole, I mean, it's the losses of

21 the few paid by the many that if you follow

22 that philosophy through, then all the good

23 drivers would pay very little and the bad

24 drivers would pay so much that they couldn't

25 pay and they'd probably go uninsured or go

Page 95

1 out of business, who knows.

2 KENNEDY, Q.C.:

3 Q. Okay, again we're going to come to what the

4 drivers themselves said. So did you examine

5 any options of allowing taxi drivers with

6 good ratings to be moved to the commercial

7 market?

8 MR. CAMERON:

9 Q. That's pointed out in a report. I think

10 it's your actuary's report, I believe.

11 KENNEDY, Q.C.:

12 Q. Yes.

13 MR. CAMERON:

14 Q. If we go to that, we could talk –

15 KENNEDY, Q.C.:

16 Q. We're going to come to it in a second. But

17 do you agree that there—is there any reason

18 why that can't be done, from your experience

19 of 50 years in the business?

20 MR. CAMERON:

21 Q. Well, I've seen it happen that and it

22 started like, in Simmons General, a company

23 I was with and they had a taxi fleet there

24 and they took it on and they came in with

25 great promises that, you know, the taxi

Page 96

1 owners, yeah, we have really good controls

2 on our drivers and we screen them and we

3 have this and we do this training. In other

4 words, they have what you're talking about,

5 I believe, a kind of perfect account, if

6 such a thing exists. And sure enough the

7 loss experience was terrible. It was like

8 180 percent and they got out of that

9 business; the company got out of that

10 business. So, I mean, and this is in like

11 1990s or something, '94, I think. So, it's

12 been going around for decades. Taxi cabs

13 have had that poor loss experience.

14 KENNEDY, Q.C.:

15 Q. Well, let me give you an example, sir. This

16 has happened here and I'm sure someone will

17 correct me if I'm wrong, but in our

18 province, in the not too recent past, a

19 discussion as to whether or not a taxi

20 driver should have a certificate of conduct

21 where you go to the police station, they

22 give you a document outlining whether or not

23 you have any previous criminal convictions.

24 We have the city and the province arguing

25 over should be responsible for that and

Page 97

1 there's no requirement. Does that make any
 2 sense to you in your experience, sir?
 3 MR. CAMERON:
 4 Q. Well, you're asking me something about how
 5 the government is reacting and that's not—I
 6 don't think that's a fair question to ask
 7 me, really.
 8 KENNEDY, Q.C.:
 9 Q. I see, but if we're talking of risk
 10 management, then wouldn't something as
 11 simple as a certificate of conduct showing
 12 that if an individual had three previous
 13 impaired drivings, that they're increasing
 14 risk?
 15 MR. CAMERON:
 16 Q. Well, one method that insurers use to assess
 17 is to obtain driver abstracts which should
 18 have that information on there. And if they
 19 have that, then you either don't insure them
 20 or you charge them so much that you make up
 21 for it.
 22 KENNEDY, Q.C.:
 23 Q. Okay, let's go, sir, now to page 23 of your
 24 report and under the Minor--there's a
 25 comment in relation to minor injury caps.

Page 98

1 MR. CAMERON:
 2 Q. Okay.
 3 KENNEDY, Q.C.:
 4 Q. And somewhere, I'm just looking for the
 5 actual statement, sir, excuse me, just give
 6 me a second. But essentially what you're
 7 suggesting is that minor injury caps and
 8 thresholds could reduce losses. Is that
 9 right?
 10 MR. CAMERON:
 11 Q. Well, they're designed to reduce the loss
 12 experience, yes.
 13 KENNEDY, Q.C.:
 14 Q. Okay. Sir, are you aware of—and again I ask
 15 you this in a second, I just want to confirm
 16 this because I'm not clear if I asked it the
 17 way I wanted to—so, are you aware whether or
 18 not taxi rates in other provinces where they
 19 have caps, have actually been reduced?
 20 MR. CAMERON:
 21 Q. I'm not aware of that, no.
 22 KENNEDY, Q.C.:
 23 Q. And again, sir, there's—and I don't know, is
 24 Facility a presenter here?
 25 MS. GLYNN:

Page 99

1 Q. They provided a written submission.
 2 KENNEDY, Q.C.:
 3 Q. Okay. Sir, are you aware that in New
 4 Brunswick the rates are slightly higher or
 5 are on par with New Brunswick, taxi drivers'
 6 rates, but slightly higher than PEI and Nova
 7 Scotia. Do you have any knowledge or do you
 8 know if that's a correct statement?
 9 MR. CAMERON:
 10 Q. No, again, we didn't examine the rates, no.
 11 (10:30 a.m.)
 12 KENNEDY, Q.C.:
 13 Q. Okay. Is there any reason you wouldn't have
 14 done an analytical comparison, sir?
 15 MR. CAMERON:
 16 Q. Well, the analytical comparison is, again,
 17 our report is a qualitative analysis. The
 18 analytical comparisons are quantitative
 19 analysis which within the actuaries' realm
 20 and the actuaries' perform that, those type
 21 of –
 22 KENNEDY, Q.C.:
 23 Q. If we could now ask you to go to the report
 24 provided by actuary Insult to Injury, Craig
 25 Allen.

Page 100

1 MR. CAMERON:
 2 Q. Yes.
 3 KENNEDY, Q.C.:
 4 Q. Okay, because we're not going to—you agree
 5 with a lot of what Mr. Allen has to say, do
 6 you, sir?
 7 MR. CAMERON:
 8 Q. Yes, I do.
 9 KENNEDY, Q.C.:
 10 Q. So, we're not going to spend a lot of time
 11 on this, if I can find it. Okay, do we have
 12 it up there? Okay, if we could go to page
 13 2? And this is where Mr. Allen breaks down
 14 the number of earned vehicles in the
 15 province with the claim counts and things
 16 like that, loss per vehicle. See that?
 17 MR. CAMERON:
 18 Q. Yes.
 19 KENNEDY, Q.C.:
 20 Q. Okay. So, again, and perhaps this is simple
 21 math, but correct me if I'm wrong, Mr.
 22 Cameron, that is you have a smaller number
 23 of vehicles, a higher number of claims, a
 24 high claims cost, then the loss cost per
 25 vehicle is going to increase.

Page 101

1 MR. CAMERON:
 2 Q. Well, those numbers are there, yes.
 3 KENNEDY, Q.C.:
 4 Q. So that the loss cost per vehicle for a taxi
 5 is \$4,839.00 compared to a private passenger
 6 vehicle of \$433.00.
 7 MR. CAMERON:
 8 Q. That's his numbers, yes.
 9 KENNEDY, Q.C.:
 10 Q. Okay. If we could go, sir, to page 3 and
 11 now I want to deal with some of the measures
 12 to improve the situation for taxi drivers.
 13 Mr. Allen suggests at page 3 that—and this
 14 would again be, I'm assuming, come under
 15 risk assessment, would it, sir, like
 16 measures to improve accident prevention?
 17 MR. CAMERON:
 18 Q. Is right management, yes.
 19 KENNEDY, Q.C.:
 20 Q. Improve driver education, a safety training
 21 for taxi drivers.
 22 MR. CAMERON:
 23 Q. I'm sorry, it's not showing on my –
 24 MS. GLYNN:
 25 Q. The next page, Sara.

Page 102

1 KENNEDY, Q.C.:
 2 Q. Okay, if you go to page 3, sir.
 3 MR. CAMERON:
 4 Q. Okay.
 5 KENNEDY, Q.C.:
 6 Q. Okay. If you look under Comment 2, the last
 7 paragraph under Comment 2. He's talking
 8 about accident prevention measures.
 9 "Improve driver education and safety
 10 training for taxi drivers".
 11 MR. CAMERON:
 12 Q. Yes, I agree with that, yes.
 13 KENNEDY, Q.C.:
 14 Q. "Better screening of taxi drivers".
 15 MR. CAMERON:
 16 Q. Yes, I agree with that. I believe I made
 17 those same conclusions.
 18 KENNEDY, Q.C.:
 19 Q. "Measures to improve vehicle condition and
 20 road worthiness"
 21 MR. CAMERON:
 22 Q. Yes, I agree with that as well.
 23 KENNEDY, Q.C.:
 24 Q. Are you aware, sir, or do you have any
 25 knowledge as to whether or not these kinds

Page 103

1 of measures were proposed by taxi drivers or
 2 representatives of taxi driver companies to
 3 the government many, many months ago?
 4 MR. CAMERON:
 5 Q. I have no knowledge of that.
 6 KENNEDY, Q.C.:
 7 Q. Okay. If we could now, sir, -
 8 MR. CAMERON:
 9 Q. Things like, sorry, things like vehicle
 10 condition and road worthiness would be
 11 something that, I mean, they can be self-
 12 controlled by the owner, of course, but you
 13 can impose regulations that make it
 14 mandatory, inspections and they do that in
 15 other provinces. They probably have them
 16 here, do they? Inspections on taxis?
 17 KENNEDY, Q.C.:
 18 Q. Well, it's a big issue, sir.
 19 MR. CAMERON:
 20 Q. Okay.
 21 KENNEDY, Q.C.:
 22 Q. In terms of the—but government can control
 23 these under regulations.
 24 MR. CAMERON:
 25 Q. Well, they can issue regulations. I mean –

Page 104

1 KENNEDY, Q.C.:
 2 Q. So, everything I've talked about here,
 3 these—or Mr. Allen was talking about, these
 4 can all come under regulations; they can be
 5 regulated, can't they? As you found in
 6 other provinces.
 7 MR. CAMERON:
 8 Q. There could be a—the government could impose
 9 requirements in those areas to meet a
 10 minimum test, yes.
 11 KENNEDY, Q.C.:
 12 Q. Okay. And would it surprise you, sir, or
 13 does it not surprise you that these are the
 14 things that the taxi industry is asking for.
 15 MR. CAMERON:
 16 Q. Well, if they're for it, why aren't they
 17 doing it? It's –
 18 KENNEDY, Q.C.:
 19 Q. Maybe Mr. McCarthy and Mr. Lambe or Mr.
 20 Gulliver will speak to that, sir, when they
 21 present. Okay, let's go to page 3 and
 22 again, Mr. Allen's description of Facility
 23 Association is the same as yours, "an
 24 automobile insurance market of last resort
 25 for owners or drives of motor vehicles who

Page 105

1 are unable to obtain coverage through the
 2 voluntary insurance market”.

3 MR. CAMERON:
 4 Q. I agree with that statement.

5 KENNEDY, Q.C.:
 6 Q. How does Facility Association work? Where
 7 did their money come from? How are they set
 8 up? Are they a for profit, not for profit?
 9 How does it work, sir?

10 MR. CAMERON:
 11 Q. Well, they’re not for profit. I don’t know
 12 the intricacies of Facility Association, but
 13 my understanding generally is that they are
 14 funded by the insurance industry as a whole,
 15 every writer of auto insurance participates
 16 in Facility for a various percentages
 17 according to their market share, and the
 18 losses are shared with all the insurers,
 19 sorry, that write business in that province.

20 KENNEDY, Q.C.:
 21 Q. Have you ever encountered, sir, in your 50
 22 years of experience in the insurance
 23 industry where one segment of a market has
 24 been deemed high risk no matter what the
 25 circumstances of the individual or

Page 106

1 individual driving?
 2 MR. CAMERON:
 3 Q. Well, I think that holds true in many
 4 sectors, like dynamite manufacturers,
 5 firework manufacturers.

6 KENNEDY, Q.C.:
 7 Q. That’s different than a taxi driver, isn’t
 8 it?

9 MR. CAMERON:
 10 Q. Well, taxi drivers probably on the auto side
 11 probably represent that type of –

12 KENNEDY, Q.C.:
 13 Q. So, taxi drivers are the equivalent as
 14 dynamite companies.

15 MR. CAMERON:
 16 Q. Okay, don’t quote me on that. I don’t want
 17 to say that. I retract that statement.

18 KENNEDY, Q.C.:
 19 Q. You just—good. I think that’s very wise,
 20 sir.

21 MR. CAMERON:
 22 Q. Sorry. I have to take a taxi to the
 23 airport.

24 KENNEDY, Q.C.:
 25 Q. I get your point, Mr. Cameron. What you’re

Page 107

1 suggesting is that there are other segments
 2 of the market that are deemed high risk by
 3 their very nature.

4 MR. CAMERON:
 5 Q. That’s correct, yes.

6 KENNEDY, Q.C.:
 7 Q. So, the handling of dynamite and getting in
 8 a taxi, they would be qualitatively two
 9 different things.

10 MR. CAMERON:
 11 Q. Well, perhaps a better example would be oil
 12 transportation, transportation of hazardous
 13 goods, oil and gas in trucks. I mean, that
 14 type of risk is, by its nature, is
 15 inherently more dangerous than riding a
 16 truck hauling boxes.

17 KENNEDY, Q.C.:
 18 Q. I guess the point I’m trying to make, I’m
 19 going to come to the taxi drivers themselves
 20 now in a second, is that it shouldn’t only
 21 be a matter of increasing premiums or
 22 increasing rates. There should be other
 23 areas in relation to risk management that
 24 should be looked at, shouldn’t there?

25 MR. CAMERON:

Page 108

1 Q. Well, I agree. I believe I recommended
 2 that. I agree, yes.

3 KENNEDY, Q.C.:
 4 Q. And now let’s go to page 4, I’m almost
 5 finished with one more point in Mr. Allen’s
 6 report. And I think we might have stolen
 7 this from—I don’t know if stolen is the
 8 word; what do you call when you take someone
 9 else’s –

10 MR. CAMERON:
 11 Q. Expropriated.

12 KENNEDY, Q.C.:
 13 Q. Yes. But you’ll see an example of
 14 “initiatives to reduce the frequency and
 15 severity of taxi claims suggested by the
 16 Campaign to Protect Accident Victims could
 17 be a driver certification program offered by
 18 the government”.

19 MR. CAMERON:
 20 Q. Sorry, where are you –

21 KENNEDY, Q.C.:
 22 Q. Okay, last paragraph on page 4, sorry page 4
 23 of Mr. Allen’s report.

24 MR. CAMERON:
 25 Q. And you’ll see an example of initiative—last

Page 109

1 paragraph there—to reduce frequency and
 2 severity of taxi claims. And it says,
 3 “suggested by the Campaign to Protect
 4 Accident Victims” and probably should have
 5 in bracket, as suggested by the taxi drivers
 6 themselves. It could be a driver’s
 7 certificate, certification program offered
 8 by the government.
 9 MR. CAMERON:
 10 Q. Right.
 11 KENNEDY, Q.C.:
 12 Q. Sensible comment, isn’t it?
 13 MR. CAMERON:
 14 Q. Yes, well, they have that in place in other
 15 jurisdictions.
 16 KENNEDY, Q.C.:
 17 Q. “Such a program might include training
 18 standards, taxi driving experience, claims
 19 records and violation tracking. Such a
 20 program could provide an easily accessible
 21 and third party monitoritive record in real
 22 time”. Do you agree that those comments are
 23 pretty sensible?
 24 MR. CAMERON:
 25 Q. Well, they’re sensible. They’re interesting

Page 110

1 comments. They certainly would have a cost
 2 of who does the tracking and monitoring and
 3 how does that happen.
 4 KENNEDY, Q.C.:
 5 Q. Well, if you reduce the taxi driver from
 6 12,500 to 2,000 or 2,500, there’s going to
 7 be a lot of money to pay for something.
 8 Someone can pay for this.
 9 MR. CAMERON:
 10 Q. Well, that’s assuming that those programs—I
 11 mean, I agree with implementing risk
 12 management, but I’m not sure you can get
 13 that quantitative reduction in premium –
 14 KENNEDY, Q.C.:
 15 Q. And that’s fair. To be fair to you, the
 16 comments themselves makes sense and would go
 17 toward risk management, but that’s not your
 18 area to how they’re implemented?
 19 MR. CAMERON:
 20 Q. Not how they are implemented no.
 21 KENNEDY, Q.C.:
 22 Q. Yes, but you seem –
 23 MR. CAMERON:
 24 Q. They can’t—all those can be implemented by
 25 the owners of the -

Page 111

1 KENNEDY, Q.C.:
 2 Q. There’s a lot of common sense here, isn’t
 3 it?
 4 MR. CAMERON:
 5 Q. Well, it’s common sense, yes.
 6 KENNEDY, Q.C.:
 7 Q. And you’ve seen this in other provinces,
 8 these types of measures.
 9 MR. CAMERON:
 10 Q. Some of them, yes.
 11 KENNEDY, Q.C.:
 12 Q. Okay, now let’s go, sir, to couple of the
 13 interviews that were given by the taxi
 14 drivers themselves which were—have you had a
 15 chance to read them, by the way.
 16 MR. CAMERON:
 17 Q. Interviews by the taxi drivers?
 18 KENNEDY, Q.C.:
 19 Q. Yes, that transcripts are up on the website.
 20 They’re quite interesting. Let’s go to the
 21 first one of Doug McCarthy given on April
 22 10, 2018 at page 56. It will come up on the
 23 screen for you, sir.
 24 MR. CAMERON:
 25 Q. Thank you.

Page 112

1 MS. GLYNN:
 2 Q. What page?
 3 KENNEDY, Q.C.:
 4 Q. Page 56, my notes says, Mr. Glynn. At the
 5 end of this interview Ms. Glynn repeats Mr.
 6 McCarthy seven points—I think it’s seven. I
 7 see six anyway. A number of points in
 8 relation to improving the taxi situation in
 9 terms of risk management.
 10 MS. GLYNN:
 11 Q. We don’t have it up yet
 12 KENNEDY, Q.C.:
 13 Q. Okay, sorry. I don’t think there’s anything
 14 contentious here, sir, I just want to get
 15 your comments on this. So, Mr. McCarthy is
 16 suggesting that—and he said, look, I went to
 17 government and these are the points I made.
 18 There was a taxi alliance and by the time he
 19 testified, I don’t know if he was involved
 20 in the taxi alliance, but a five-year clear
 21 abstract, in other words, you’ve got a good
 22 driving record, again, that’s common sense,
 23 isn’t it?
 24 MR. CAMERON:
 25 Q. Yes.

Page 113

1 KENNEDY, Q.C.:

2 Q. A five year Canadian driving experience.

3 Do you have any idea what he's talking about

4 there or why he would suggest that?

5 MR. CAMERON:

6 Q. Well, Canadian driving experience, you could

7 argue that's it's a better risk having

8 someone with five years Canadian driving

9 experience than someone who is here from

10 somewhere else, perhaps the rules of the

11 road are difference that they're not the

12 same risk as a Canadian driver.

13 KENNEDY, Q.C.:

14 Q. Yes, if you're driving in a place where

15 there is sun and no snow as opposed to

16 driving down Kenna's Hill and think they use

17 that—one of them used that exactly—driving

18 down Kenna's Hill in the middle of the

19 winter –

20 MR. CAMERON:

21 Q. Um-hm.

22 KENNEDY, Q.C.:

23 Q. - with snow on the road, I mean, you seen

24 the roads here in St. John's, they're quite

25 –

Page 114

1 MR. CAMERON:

2 Q. Or out in the country where there's moose.

3 KENNEDY, Q.C.:

4 Q. Well, I'm not sure anyone can prepare for

5 that—not sure if there's a course in that.

6 Mr. McCarthy then goes on to suggest a

7 driving test, that there be driving tests

8 imposed, just to make sure you can driving a

9 taxi –

10 MR. CAMERON:

11 Q. I'm not sure how a driving test, I'm not

12 sure what they would be.

13 KENNEDY, Q.C.:

14 Q. Sure.

15 MR. CAMERON:

16 Q. I mean, I sure—I assume that they have

17 license, you have a driving test to get

18 that.

19 KENNEDY, Q.C.:

20 Q. A novice taxi license similar to a novice

21 driver when a kid, 17, 16 or 17 write a test

22 and then you can drive and you're given—

23 you're on probation for a period of time,

24 he's suggesting something similar like that

25 to taxis, have you seen that anywhere?

Page 115

1 MR. CAMERON:

2 Q. Well, I was involved when that program, the

3 graduated licensing, I was actually—I did

4 some presentations on that, actually, before

5 they introduced the legislation.

6 KENNEDY, Q.C.:

7 Q. So, is there legislation in Ontario –

8 MR. CAMERON:

9 Q. Yes.

10 KENNEDY, Q.C.:

11 Q. - for similar –

12 MR. CAMERON:

13 Q. Graduated licensing, not for taxis

14 necessarily, but for all drivers.

15 KENNEDY, Q.C.:

16 Q. Okay, but graduated—there's no reason it

17 couldn't be there for taxis either, is

18 there?

19 MR. CAMERON:

20 Q. That's true.

21 KENNEDY, Q.C.:

22 Q. Okay. Mandatory winter tires, now again,

23 sir, something as simple as—there's no

24 requirement in this province or do you know

25 there's no requirement in this province that

Page 116

1 there be mandatory winter tires.

2 MR. CAMERON:

3 Q. That surprises me, but –

4 KENNEDY, Q.C.:

5 Q. Yeah, well, I always—anyway, if I knew then

6 what I know now. So, there's no mandatory

7 winter tires. Again, common sense, there

8 should be –

9 MR. CAMERON:

10 Q. It snowed last week, didn't it?

11 KENNEDY, Q.C.:

12 Q. So, again that's something that you have to

13 balance the cost and I think it's an issue

14 of cost, but for taxis –

15 MR. CAMERON:

16 Q. Well, taxi drivers, actually that's an

17 important point because often the taxi

18 drivers are, in my experience in other

19 jurisdictions, taxi drivers will, you know,

20 tend not to spend—try to reduce their costs

21 on their vehicles which –

22 KENNEDY, Q.C.:

23 Q. Especially if paying \$12,000 insurance.

24 MR. CAMERON:

25 Q. Well, apart from that, but would tend to

Page 117

1 keep their costs down and, of course, not
 2 putting winter tires on is a saving in
 3 costs.
 4 KENNEDY, Q.C.:
 5 Q. So, then you get insurance based on driving
 6 record, again, that would seem to be and I
 7 will come to exactly what he means by that,
 8 but insurance based on driving record. From
 9 a purely risk management respect, there has
 10 to be certain positive attributes to that
 11 suggestions, doesn't there/
 12 MR. CAMERON:
 13 Q. Well, that's a tremendous tool to use, a
 14 driving record. And the theory is that if
 15 you have been convicted of a number of
 16 speeding offences, you're not—it's a
 17 practice really, you're probably not as good
 18 a risk as a driver, as someone who has not
 19 been caught.
 20 KENNEDY, Q.C.:
 21 Q. Okay. If we now go to the transcript of
 22 George Murphy, Jiffy Cabs on April 12, 2018.
 23 For your information, Mr. Cameron, Mr.
 24 Murphy wears many hats. He predicts the
 25 price of oil and gas; he's a former member

Page 118

1 of our House of Assembly and he's the
 2 business manager of Jiffy cabs and I think
 3 he drives a cab. So, Mr. Murphy came here
 4 before the Board –
 5 MS. KEAN:
 6 Q. What page?
 7 KENNEDY, Q.C.:
 8 Q. We're going to start with page 11 to 12.
 9 And if we get page 11 up and the line 14 and
 10 what Mr. Murphy is talking about and he goes
 11 as far as to suggest, sir, that insurance
 12 industry and the—he refers to, a number of
 13 these drivers refer to Facility as a
 14 monopoly. Mr. Murphy goes as far as to
 15 suggest that it's anti-competitive and there
 16 should be a complaint to the Competition
 17 Bureau. So, that's the basic tenor of his
 18 testimony. He's now talking at page 11
 19 about finding low cost insurance. And at
 20 line 16 to 18, "and like we say, if you have
 21 an absolutely clean driving record, you're
 22 already 'sentenced'", loose quotation marks<
 23 I guess, around that word sentenced—"but
 24 you're already sentenced and convicted as
 25 having a terrible driving record being at a

Page 119

1 huge risk. And it doesn't matter about the
 2 driving record that you have, it doesn't
 3 matter what driving skills you have. Right
 4 now you're told you're going to be in
 5 Facility, you have no other choice but to go
 6 to Facility. And even when somebody who
 7 wants to get into the industry of shopping
 8 around for insurance, it turns out that
 9 Facility is becoming anti-competitive". So,
 10 Mr. Murphy's point similar to the point made
 11 by Mr. McCarthy it doesn't matter what my
 12 driving record is; it doesn't matter what my
 13 driving skills are; it doesn't matter how
 14 long I've been driving, I'm automatically
 15 placed into Facility.
 16 (10:45 a.m.)
 17 MR. CAMERON:
 18 Q. Well, I think the thing that strikes me with
 19 that comment is that 5 percent of the taxis
 20 are not in Facility. So, perhaps those are
 21 you 5 percent of those risks, perhaps.
 22 KENNEDY, Q.C.:
 23 Q. Yes, but –
 24 MR. CAMERON:
 25 Q. I'll just throw that out there.

Page 120

1 KENNEDY, Q.C.:
 2 Q. - do we know where they are? Are they in
 3 Corner Brook? I mean, you got your
 4 territories 1, 2 and 3. Do you know where
 5 they are, for example?
 6 MR. CAMERON:
 7 Q. No.
 8 KENNEDY, Q.C.:
 9 Q. No. Because the St. John's taxi drivers all
 10 appear to be in Facility. So, I guess my
 11 question for you is have you—or let me just
 12 keep going, let me just keep going. He
 13 refers to at page 13 and this term is also,
 14 I think, used by a number of different
 15 drivers and page 13, lines 19 to 20. "But
 16 the definition of a monopoly, Facility
 17 pretty much fits that. You don't see one
 18 company competing with another when it comes
 19 to that. It has one rate and one rate only.
 20 And like I said, if you're driving taxi,
 21 you're automatically pointed to that
 22 particular group and nobody wants to bother
 23 to give you the particular competitive price
 24 in the process". That's the situation in
 25 Newfoundland and Labrador, isn't it?

Page 121

1 MR. CAMERON:
 2 Q. Well, I don't know. That's his evidence.
 3 KENNEDY, Q.C.:
 4 Q. No, but that's the situation. You have to
 5 go, other than that five percent, whoever
 6 they are, you go to Facility.
 7 MR. CAMERON:
 8 Q. Well, I say Facility is a market of last
 9 resort. They go there because none of the
 10 insurers will write that business.
 11 KENNEDY, Q.C.:
 12 Q. But in your experience of 50 years in this
 13 industry, sir, why is it that anyone is
 14 automatically deemed to be a high risk? Is
 15 that consistent with the principles of
 16 insurance which deal with risk management
 17 and assessment of risk?
 18 MR. CAMERON:
 19 Q. Well, getting back to my example before,
 20 ignore the dynamite example, but the
 21 transportation of hazardous goods, I mean,
 22 that is a risk that is very specific, much
 23 riskier than normal transportation risks and
 24 assesses a higher premium or some companies
 25 will not write that business.

Page 122

1 KENNEDY, Q.C.:
 2 Q. Okay. If we can now go to, and the last
 3 point I want to make with Mr. Murphy before
 4 I go to very interesting comments by Mr.
 5 Earle, and again, the Board will certainly
 6 know better than I because I couldn't really
 7 figure it all out, but at page 52 of Mr.
 8 Murphy's testimony and what he says and I
 9 know, again, Madam Chair, at one point you
 10 raised and it might have been with the lady
 11 from Corner Brook because there was some
 12 discussion as to the rates going up and when
 13 it happened. It's not clear to me from the
 14 transcript, but if you look at page 52. Mr.
 15 Murphy says at line 8, sir, "but as regards
 16 to their wanting more increase, like I said,
 17 just to sum it up, they ignored the problem
 18 between '87, '86 and '97". Do you know what
 19 he's referring to there?
 20 MR. CAMERON:
 21 Q. I do not.
 22 KENNEDY, Q.C.:
 23 Q. Okay. Now, sir, let's go to Donnie Earle of
 24 Goulds Taxi and I'm sure the members of the
 25 Board will remember Mr. Earle. He seemed to

Page 123

1 be, from the transcript very frustrated, but
 2 also not afraid to speak his mind. And this
 3 is, I guess, probably summarizes it, sir,
 4 better than anything. Page 16 of Mr.
 5 Earle's testimony or evidence on April 10,
 6 2018. And he's the gentleman, sir, who said
 7 he walked in to the—the previous page—he
 8 walked into his insurance adjuster, at page
 9 11, and the insurance adjuster said don't
 10 blame me, blame Facility. In any event, at
 11 page 16, lines 3 to 5. "Because this is
 12 where the problem lies", he said, "this is
 13 where it is and you know, we're all united
 14 then as one and then it just fell apart.
 15 I'm here to speak for me and the little
 16 people. I'm grouped into a category that I
 17 don't belong in". So, again the same theme
 18 that we heard from Mr. McCarthy and Mr.
 19 Murphy, do you see that, sir?
 20 MR. CAMERON:
 21 Q. Yes.
 22 KENNEDY, Q.C.:
 23 Q. Okay, now, I'm just going to jump ahead
 24 because this is a comment for you. If we go
 25 to page 61 and the Chair is asking Mr. Earle

Page 124

1 a question, I think he's been explaining the
 2 situation, at page 61. So, the Chair, Ms.
 3 Whalen, says, "you don't have any experience
 4 dealing with a claim or how it was handled.
 5 No", Mr. Earle says. Chair, "Alright,
 6 that's impressive". Mr. Earle, "but I'm
 7 being charged like I got four impaired
 8 charges, five speeding tickets and two
 9 accidents". That's probably not a bad
 10 description of the rates that he's paying,
 11 sir, he's paying between eight and twelve
 12 thousand dollars, is it?
 13 MR. CAMERON:
 14 Q. Well, I'm not going to comment on that, no
 15 thanks.
 16 KENNEDY, Q.C.:
 17 Q. But do you sense the frustration with the
 18 taxi drivers in terms of being all grouped
 19 into Facility?
 20 MR. CAMERON:
 21 Q. Well, that's the perception in –
 22 KENNEDY, Q.C.:
 23 Q. Well, it's their comments, it's not their—
 24 their perception is their reality, sir, and
 25 their reality is they're paying this amount

Page 125

1 of money because I'm going to lead to a
 2 simple question for you now. The last point
 3 is Tom Lambe is another taxi driver who
 4 talked about Facility having a monopoly and
 5 for the reference, if anyone wants, I'm not
 6 going to refer to the quote, it's Tom Lambe
 7 at City Wide on April 12, 2018 at pages 6
 8 and 7. Now sir, everything I've gone
 9 through today and I'm watching the clock and
 10 I'll finish, Madam Chair, with this last,
 11 hopefully this last question, if it doesn't
 12 lead to others. Sir, is there any reason in
 13 your experience of 50 years in this
 14 insurance industry, Mr. Cameron, that the
 15 government, that amorphous entity we call a
 16 government could bring in regulations or
 17 legislation imposing on insurance company a
 18 condition that taxi companies be allowed to
 19 shop for commercial insurance or be
 20 considered commercial, 1) that insurance
 21 companies have to offer commercial if the
 22 taxi drivers meet certain underwriting
 23 conditions such as what we've talking about
 24 here today, age, driving record, tickets, et
 25 cetera. Is there any reason that you're

Page 126

1 aware of in your experience that a
 2 government could not bring in either
 3 legislation or regulations requiring that?
 4 KENNEDY, Q.C.:
 5 Q. To impose on the industry that they have to
 6 write —
 7 KENNEDY, Q.C.:
 8 Q. Yeah.
 9 MR. CAMERON:
 10 Q. that's what Facility Association exists for,
 11 really. It's -
 12 KENNEDY, Q.C.:
 13 Q. My question for you, sir, have you seen or
 14 is there any reason in your 50 year
 15 experience that the government couldn't say
 16 to the insurance industries in this
 17 province, insurance companies in this
 18 province that if these taxi drivers meet
 19 certain conditions, they have to be allowed
 20 to shop commercially and do not
 21 automatically go into Facility.
 22 MR. CAMERON:
 23 Q. Well, I think you comment, "shop
 24 commercially" is not—gives the wrong
 25 situation. They're allowed to shop

Page 127

1 commercially. They can go to brokers and
 2 say, can you write my insurance and –
 3 KENNEDY, Q.C.:
 4 Q. And if the broker says no?
 5 MR. CAMERON:
 6 Q. Well, the broker, I guess, goes to the
 7 markets and perhaps the markets says no.
 8 KENNEDY, Q.C.:
 9 Q. Okay. Well, let's again—if you're going to
 10 –
 11 MR. CAMERON:
 12 Q. It doesn't—shopping commercially is
 13 certainly available to everyone.
 14 KENNEDY, Q.C.:
 15 Q. It may be theoretically, sir, but
 16 practically speaking it's not. And let's go
 17 back then, if we're going to—let's go back
 18 to Mr. Earle and let's look at page 11 at
 19 what Mr. Earle had to say on April 10, 2018.
 20 And I can picture Mr. Earle, but he seemed
 21 to me to not be afraid to speak his mind.
 22 So, this is what Mr. Earle says and I don't
 23 know, maybe I'm putting an accent where
 24 there's no accent, but this man says, "I go
 25 into my insurance company", page 10, line

Page 128

1 20, "and there about a month ago. And my
 2 insurance meets me at the door and he laughs
 3 as soon as he sees me coming. He knows why
 4 I'm there. He laughs, don't blame me, blame
 5 Facility. That's what he says to me. I
 6 didn't open my mouth. I just walked in
 7 there and said yes, fair enough. I said,
 8 but let me ask you this, I said, you're
 9 telling me to blame Facility. Yes, he said.
 10 I said, okay, well, you're hiding behind
 11 Facility. I said, because when Facility
 12 gets an increase, do you get an increase?
 13 Oh yes, he said. I said, well, you know,
 14 and I know I'm not costing you any money, so
 15 why don't you take me out for lunch? Why
 16 don't you give me back a few dollars? Why
 17 don't you buy me a nice Christmas gift?
 18 What I see is happening that these big
 19 companies are going to have a monopoly on
 20 it. I'm not going to say because I can't
 21 prove it. I'm going to say my opinion.
 22 These big companies now want a monopoly on
 23 the taxi industry. Four or five years ago
 24 you couldn't buy a taxi license, there was
 25 none to be bought. The city is not issuing

Page 129

1 anymore. Now, these big companies have
 2 opened up the flood gates and that's where
 3 the majority of these accidents are
 4 happening. I'm pulled into their circle and
 5 now all these little independent drivers are
 6 dropping like flies. They either can't
 7 afford to pay the insurance or like me, I
 8 can't justify it". So, you're saying, sir,
 9 they can shop commercially. Mr. Earle,
 10 tried to shop commercially and the adjuster,
 11 whoever this adjuster may be said, "don't
 12 blame me, blame Facility".
 13 MR. CAMERON:
 14 Q. I think that would be the broker he would be
 15 talking to.
 16 KENNEDY, Q.C.:
 17 Q. Broker, excuse me, yes.
 18 MR. CAMERON:
 19 Q. Yeah.
 20 KENNEDY, Q.C.:
 21 Q. So, have you seen in other provinces where
 22 government can actually regulate the
 23 insurance industry to the point where it
 24 says these individual taxi drivers have to
 25 be allowed to deal with other insurance

Page 130

1 companies—or other insurance companies have
 2 to deal with these taxi drivers if they meet
 3 certain underwriting criteria types of
 4 things we talked about here today?
 5 MR. CAMERON:
 6 Q. Well, I don't think it's my role to say what
 7 the government can and can't do. I assume
 8 the government can make any regulations or
 9 legislation that they choose to do and
 10 impose on whatever commercial entities they
 11 govern.
 12 KENNEDY, Q.C.:
 13 Q. Okay. Thank you very much, Madam Chair. I
 14 know it's 11:00, so I'll end there. Thank
 15 you. Thank you, Mr. Cameron.
 16 CHAIR:
 17 Q. Thank you, Mr. Kennedy. And while you did
 18 Mr. Earle proud, you didn't quite get there.
 19 KENNEDY, Q.C.:
 20 Q. Pardon?
 21 CHAIR:
 22 Q. You did Mr. Earle proud, but not quite.
 23 KENNEDY, Q.C.:
 24 Q. Okay.
 25 CHAIR:

Page 131

1 Q. Mr. Gittens, I'm assuming you're okay to
 2 wait until after the break.
 3 MR. GITTENS:
 4 Q. Yes, certainly, Madam.
 5 CHAIR:
 6 Q. See you in half an hour.
 7 (RECESS – 10:57 a.m.)
 8 (RESUME – 11:38 A.M.)
 9 CHAIR:
 10 Q. Over to you, Mr. Gittens. Are you ready?
 11 MR. GITTENS:
 12 Q. Thank you, Madam Chair. Mr. Cameron, my
 13 name is Ernest Gittens and I'm here on
 14 behalf of the Atlantic Provinces Trial
 15 Lawyers Association. The first thing I will
 16 assure I will not being going over the stuff
 17 that Mr. Kennedy did, mercifully. Once he
 18 goes through some stuff, it's thoroughly
 19 dealt with and I would be just repeating
 20 much of what he said. I am concerned about
 21 two specific areas that arise out of your
 22 testimony and arise out of your being here.
 23 And the first issue is essentially the
 24 analysis, the independence of the analysis
 25 that you've done. And I've looked at your

Page 132

1 bio that you've provided and of the
 2 associates you've used in the study that has
 3 been done. And I've noted a couple of
 4 things, first of all, you indicate that
 5 Cameron & Associates were started in 1994, I
 6 if I recall correctly.
 7 MR. CAMERON:
 8 Q. That's correct.
 9 MR. GITTENS:
 10 Q. Yes. And necessarily in the in insurance
 11 industry, you have a full insurance
 12 background. You spent many years, I
 13 suppose, working for private insurance
 14 companies and then later on launched out on
 15 your own to do the type of work that you are
 16 doing right now which is partly giving
 17 expert witness testimony and analysis and so
 18 on. Am I getting that correct?
 19 MR. CAMERON:
 20 Q. That's correct, yes.
 21 MR. GITTENS:
 22 Q. Okay, so first question is really, is your
 23 company owned, in any way by any insurance
 24 entity? Or is yours a private company by
 25 yourself and –

Page 133

1 MR. CAMERON:
 2 Q. It's a private company owned by my wife and
 3 I.
 4 MR. GITTENS:
 5 Q. Okay, excellent. And so the corollary to
 6 that is you are not a subsidiary of any
 7 insurance company?
 8 MR. CAMERON:
 9 Q. No. In fact, we wouldn't get work from
 10 other insurance companies; they wouldn't use
 11 a competitor necessarily if we were owned by
 12 an insurance company. So, we stay away from
 13 that.
 14 MR. GITTENS:
 15 Q. You stay away from that. In addition to
 16 that I notice in your bio here that you
 17 operate as an expert witness on occasion.
 18 MR. CAMERON:
 19 Q. When I'm retained to do so, yes.
 20 MR. GITTENS:
 21 Q. Yes. And I take it one of the advantages of
 22 being in your own company as an expert,
 23 you're very concerned about, or should be,
 24 very concerned about the appearance of
 25 independence and impartiality.

Page 134

1 MR. CAMERON:
 2 Q. That's correct.
 3 MR. CAMERON:
 4 Q. Okay. Something that you put your mind
 5 through to, in terms of the retainers you
 6 take on and the work that you do and how you
 7 present yourself.
 8 MR. CAMERON:
 9 Q. Yes.
 10 MR. GITTENS:
 11 Q. Okay, fair enough. So, if I understood from
 12 what you indicated as the type of work that
 13 you do, you've indicated that you are
 14 regularly retained—and I'm referring to your
 15 bio—you're regularly retained by government,
 16 risk managers, insurance and re-insurance
 17 companies, public entities and private
 18 industry.
 19 MR. CAMERON:
 20 Q. Yes.
 21 MR. GITTENS:
 22 Q. Okay. An essential component of your doing
 23 work across those various subsectors of the
 24 insurance industry because I presume when
 25 you are retained by some of these other

Page 135

1 things, they are all involved in insurance
 2 of some type.
 3 MR. CAMERON:
 4 Q. Yes, that's my area of expertise. That's
 5 why they retain me.
 6 MR. GITTENS:
 7 Q. Risk management and things of that –
 8 MR. CAMERON:
 9 Q. Risk management or insurance, yes.
 10 MR. GITTENS:
 11 Q. You're fully aware and fully cognisant and
 12 you're very much concerned in presenting
 13 yourself as an independent and impartial
 14 witness or analyst or preparer of reports.
 15 MR. CAMERON:
 16 Q. That's correct.
 17 MR. GITTENS:
 18 Q. Okay. And one of the ways you do that is by
 19 maintaining the independence of your company
 20 even though you may be doing work similar
 21 to, let's say like Oliver Wyman, for
 22 instance, in terms of the independence and
 23 the segregation of your business from other
 24 insurance companies and so on.
 25 MR. CAMERON:

Page 136

1 Q. Yes.
 2 MR. GITTENS:
 3 Q. Okay. So, then I note you've indicated and
 4 the people that you've utilized in the
 5 preparation of this report include, I think
 6 she's sitting right behind me.
 7 MR. CAMERON:
 8 Q. She is.
 9 MR. GITTENS:
 10 Q. Sharon Cameron and Ms., I guess it's
 11 Saksida.
 12 MR. CAMERON:
 13 Q. Saksida, yes.
 14 MR. GITTENS:
 15 Q. And Mr. Bondi.
 16 MR. CAMERON:
 17 Q. Yes.
 18 MR. GITTENS:
 19 Q. And I notice in each of these people there
 20 is a reference to their area of expertise
 21 and one of the first things highlighted is
 22 the audits, standards and data analysis of
 23 Mrs. Cameron, for instance. First item of
 24 area of expertise is an audit standard.
 25 Mrs. Saksida references her due diligence

Page 137

1 audits. And Mr. Bondi refers to his
 2 compliance audits.
 3 MR. CAMERON:
 4 Q. Yes.
 5 MR. GITTENS:
 6 Q. Can you—I know we’ve used the word rather
 7 loosely around here before, but the “audit”,
 8 what is the, not impression, what is the
 9 substance that one is trying to transmit
 10 when one talks about the audit aspect of
 11 these processes?
 12 MR. CAMERON:
 13 Q. Well, if we can start with the last one,
 14 compliance, the compliance audit, we do and
 15 we started that actually—the regulators in
 16 Ontario imposed an audit standard when they
 17 brought in the legislation called Bill 164
 18 in 1994 and it was a rather detailed
 19 standard that insurances companies had to
 20 file with FSCO, the regulatory body—that
 21 FSCO—they had to file an audit of the
 22 compliance on claims filed and the
 23 legislation had various issued in it on
 24 accident benefits, specific to accident
 25 benefits, legislation had very specific

Page 138

1 timeframes, for example, to respond to a
 2 letter or report or an issue or a medical
 3 invoice and very tight timeframes that you
 4 have to respond or if you didn’t respond
 5 appropriately, you’d have to pay and you’d
 6 have to pay within a certain of time.
 7 That’s one of the examples of compliance.
 8 If you want to terminate benefits there were
 9 very specific compliance issues. And the
 10 regulators wanted some independent audit of
 11 that process. So, we did that for a number
 12 of years and then the regulators moved away
 13 from that for whatever reason. So, we had
 14 to let 8 people go at the time actually, so
 15 it was rather painful, but that’s a
 16 compliance audit. That’s one of the audits
 17 we do. We also have conducted compliance
 18 audits on behalf of certain underwriters at
 19 Lloyds of London and they have compliance
 20 standards based on the UK legislation for
 21 their worldwide operations. And we’ve
 22 audited Canadian adjusters and insurance
 23 adjusters and brokers actually who write
 24 business for Lloyds. And they have an audit
 25 standard that we have to, we examine the

Page 139

1 files and look at and audit. Susan--that’s
 2 Len Bondi’s experience, he’s done that, he
 3 conducts those. And he has, you know, he’s
 4 with one company his entire career. He had,
 5 I think, 47 years with Dominion of Canada
 6 Insurance Company, a big insurer, at the
 7 time. It’s been purchased by Travellers.
 8 So, I mean, in order to get the people that
 9 are qualified to do that, we need a certain
 10 expertise and—I can’t just—it’s very
 11 difficult to bring someone into the business
 12 and train them to do that. You gather on
 13 their years of experience working for the
 14 insurance companies to develop that history
 15 and then they can help apply that in a
 16 process to do it.
 17 (11:45 a.m.)
 18 And the other part of compliance, Susan
 19 Saksida, for example, she was compliance
 20 officer for Marsh, a big broker, and this is
 21 when—the compliance issues are really in the
 22 forefront now of insurance companies and
 23 probably in most companies, but certainly
 24 there are more people working in compliance
 25 at Lloyd’s, I think, than working

Page 140

1 underwriting, but it’s—the compliance issue
 2 for Marsh was back in the time when they had
 3 some rather large publicly aired issues on
 4 premiums and people went to jail, writing
 5 insurance, they went to jail in the US. It
 6 was really pretty bizarre, on these premium
 7 calculations. And she was doing compliance
 8 for Marsh on that which would be their own
 9 internal compliance. So, compliance of
 10 their internal procedures and practices
 11 which again had to subscribe to government,
 12 some government regulations, but more of it
 13 was internal compliance. And we’ve done
 14 that type of audit for companies as well
 15 that they want an independent auditor of
 16 their own compliance practices and
 17 procedures. We’ve done that with claims and
 18 a little bit of underwriting actually we’ve
 19 done there as well for companies. And the
 20 other auditing we have done is by insurance
 21 company, well there’s other ones, by
 22 insurance companies we’ve been hired to take
 23 a look at their claims department and
 24 analyze and assess their quality of their
 25 staff, their response. Are they acting

Page 141

1 within their own guidelines; are they
 2 compliant with all the regulation that they
 3 are required to do? And do they have
 4 procedures documented that will stand the
 5 test of time if they're questioned on that?
 6 And we can audit that on behalf of insurance
 7 companies. Also, on behalf of insurance
 8 companies, we can audit reserves on files.
 9 And actually we get a lot of audits that
 10 way, that an insurance company, either the
 11 management or the chief actuary is concerned
 12 about the reserves, how much money they have
 13 reserved for outstanding claims and is it
 14 appropriate? Is it too much? And actuaries
 15 will comment on that. I think you've heard
 16 Paula talk about that. Actuaries will
 17 always assess reserves, the case reserves
 18 but we can go in and we provide a
 19 qualitative analysis of the case reserves
 20 which is, it's not the exercise that the
 21 actuaries go through that look at the
 22 numbers. The numbers here in one certain
 23 year and it's here another year. We look at
 24 actually what is the claim today and what
 25 information is on the file and does the

Page 142

1 information justify a certain exposure that
 2 we can put a number towards? And insurance
 3 companies are very concerned about that.
 4 And we've been retained by actuaries
 5 actually to do that kind of work, to help
 6 them if they have some concerns on their
 7 numbers once they crunch the numbers, if
 8 something doesn't make sense. And
 9 actuaries, I think, as you've heard
 10 testimony, don't look at claim files.
 11 They'll hire someone like us to look at
 12 claim files and write a report to them on
 13 that. And the other audits we've performed
 14 have been—I am going to long?
 15 MR. GITTENS:
 16 Q. No, that's fine.
 17 MR. CAMERON:
 18 Q. The other audits we've performed have been
 19 on behalf of non-insurance companies. I
 20 gave the example, I believe, in my
 21 introduction on taxi cabs and I've been
 22 retained specifically by taxi cab fleet
 23 owners on two different occasions and some
 24 rental car companies as well to audit their
 25 claims files which are essentially they're

Page 143

1 insured by an insurer and the insurer and
 2 the insurer handles the claims and then
 3 charges them. There's often some kick back,
 4 not kick back, some claw back that they
 5 self-fund some of the losses in both cases.
 6 And they self-fund it either through an
 7 insurance mechanism called a captive or by
 8 just funding it themselves. So, their
 9 concern is that the insurance companies are
 10 putting too much money aside on reserves and
 11 therefore tying up their capital. And that
 12 those, too much in reserves therefore, they
 13 should free up capital if those reserves
 14 come down. We've done those kind of audits.
 15 And in fact, in some cases have discovered
 16 that insurers had—weren't as—could have
 17 released some reserves earlier in the
 18 process, but just for whatever, I'm not
 19 talking intentionally perhaps, but for
 20 whatever reasons there were some redundant
 21 reserves that could be freed up. So, the
 22 insurers would reduce that reserve,
 23 therefore it reduces the liability that the
 24 company has to the insured to pay back those
 25 –

Page 144

1 MR. GITTENS:
 2 Q. Are you telling me that insurance companies
 3 might inadvertently or overtly hold back
 4 reserves more than they need for a
 5 particular file? I find that amazing.
 6 MR. CAMERON:
 7 Q. Well, they're regulated, so they can't do
 8 that intentionally, but I mean, if you're
 9 dealing with 30,000 claims, I mean, there's
 10 going to be one or two perhaps that maybe
 11 isn't closed within—don't get seen for a few
 12 months perhaps. It's not the optimum
 13 situation, but the reserves don't come down
 14 at exactly the same time that they should.
 15 MR. GITTENS:
 16 Q. In terms of, and I'm not going to go into
 17 your mandate at this moment, I want to know
 18 how the mandate was -
 19 MR. CAMERON:
 20 Q. I haven't finished the auditing side yet,
 21 sorry.
 22 MR. GITTENS:
 23 Q. Oh, go ahead.
 24 MR. CAMERON:
 25 Q. And we've also audited on behalf of

Page 145

1 insurance companies, adjusters, independent
 2 adjusters as to how they are performing in
 3 accordance with their terms of the contract
 4 with them. And we've also audited lawyers,
 5 law firms, defence lawyers and are they
 6 acting again, within the terms of the
 7 agreement and are they being pro-active?
 8 Are they doing the right thing, assessing
 9 their performance and we've also been
 10 actually retained by independent adjuster
 11 companies to look at, examine the same thing
 12 within their own operation. I'm sorry, go
 13 ahead.
 14 MR. GITTENS:
 15 Q. I see. So, I get the sense, I hear you to
 16 be saying two things so far. Number one,
 17 you have deliberately, consciously
 18 maintained an independence in your
 19 organization that makes it possible for you
 20 to present yourself to the industry in
 21 various settings as someone who is not
 22 biased or bought or owned by or influence by
 23 any of the individual players. That's a
 24 fair statement?
 25 MR. CAMERON:

Page 146

1 A. That's a fair statement, yes.
 2 MR. GITTENS:
 3 Q. Okay, and if you were in fact owned by one
 4 of the other players in the industry, let's
 5 say Marsh & McLennan, for instance, that
 6 whether you're actually biased or not, it
 7 takes away from that degree of that
 8 independence you can present to yourself to
 9 the industry as, is that a fair statement?
 10 MR. CAMERON:
 11 A. Well that's my opinion of that situation,
 12 but if it's raised by the client, it depends
 13 on who the client is, really, and if there's
 14 an obvious conflict. Just being owned by
 15 someone doesn't necessarily mean there is a
 16 conflict, depending on the reporting
 17 relationships and how active they are in the
 18 business.
 19 MR. GITTENS:
 20 Q. Understood.
 21 MR. CAMERON:
 22 A. But in my business, it doesn't happen.
 23 MR. GITTENS:
 24 Q. Secondly, when we get to the manner in which
 25 you conducted the study here, I noted that

Page 147

1 you indicated, let's see, that you actually,
 2 I'm looking at the auditing process you
 3 used, 2.2.5, on page 8 of 25, that you used
 4 the electronic files, for Unifund anyway,
 5 that were provided by RSA Toronto.
 6 MR. CAMERON:
 7 A. Yes.
 8 MR. GITTENS:
 9 Q. And the Co-operators, electronic files in
 10 Guelph?
 11 MR. CAMERON:
 12 A. Yes, Ontario.
 13 MR. GITTENS:
 14 Q. And you actually did a paper file review in
 15 relation to the AXA files, you came to St.
 16 John's or someone from your company came to
 17 St. John's to do that?
 18 MR. CAMERON:
 19 A. Yes.
 20 MR. GITTENS:
 21 Q. Okay, but isn't that information available
 22 through, say, couldn't you have asked IBC to
 23 have given you that information?
 24 MR. CAMERON:
 25 A. No, IBC does not have the claim files, they

Page 148

1 would not have the individual claim files.
 2 MR. GITTENS:
 3 Q. Not the individual files, but you could have
 4 got the aggregate data from IBC?
 5 MR. CAMERON:
 6 A. Yeah, but this, what we were asked to do is
 7 not assess the aggregate data, that's the
 8 actuary's role. We were assessed to look at
 9 the individual claim files.
 10 MR. GITTENS:
 11 Q. Okay, and in terms of that, couldn't you not
 12 have asked the companies to give you a
 13 summary of the information you were looking
 14 for? Couldn't you have designed a
 15 questionnaire and asked them, look, provide
 16 us with these pieces of information, that
 17 matrix that's going to be prepared with all
 18 the questions that could be answered and a
 19 bunch of columns to give the answers, as did
 20 Oliver Wyman in their approach to getting
 21 the data?
 22 MR. CAMERON:
 23 A. Well, I mean conceivably, yes. When we do a
 24 report, we like to be involved ourselves in
 25 doing it. It just adds a better level, we

Page 149

1 think, if we're going to comment on it, it's
 2 our comments, it's not –
 3 MR. GITTENS:
 4 Q. You do the actual investigation yourself, in
 5 other words, you're not relying on what the
 6 companies give you or what IBC gives you,
 7 you're actually taking a physical look in
 8 the file and extracting the information that
 9 you would have come to some sort of board
 10 like this and say, "we found such and such"?
 11 MR. CAMERON:
 12 A. In assessing the files, yes.
 13 MR. GITTENS:
 14 Q. Yes, so therefore, I take it you see merit,
 15 you see reliability, you see
 16 comprehensiveness in doing that part of the
 17 process yourself?
 18 MR. CAMERON:
 19 A. For our work, yes.
 20 MR. GITTENS:
 21 Q. Okay, so when you talk about the accessing
 22 the electronic files at RSA in Toronto, this
 23 was not something given to you by the
 24 company, this was your people going to RSA,
 25 Toronto, having access to the electronic

Page 150

1 files and taking that data off yourself?
 2 MR. CAMERON:
 3 A. That's correct, they gave us access to their
 4 computer system and training on their
 5 computer system and a place to work at their
 6 office because they wouldn't allow remote
 7 access, and we did the work there.
 8 MR. GITTENS:
 9 Q. But you have the comfort of being able to
 10 say "we found this ourselves", as opposed to
 11 "we were told by the company that" –
 12 MR. CAMERON:
 13 A. Yes.
 14 MR. GITTENS:
 15 Q. Okay, and this, as a matter of fact was
 16 manner in which you proceeded with all the
 17 three companies that were involved in
 18 Facility's Association.
 19 MR. CAMERON:
 20 A. That's correct.
 21 MR. GITTENS:
 22 Q. Unifund, AXA and Co-operators.
 23 MR. CAMERON:
 24 A. That's correct.
 25 MR. GITTENS:

Page 151

1 Q. Okay, so I take it then you're indicating to
 2 this commission that it is important—I'm
 3 thinking of three things now because as
 4 we've just gone through, number one, that
 5 there be some degree of independence when
 6 you give your testimony here as an expert
 7 reporting to the Board what it asked you to
 8 do, is that a correct statement?
 9 MR. CAMERON:
 10 A. That's correct, yes.
 11 MR. GITTENS:
 12 Q. Secondly that you believe that the auditing
 13 process by which you check the data, by
 14 which you ensure that you're not being given
 15 a cherry-picked sample, that that is
 16 something you can assure the Board yourself
 17 that your company has made sure that you got
 18 the stuff direct.
 19 MR. CAMERON:
 20 A. In the work we do, yes.
 21 MR. GITTENS:
 22 Q. In the work you do. And third, in
 23 accomplishing that you go and you review the
 24 physical files yourself, you don't rely on
 25 anybody else to give you that data, either

Page 152

1 as a listing or a, what's the word I'm
 2 looking for, consolidation or aggregate;
 3 it's actual physical files you're digging
 4 into, those are the three things we can say
 5 correctly, is that –
 6 MR. CAMERON:
 7 A. We look at actual physical files, well
 8 "physical" being in the database sense
 9 perhaps.
 10 MR. GITTENS:
 11 Q. Yeah, in the database, understood. So we
 12 now have those three things as being the
 13 part, and then on top of that, you add your
 14 expertise and your knowledge of the industry
 15 to combine that in those methodologies with
 16 your expertise to give the opinion that
 17 you've given to the Board or to the Utility
 18 today?
 19 MR. CAMERON:
 20 A. That's correct.
 21 MR. GITTENS:
 22 Q. Okay, and to the degree you don't do that,
 23 to the degree that you don't or didn't do
 24 that, you feel it would take away from the
 25 assurance or the quality of the expertise

Page 153

1 that you can apply to any set of
 2 investigation you've done or any
 3 investigation you've done?
 4 MR. CAMERON:
 5 A. Well that's kind of an open-ended question,
 6 it depends what it is, really.
 7 MR. GITTENS:
 8 Q. Right, fair enough. But in the nature of
 9 what you were doing here, a closed claimed
 10 for the taxi industry in Newfoundland, you
 11 felt the need, first of all, to be
 12 independent, to have audit procedures in
 13 place and to look at the files yourself?
 14 And if you hadn't done that, you would be
 15 less confident in what you can report?
 16 MR. CAMERON:
 17 A. When I'm expressing an opinion, I'd be less
 18 confident if I hadn't seen the files and we
 19 hadn't reviewed the files, yes, that's
 20 correct.
 21 MR. GITTENS:
 22 Q. All right, so then we get to the issue of
 23 some of the findings and I don't think that
 24 troubles me terribly, I think you have
 25 indicated some basic findings. One of the

Page 154

1 most comprehensive finding that I garnered
 2 from what you've said, is essentially
 3 looking at the processes that the insurance
 4 companies have been utilizing in
 5 Newfoundland, in the taxi closed claims, you
 6 felt that they were pretty good, they were
 7 not best in best practice, but they were
 8 very close.
 9 MR. CAMERON:
 10 A. Well they were best practice, they weren't
 11 best in class, I think is what I said.
 12 MR. GITTENS:
 13 Q. That's the word I was looking for.
 14 MR. CAMERON:
 15 A. They weren't, like, number one, but they
 16 were pretty good.
 17 MR. GITTENS:
 18 Q. Yeah, they were pretty good, and you
 19 concluded from that that the manner in which
 20 these files have been handled did not
 21 contribute to the loss that is showing up in
 22 the taxi industry?
 23 (12:00 p.m.)
 24 MR. CAMERON:
 25 A. Didn't contribute in a negative way. In

Page 155

1 other words, didn't increase the loss.
 2 MR. GITTENS:
 3 Q. Didn't increase the costs, all right.
 4 MR. CAMERON:
 5 A. Yes.
 6 MR. GITTENS:
 7 Q. All right, but then when you got into the
 8 actual numbers, you determined that there
 9 was some items that suggested to you that
 10 the cost could have been lower, for
 11 instance, but for the fact that the taxi
 12 industry itself seems to have been somewhat
 13 sluggish in reporting some of the events
 14 that triggered these claims, did I get that
 15 correctly?
 16 MR. CAMERON:
 17 A. Well, if you're asking did we make an
 18 observation that the files we saw were late
 19 reported, the answer is yes.
 20 MR. GITTENS:
 21 Q. Yes, okay, was that the largest aspect—I
 22 know you're not putting a percentage on it,
 23 but it was a major contributing factor to
 24 the loss claims?
 25 MR. CAMERON:

Page 156

1 A. It was a concern, it was a major concern.
 2 Now to measure the impact of it is very
 3 difficult because I mean, maybe the claim,
 4 the outcome would have been the same, but
 5 we'd like to think that the quicker a claims
 6 adjuster is involved or a lawyer is involved
 7 in the file defending, that the outcome is
 8 better, it achieves a better outcome and you
 9 get a better investigation because the items
 10 are fresher.
 11 MR. GITTENS:
 12 Q. Right.
 13 MR. CAMERON:
 14 A. I mean, it's newer, right, people remember
 15 things more.
 16 MR. GITTENS:
 17 Q. And that is essentially focussing on the
 18 claims cost or claims expense side of the
 19 equation, isn't that a fair—is that a fair
 20 statement?
 21 MR. CAMERON:
 22 A. No, I don't think so, it's the entire claim.
 23 You could argue that the expense side,
 24 you're increasing because you're not
 25 spending money on a claim investigating if

Page 157

1 it hasn't been reported, so it costs you
 2 nothing until that point in time, but it's
 3 the quality of the investigation is the
 4 problem.
 5 MR. GITTENS:
 6 Q. At the end of the day, if they were to
 7 report their claims more promptly, I gather
 8 you to be saying that it may have an effect
 9 on the total claims cost that they're
 10 experiencing, am I getting that wrong?
 11 MR. CAMERON:
 12 A. Well, it could. I mean, you could be
 13 starting from a different point, but
 14 essentially it might be easier too. Because
 15 you're starting earlier in the
 16 investigation, it might not take as long.
 17 The information is easier to gather, so
 18 really it's probably neutral in that sense
 19 for the expense costs. The loss part of it
 20 is the problem where you aren't able to
 21 gather the information on a timely basis to
 22 assess what the ultimate loss might be, what
 23 the exposure is to the insurance company at
 24 any early stage.
 25 MR. GITTENS:

Page 158

1 Q. Okay, but the point I'm making is you appear
 2 to be – and the word “focus” is not the
 3 right word, but you seem to be looking in
 4 that particular item on the cost expense
 5 side as opposed to when you're looking at
 6 the payment of premiums, because one of the
 7 comments you made in the report was that the
 8 taxi drivers appear to have – I think the
 9 number was ten people listed or not listed
 10 on a particular policy or something of that
 11 sort?
 12 MR. CAMERON:
 13 A. Sorry, I don't really understand the
 14 question.
 15 MR. GITTENS:
 16 Q. If I recall correctly, one of the
 17 observations you made when you were talking
 18 about the impact on the overall
 19 profitability between the premiums received
 20 and the cost experience, was that some
 21 policies by some taxi cab companies would
 22 cover one vehicle, but there may be as many
 23 as ten unlisted drivers?
 24 MR. CAMERON:
 25 A. No, there was ten listed drivers.

Page 159

1 MR. GITTENS:
 2 Q. Ten listed drivers, but there may even be
 3 more unlisted drivers?
 4 MR. CAMERON:
 5 A. There might be unlisted drivers in addition
 6 to that. That was our observation on some
 7 of the files reviewed, yes.
 8 MR. GITTENS:
 9 Q. Okay, all I'm saying is it appears to me you
 10 were looking on both sides of the equation.
 11 You were looking both on the revenue
 12 generating side when you made that comment
 13 because that goes to a large extent on the
 14 premiums that are being paid, whereas when
 15 you're looking on the other side of the
 16 equation, the cost experience, your comment
 17 in relation to – I thought your comment in
 18 relation to the claims not being made very
 19 promptly affected that side of the equation
 20 more than it affected the premiums or the
 21 income side of the equation?
 22 MR. CAMERON:
 23 A. Well, the answer to that really is that on
 24 the – that's the best practice in dealing
 25 with a claim. If you recognize what we call

Page 160

1 “underwriting issues” in the claim, then the
 2 company or the adjuster should bring that to
 3 the attention of the underwriters in the
 4 company, and this is where we noticed that -
 5 as a claims control, we noticed that that
 6 was being done, they were referring those
 7 issues to the underwriter. That was in the
 8 claim file, not in the underwriting file.
 9 We didn't look at underwriting files and it
 10 wasn't our mandate to look at underwriting
 11 or to look at rates.
 12 MR. GITTENS:
 13 Q. Right, but you were – I'm just saying you're
 14 looking on both sides as to what would
 15 affect the overall claims cost experience of
 16 the taxi industry?
 17 MR. CAMERON:
 18 A. Well, we weren't really looking at the rate
 19 side, no. We're looking on the one side.
 20 On the claims side, our question was were
 21 the claims being handled in a manner that
 22 impacted the results negatively or
 23 positively.
 24 MR. GITTENS:
 25 Q. But you did provide us with earned premiums

Page 161

1 in the aggregate form. In your Table 1, for
 2 instance, I see year of loss, earned
 3 premiums, and then your incurred losses, and
 4 then your earned incurred loss ratio. So at
 5 a minimum you gave us the aggregate of the
 6 premiums that the companies claimed to have
 7 received?
 8 MR. CAMERON:
 9 A. Well, those were – of claims received, those
 10 were not our exhibits. Those were, as
 11 stated, the GISA exhibits and we put them
 12 there just for reference purposes. We
 13 didn't compile those numbers.
 14 MR. GITTENS:
 15 Q. Okay, you didn't compile those numbers?
 16 MR. CAMERON:
 17 A. We didn't investigate those numbers.
 18 MR. GITTENS:
 19 Q. Okay, but you – where I'm going with this is
 20 I'm understanding from yourself, as an
 21 experienced person in the industry, if this
 22 Board wants to get a clear picture of what
 23 is going on in the, let's say--the little
 24 part you dealt with, the taxi industry and
 25 insurance in this province.

Page 162

1 MR. CAMERON:
 2 A. Right.
 3 MR. GITTENS:
 4 Q. It was necessary for them – it is necessary
 5 for them to look at the earned premiums as
 6 well as looking at the loss experience to
 7 determine whether or not there is a positive
 8 or a negative earned incurred loss ratio?
 9 MR. CAMERON:
 10 A. Well, you can't – I mean, you have to look
 11 at it in total. You can't have – in terms
 12 of the Board, I mean, if the premiums are a
 13 certain number and the losses are a certain
 14 number, you know, and one is half of what
 15 the other is, and the losses are the one
 16 that's the higher one, you're in trouble.
 17 That's not good, you're losing money.
 18 MR. GITTENS:
 19 Q. Okay. So my point that I'm trying to get
 20 from you is this, for this commission to be
 21 able to make its report, whether it's an
 22 opinion, or whether it's a decision, or
 23 merely a reporting of the findings, for
 24 someone reading their report to get a
 25 picture of what's going on in – let's use

Page 163

1 your area, the taxi industry, they would
 2 need to know the revenues generated in that
 3 industry and the costs incurred for the
 4 losses, for instance, to be able to
 5 determine if there is, in fact, a profit or
 6 a loss for that sector of the industry?
 7 MR. CAMERON:
 8 A. Yeah, but revenue is – premium you're
 9 talking about.
 10 MR. GITTENS:
 11 Q. Yeah.
 12 MR. CAMERON:
 13 A. The premium paid.
 14 MR. GITTENS:
 15 Q. Well, we know revenues are premiums, plus
 16 investment income.
 17 MR. CAMERON:
 18 A. Uh-hm.
 19 MR. GITTENS:
 20 Q. But for purposes here, you've just given the
 21 premiums, I understand that.
 22 MR. CAMERON:
 23 A. But again that's an actuarial exercise at
 24 that level, and the broad numbers and they
 25 calculate the earned incurred loss ratio.

Page 164

1 I'm not sure what you're asking.
 2 MR. GITTENS:
 3 Q. I'm getting the general statement. The
 4 general statement is this commission has to
 5 look at the revenues generated, from your
 6 opinion, revenues generated, the loss
 7 experience, to be able to tell whether or
 8 not there is a crisis in the taxi industry
 9 or not in this province?
 10 MR. CAMERON:
 11 A. Well, I think you have to look at both of
 12 them, as I said. You can reduce the losses,
 13 which will improve the results, or you can
 14 increase the premiums, which will improve
 15 the results, or a combination of both.
 16 MR. GITTENS:
 17 Q. So we know there are two aspects to this
 18 that would provide you with the – it's a
 19 calculation. The calculation is income,
 20 minus expenses, equals your net profit or
 21 your net revenue, in general terms?
 22 MR. CAMERON:
 23 A. Okay, yes, in general terms, okay.
 24 MR. GITTENS:
 25 Q. Now you, however, and your mandate was to

Page 165

1 look from 2010 to 2016?

2 MR. CAMERON:

3 A. That's correct.

4 MR. GITTENS:

5 Q. And my question is you, of course, being in

6 the industry for as many years as you have

7 been, fully familiar with the fact that the

8 insurance industry goes through a number of

9 cycles, or goes through a cycle repeatedly

10 of hard years and softer years. Is that a

11 fair statement?

12 MR. CAMERON:

13 A. There are cycles they call it, yes, there

14 are underwriting cycles. There's a lot of

15 argument whether the last cycle – the last

16 hard market was 20 years ago or more, so

17 perhaps the cycle is pretty long at this

18 point.

19 MR. GITTENS:

20 Q. I'll let you experts argue over that. I'm a

21 simple guy, I just know that it goes through

22 cycles, but one of the things you can tell

23 this Commission is that by going back to

24 2010 and limiting yourself, and you were

25 limited, I'm not saying you limited

Page 166

1 yourself, but being limited to 2010 to 2016

2 does not give a picture of the full

3 insurance profitability cycle?

4 MR. CAMERON:

5 A. That was not my mandate to look at that.

6 MR. GITTENS:

7 Q. I accept that completely, but I'm asking

8 you, as an expert in the industry who's been

9 around these folks for the last 50 years,

10 you tell us, 40 to 50 years, that, in fact,

11 this report you have, and I'm not saying it

12 should have, I'm saying you were only asked

13 to do 2010 to 2016, but the end result is

14 that one cannot look at your report and tell

15 whether or not the insurance industry cycle

16 is fully represented here in terms of its

17 profitability through one entire cycle?

18 MR. CAMERON:

19 A. And again I would say that that's not what I

20 was asked to look at, and that's an

21 actuarial exercise, but I can tell you from

22 a claims point of view, if you go back – if

23 you're examining, which was my mandate, to

24 look at the claims process and how the

25 process might have impacted the current

Page 167

1 results, or the results, put it that way,

2 going back more than five years is probably

3 too far because often there is legislative

4 changes, as there has been in this case, the

5 laws are different, the type of claims

6 handling is different, the procedures and

7 practices are different, and if you're

8 looking at files that are more than five

9 years old, you're not going to develop how

10 that company is handling the claims at this

11 point in time from looking at something they

12 did five years ago. Maybe they've changed

13 their entire staff, maybe they've changed

14 their system, maybe they've made

15 improvements to their handling. There's all

16 kinds of issues. You can't go back too far

17 on the qualitative analysis of the claims

18 process. Five years is a long time.

19 MR. GITTENS:

20 Q. If you were trying just to get what's going

21 on in the taxi industry today, but if you

22 wanted to get a picture of the profitability

23 of the industry, you would have to go back

24 sufficient number of years to see what the

25 cycle has been, is that a fair statement?

Page 168

1 MR. CAMERON:

2 A. No, I disagree. On the claims side, no,

3 it's not – you would not.

4 MR. GITTENS:

5 Q. You wouldn't need to know what the claims

6 were back 20 years ago so that you can

7 figure out what the profitability was back

8 20 years ago?

9 MR. CAMERON:

10 A. It wasn't my mandate to calculate

11 profitability.

12 MR. GITTENS:

13 Q. No, we're talking two different things. I'm

14 not challenging you on your mandate, sir. I

15 am suggesting that you were given much too

16 narrow a mandate. That's where I am. So

17 this is no fault of your own. I am asking

18 you, as a person who is very much involved

19 in the industry, whether if you – if the

20 Commission was trying to find out what was

21 going on in that industry, if they would be

22 better served knowing the entire cycle of

23 the industry as opposed to the narrow five

24 year period, that's all, or six year period?

25 MR. CAMERON:

Page 169

1 A. Well, again my answer to you is that on the
 2 questions I was asked, and my expertise that
 3 I'm trying to share or offering, is related
 4 to claims and the five year period is
 5 sufficient. You started off with an
 6 incurred loss ratio of 235 percent in 2010.
 7 That's the first number in Table 1. I mean,
 8 that's not a good number.
 9 MR. GITTENS:
 10 Q. It's not a good number for that particular
 11 year?
 12 MR. CAMERON:
 13 A. Yeah, well, for any year that's not a good
 14 number.
 15 MR. GITTENS:
 16 Q. Okay.
 17 MR. CAMERON:
 18 A. That means that they paid –
 19 MR. GITTENS:
 20 Q. But we don't know if in previous years –
 21 MR. CAMERON:
 22 A. That means that for every dollar that the
 23 insurance has collected, they paid out
 24 \$230.00. So where does that money come
 25 from.

Page 170

1 MR. GITTENS:
 2 Q. Uh-hm, and the industry is making an issue
 3 for that year about that loss?
 4 MR. CAMERON:
 5 A. I'm sorry, I don't understand that, no.
 6 MR. GITTENS:
 7 Q. That year reflects a significant loss to the
 8 industry, that's all I'm saying.
 9 MR. CAMERON:
 10 A. To the taxi portion you're talking about,
 11 taxi loss experience, that 235 percent
 12 earned incurred loss ratio is significant,
 13 yes.
 14 (12:15 p.m.)
 15 MR. GITTENS:
 16 Q. Yes. You made what I thought an interesting
 17 finding. I don't think we were aware of it
 18 previously, but it appears that as far as
 19 accident benefits are concerned, the taxi
 20 drivers themselves were the significant
 21 claimants in that regard?
 22 MR. CAMERON:
 23 A. Yes, 53 percent, I believe it was.
 24 MR. GITTENS:
 25 Q. Are you aware as to whether that compares

Page 171

1 with other provinces or whether that's an
 2 outlier?
 3 MR. CAMERON:
 4 A. We didn't do a comparison to other
 5 provinces. That number probably isn't that
 6 surprising. I mean, often you'll have
 7 accidents where the driver is the only
 8 occupant of the vehicle, so if they're
 9 injured, that is the – it's the driver that
 10 claims accident benefits.
 11 MR. GITTENS:
 12 Q. Usually it will always be the claimants. If
 13 they have passengers, he'd probably be one
 14 of –
 15 MR. CAMERON:
 16 A. Or you could have – we showed that in our
 17 study, you could have them independently as
 18 well. You could have either/or, or both,
 19 but often – I mean, often they're driving
 20 alone as well as with passengers. Maybe not
 21 as often as they should be – don't want them
 22 to be driving alone too often because
 23 they're not earning money, obviously, from
 24 the taxi driver's point of view.
 25 MR. GITTENS:

Page 172

1 Q. Understood. Mr. Cameron, just clarify for
 2 me whether or not I'm completely out on a
 3 limb here. Look at page 7 of your report,
 4 last paragraph. As I said, I wasn't going
 5 to go into the details of your report, Mr.
 6 Kennedy did a job on that, but there was a
 7 statement here, "The claim files included
 8 claims closed with no payment issued, as
 9 well as files with paid claims".
 10 MR. CAMERON:
 11 A. Yes.
 12 MR. GITTENS:
 13 Q. "Cameron's selection of files to review was
 14 made from closed files with paid claims
 15 only".
 16 MR. CAMERON:
 17 A. That's correct.
 18 MR. GITTENS:
 19 Q. And I understand the figures, the aggregate
 20 figures you gave, reflects the fact that
 21 there were claims made and paid out on those
 22 files, but selecting only the ones that had
 23 a payout, doesn't that in any way skew the
 24 totality of what you're saying here in terms
 25 of the number of claims and so on? I could

Page 173

1 be – most likely I’m very wrong on that, but
 2 I just wanted an explanation.
 3 MR. CAMERON:
 4 A. Well, I mean, your question is actually the
 5 reverse. If you leave them in there, it
 6 probably skews the results is what we
 7 thought, and these claims that are closed
 8 without payment, they would be, for example,
 9 the insured reports a claim, he’s had an
 10 accident; it’s damage to his own vehicle, he
 11 repairs it himself, forget it, I’m not going
 12 to put a claim in because they don’t want
 13 their rates to go up. Even could have a
 14 third party claim that he’s paid the guy
 15 cash, you know, I bumped into your bumper,
 16 here’s 500 bucks, go away, but he reports it
 17 and the claim – there’s no claim made. You
 18 know, those are the ones that close, no
 19 payment, and they’re not a – they don’t
 20 count because they’re zero, they don’t count
 21 in the losses. So I think too if you’re
 22 looking at the number of losses and the
 23 total number of losses reported, and the
 24 total paid, then you have to take out those
 25 zero dollar ones in order to get a figure

Page 175

1 three, go dig for it yourself and physically
 2 go through the files?
 3 MR. CAMERON:
 4 A. Well, you rely on – to start with, you rely
 5 on some information from the companies that
 6 are lists of claims, for example. I mean,
 7 you can’t go in and look through drawers and
 8 say are there ones that are not on the list.
 9 You have to rely on some information.
 10 MR. GITTENS:
 11 Q. The decision to go for 100 files, was that
 12 an arbitrary number on your part or is it
 13 just a function of the size of the industry
 14 in the province?
 15 MR. CAMERON:
 16 A. I think that was a function of the size.
 17 I’m not sure how we came to that number. I
 18 think it was a price control in the sense
 19 that, you know, the more files, the more it
 20 would cost, and we felt that 100 was an
 21 adequate sample size for us to represent -
 22 extrapolate the information we found in 100
 23 files to the whole book of files, of closed
 24 files.
 25 MR. GITTENS:

Page 174

1 that makes sense.
 2 MR. GITTENS:
 3 Q. Understood.
 4 MR. CAMERON:
 5 A. Does that make sense?
 6 MR. GITTENS:
 7 Q. It makes sense to me now.
 8 MR. CAMERON:
 9 A. Okay.
 10 MR. GITTENS:
 11 Q. So I am finished. I understand you to be
 12 saying that you present yourself and you
 13 attempt to be independent, and you’ve kept
 14 your company independent because you’re able
 15 to give evidence and feel confident that
 16 you’re not biased or not display bias. Is
 17 that a fair statement?
 18 MR. CAMERON:
 19 A. That’s a fair statement.
 20 MR. GITTENS:
 21 Q. Secondly, audit process is important. When
 22 you’re dealing with the information you’re
 23 trying to get, you’re not going to rely on
 24 the IBC or the individual companies who just
 25 give it to you. You’re going to, number

Page 176

1 Q. Understood. Thank you very much. I have no
 2 further questions.
 3 CHAIR:
 4 Q. Thank you, Mr. Gittens. You’re not Mr.
 5 Fraize, but -
 6 MS. FRAIZE-BURRY:
 7 Q. He arrived, but I’m still going to be doing
 8 the questioning.
 9 CHAIR:
 10 Q. Take it away. The floor is yours.
 11 MS. FRAIZE-BURRY:
 12 Q. My name is Lara Fraize-Burrry, and I’m
 13 appearing on behalf of Spinal Cord Injury
 14 Newfoundland and Labrador. As we’ve
 15 previously stated, spinal cord injury in
 16 Newfoundland and Labrador is an organization
 17 that advocates for persons with spinal cord
 18 injuries and other mobility impairments. As
 19 such, we come from the perspective that any
 20 of our members, as well as the general
 21 public, could be injured in a motor vehicle
 22 accident at any time. That can negatively
 23 impact their quality of life and their
 24 rights as victims should always be
 25 protected. So I only have a couple of

Page 177

1 questions. In the Executive Summary, you
 2 referenced two major factors in the report
 3 with the largest impact on loss. So the
 4 first one is the manner in which claims are
 5 reported. The second is the non-
 6 identification of drivers on policies. If
 7 this is the case, then would not mandatory
 8 risk management at least be as effective as
 9 the diminution of victims' rights with a cap
 10 at reducing claims cost, incidents of
 11 events, and decreasing premiums?
 12 MR. CAMERON:
 13 A. Sorry, I'm just trying to rephrase. Can you
 14 make a shorter question at the end?
 15 MS. FRAIZE-BURRY:
 16 Q. Yes, sorry about that. So based on what the
 17 two factors with the largest impact were,
 18 would it not be fair to say that mandatory
 19 risk management would not be at least as
 20 effective as the implementation of a cap or
 21 a very large deductible at decreasing the
 22 incidents of events, reducing claims costs,
 23 and eventually decreasing premiums?
 24 MR. CAMERON:
 25 A. Well, yeah, risk management is always a good

Page 178

1 idea. Risk management, reducing losses, I
 2 mean, that benefits everyone, no matter—all
 3 the groups, everyone benefits, the public at
 4 large. The fewer accidents, the fewer
 5 people get hurt. Risk management should
 6 always be and trying to control the losses
 7 and control them by not having them should
 8 always be the first and foremost approach,
 9 and having said that, there still are always
 10 accidents. There are accidents; they
 11 happen, that's why they call them accidents.
 12 They're not intentional, but someone runs
 13 through a red light or something and there's
 14 an accident. They will happen, despite all
 15 the best risk management practices there
 16 will be accidents, there will be claims and
 17 there will be losses, and it's a combination
 18 of two things. If you impose on accident
 19 victims, and this is what they've done in
 20 Ontario, for example, you impose these
 21 severe controls, they are, they're severe
 22 measures to restrict the rights of victims,
 23 yes. You give up your right to claim in a
 24 minor injury situation to claim a lawsuit
 25 for general damages, for instance, you give

Page 179

1 up that right in exchange for keeping the
 2 premiums under control in exchange for not
 3 paying \$12,000.00 a year for insurance.
 4 It's a trade-off, they all work together,
 5 they're all like balls in the air, it's a
 6 pretty complex situation, actually.
 7 MS. FRAIZE-BURRY:
 8 Q. Now I believe it was addressed by one of my
 9 learned colleagues that in other
 10 jurisdictions where they had implemented a
 11 cap were in Ontario where they do have a
 12 large deductible, that premiums are in fact
 13 higher or on par with what they are here.
 14 MR. CAMERON:
 15 A. Well, you see the premium issue is another,
 16 it's almost a red herring—not a red herring,
 17 it's a very serious issue, but they're
 18 comparing the premiums province to province,
 19 there's so many factors that go into the
 20 comparison. There's probably more vehicle
 21 drive by our office in Toronto that are
 22 registered in the Province of Newfoundland,
 23 drive by in one day. I mean, that risk
 24 itself is huge. It's a very different risk
 25 in Ontario auto than Newfoundland auto or

Page 180

1 New Brunswick Auto or Nova Scotia auto.
 2 It's a very different risk. The losses, the
 3 predictable losses are going to be different
 4 in all those places for all kinds of
 5 different reasons.
 6 MS. FRAIZE-BURRY:
 7 Q. But can we necessarily make the connection
 8 that a cap or a very large deductible is
 9 going to decrease premiums for taxi drivers
 10 or private passenger driving automobiles?
 11 MR. CAMERON:
 12 A. Well, yeah, would a cap or a deductible,
 13 would they decrease premiums? Well not in
 14 itself, the idea is that they should
 15 decrease the loss experience which, as I
 16 said, as the losses go down, then you don't
 17 need enough premium to cover those losses,
 18 but maybe you still need as much as you're
 19 paying before because you weren't paying
 20 enough. Does that answer your question?
 21 MS. FRAIZE-BURRY:
 22 Q. Okay, yes. And my second question, well
 23 there are actually a couple of questions
 24 there, so taxis in Newfoundland and Labrador
 25 have become a prominent mode of

Page 181

1 transportation for mobility impaired, so of
 2 course, safety is of the utmost importance,
 3 but so is the availability of taxis as an
 4 accessible form of transportation. In that
 5 regard, wouldn't rewarding safe driving,
 6 evidenced by clean driver abstracts,
 7 certificate of conduct, whatever else that
 8 would evident safe driving, a history of
 9 safe driving, and then allowing those
 10 drivers to use commercial policies so it
 11 would be easier for the safer drivers to be
 12 on the road, possibly be a measure that
 13 would decrease the incidents of loss.
 14 MR. CAMERON:
 15 A. That's a very long question.
 16 MS. FRAIZE-BURRY:
 17 Q. Sorry.
 18 MR. CAMERON:
 19 A. Still, I didn't really understand that
 20 question either, sorry.
 21 MS. FRAIZE-BURRY:
 22 Q. So if you make it easier for safer drivers
 23 to get insurance so they can get out of the
 24 Facility Association, so I guess maybe
 25 require more information from taxi companies

Page 182

1 so that their safer drivers are enabled to
 2 shop around for rates, wouldn't that be a
 3 measure that would decrease incidents of
 4 loss, rather than say blanket very high
 5 premiums that everybody has to pay, no
 6 matter how safe they are on the road?
 7 MR. CAMERON:
 8 A. See, you're getting the—the concept really
 9 of insurance is, you know, the losses of the
 10 few are paid by the many.
 11 MS. FRAIZE-BURRY:
 12 Q. I understand spreading the risk.
 13 MR. CAMERON:
 14 A. If you take out all the good drivers who pay
 15 insurance premiums and say, well, they don't
 16 have to pay anything because they have no
 17 losses, who is going to pay these people who
 18 do have all the losses, less they pay three
 19 times or five times or a hundred times as
 20 much. You have to have a loss sharing pool
 21 and maybe you're the one who has no losses,
 22 but tomorrow you get hit by a truck, you
 23 know, you have –
 24 MS. FRAIZE-BURRY:
 25 Q. Uh-hm, but it would appear, at least from

Page 183

1 what's being presented, that there seems to
 2 be a blanket rate being paid and there's
 3 really not a lot of heed paid to driver
 4 history or safety. So –
 5 MR. CAMERON:
 6 A. On that issue, that's an underwriting issue
 7 that we didn't look at, that's not really
 8 our area of expertise, but I doubt that it's
 9 handled that way, I mean, traditionally
 10 insurers look at driver records, they look
 11 at all the things that—that's how you apply
 12 rates.
 13 MS. FRAIZE-BURRY:
 14 Q. Uh-hm, okay. Well I think that is all that
 15 I have for today.
 16 CHAIR:
 17 Q. Thank you. Mr. Stamp?
 18 ROWE, Q.C.:
 19 Q. It's Mr. Rowe this time, Madam Chair.
 20 CHAIR:
 21 Q. Oh, sorry. Didn't mean to startle you
 22 there, Mr. Stamp. Sorry.
 23 ROWE, Q.C.:
 24 Q. Okay, Mr. Cameron, I'm Terry Rowe. I'm one
 25 of the lawyers for IBC.

Page 184

1 MR. CAMERON:
 2 A. Yes.
 3 ROWE, Q.C.:
 4 Q. I've just got very few questions for you.
 5 I'll leave some time for the consumer
 6 advocate. I'm going to go to the math
 7 question first because I've got a tenuous
 8 grip on it and the more time that goes by,
 9 the less of a grip I find I have. Mr.
 10 Kennedy asked you about a table, Table 8 in
 11 your report. Can you bring that up? Okay.
 12 And he wanted to do a comparison between the
 13 numbers and the 2016 numbers. In your Table
 14 8 the average cost per claim for 2016 is
 15 \$27,731?
 16 MR. CAMERON:
 17 A. That's correct.
 18 ROWE, Q.C.:
 19 Q. And that's, I understand that's an average
 20 of all third-party claims including property
 21 damage claims?
 22 MR. CAMERON:
 23 A. Yes, third-party liability coverage volume,
 24 yes.
 25 ROWE, Q.C.:

Page 185

1 Q. Okay, so, it's third-party liability, so
 2 that's bodily injury and property damage
 3 claims?
 4 MR. CAMERON:
 5 A. Yes.
 6 ROWE, Q.C.:
 7 Q. And you were also taken to IBC's February
 8 2018 submission? Can we bring that up?
 9 Have you got it there? Page 4, sorry. Page
 10 4, the table on page 4. Okay, and I think
 11 you said this was the first time you had
 12 seen this document, when you were shown?
 13 MR. CAMERON:
 14 A. That's correct, yes.
 15 ROWE, Q.C.:
 16 Q. Okay.
 17 MR. CAMERON:
 18 A. I think I had completed my report before
 19 that document was issued.
 20 ROWE, Q.C.:
 21 Q. Yes, or around the same time I guess. So,
 22 Mr. Kennedy took you to the Newfoundland
 23 line there. It's in red. The average claim
 24 cost there is \$78,662. Now, I understand
 25 that number in the IBC submission is

Page 186

1 actually just the bodily injury claims, not
 2 property damage.
 3 MR. CAMERON:
 4 A. Okay.
 5 ROWE, Q.C.:
 6 Q. You can see there the table is titled -
 7 MR. CAMERON:
 8 A. "Bodily Injury Claims Cost."
 9 ROWE, Q.C.:
 10 Q. By province. And we had another document.
 11 Do we have that?
 12 MS. GLYNN:
 13 Q. Yes, it has been circulated and we'll enter
 14 that as Exhibit 10.
 15 (12:30 p.m.)
 16 EXHIBIT ENTERED AT HEARING AND MARKED AS EXHIBIT NO.
 17 10
 18 ROWE, Q.C.:
 19 Q. Exhibit 10. Okay, that's up in front of
 20 you. It's just a comparison, Mr. Cameron,
 21 because the numbers struck us as being so
 22 widely different, the 78,000 in the IBC
 23 February submission versus the 27,731 in
 24 the—in your report, but to compare apples to
 25 apples, you'll see in the third-party

Page 187

1 liability claims, taxi versus private
 2 passenger vehicles, when you take out the—or
 3 put in the property damage claims in the IBC
 4 numbers, they're closer. Private passenger
 5 is 19,411 versus the taxi of 27,731?
 6 MR. CAMERON:
 7 A. I see those numbers, yes.
 8 ROWE, Q.C.:
 9 Q. Does that make more sense to—so they're not
 10 as divergent as they're initially shown?
 11 MR. CAMERON:
 12 A. It makes more sense, but they're from the
 13 same source, the GISA.
 14 ROWE, Q.C.:
 15 Q. Right.
 16 MR. CAMERON:
 17 A. Right.
 18 ROWE, Q.C.:
 19 Q. So, if we have—if we include all the
 20 property damage claims, obviously there's
 21 going to be a much bigger number with the
 22 IBC claims, private passenger?
 23 MR. CAMERON:
 24 A. Yes, we didn't look at the private passenger
 25 numbers -

Page 188

1 ROWE, Q.C.:
 2 Q. Right.
 3 MR. CAMERON:
 4 A. - I think in our study at all.
 5 ROWE, Q.C.:
 6 Q. Yes, I just wanted to -
 7 MR. CAMERON:
 8 A. Yes, so -
 9 ROWE, Q.C.:
 10 Q. When Mr. Kennedy took you to the charts, it
 11 wasn't apparent I guess that the IBC numbers
 12 were just the bodily injury in their
 13 submission in February.
 14 MR. CAMERON:
 15 A. Okay.
 16 ROWE, Q.C.:
 17 Q. Whereas your numbers in your report for
 18 taxis included property damage claims as
 19 well as the bodily injury?
 20 MR. CAMERON:
 21 A. Yes.
 22 ROWE, Q.C.:
 23 Q. So, we just wanted to make sure that we were
 24 comparing apples to apples here.
 25 MR. CAMERON:

Page 189

1 A. That's correct. I mean, it wasn't—as I say,
 2 that was from data that—from GISA.
 3 ROWE, Q.C.:
 4 Q. Right.
 5 MR. CAMERON:
 6 A. That's how they presented it on their charts
 7 as reference.
 8 ROWE, Q.C.:
 9 Q. Right.
 10 MR. CAMERON:
 11 A. So, that should explain how that—those
 12 numbers were put in there by them.
 13 ROWE, Q.C.:
 14 Q. Right. So, the taxi claim costs at—for 2016
 15 average claim costs 27,731 versus private
 16 passenger average claim cost of 19,411?
 17 MR. CAMERON:
 18 A. Yeah, that's correct. I see that.
 19 ROWE, Q.C.:
 20 Q. Okay.
 21 MR. CAMERON:
 22 A. That's a significant difference.
 23 ROWE, Q.C.:
 24 Q. All right. I just had a couple of other
 25 things. Mr. Kennedy put the proposition to

Page 190

1 you that if a definition—a cap was put in
 2 place and there was a definition that had to
 3 be applied to various claims, you might see
 4 a spike in litigation as the defence bar and
 5 the plaintiff's bar try to figure out what's
 6 in and what's out. And I think you agreed
 7 with that?
 8 MR. CAMERON:
 9 A. I agree with that, yes.
 10 ROWE, Q.C.:
 11 Q. Yes. If we use the definition that's been
 12 in place in other provinces, for example,
 13 New Brunswick I think since 2013, there's
 14 already a body of caselaw that would be
 15 available to the Newfoundland bar to refer
 16 to which may mitigate those costs? Do you
 17 agree with that?
 18 MR. CAMERON:
 19 A. Well, I think it may mitigate it.
 20 Obviously, it's not—I wouldn't think that
 21 that would be—it would be persuasive. It
 22 wouldn't—Newfoundland wouldn't be bound to
 23 follow those numbers, but -
 24 ROWE, Q.C.:
 25 Q. Absolutely not. Persuasive, but I know

Page 191

1 Newfoundland lawyers can be imaginative and
 2 creative and everything.
 3 MR. CAMERON:
 4 A. And persuasive. Okay, yes.
 5 ROWE, Q.C.:
 6 Q. But with an existing definition from other
 7 provinces with the body of caselaw, that may
 8 mitigate some of the litigation costs?
 9 MR. CAMERON:
 10 A. Absolutely, it certainly does help, yes. It
 11 helps clarify.
 12 ROWE, Q.C.:
 13 Q. There was some reference—I think Mr. Kennedy
 14 referred to some of the submissions from
 15 taxi owners about the—there was an extended
 16 period of time where Facility Association
 17 had not had a rate increase?
 18 MR. CAMERON:
 19 A. I heard that, yes.
 20 ROWE, Q.C.:
 21 Q. And do recall the number of years in
 22 between?
 23 MR. CAMERON:
 24 A. I think they were saying it was 10 or—yeah,
 25 it was 10 or 20. It was a big number.

Page 192

1 ROWE, Q.C.:
 2 Q. Yes.
 3 MR. CAMERON:
 4 A. It was ten years anyway.
 5 ROWE, Q.C.:
 6 Q. So, Facility Association presumably had not
 7 made an application to increase its rates
 8 for some number of years?
 9 MR. CAMERON:
 10 A. That was what the—I have no evidence or no
 11 knowledge of that, but that was what they
 12 suggested.
 13 ROWE, Q.C.:
 14 Q. Right.
 15 MR. CAMERON:
 16 A. Yes.
 17 ROWE, Q.C.:
 18 Q. Yes. So, there was not rate increase sought
 19 by Facility, so taxi owners would have been—
 20 or taxi drivers, taxi owners would have
 21 been—there wouldn't have been applications
 22 to the Board for rate increases for that,
 23 whatever that period of time was?
 24 MR. CAMERON:
 25 A. If they, yeah, if they didn't ask for

Page 193

1 increases, there wouldn't have been
 2 applications, no, but I don't know that for
 3 a fact.
 4 ROWE, Q.C.:
 5 Q. All right. Do you have any sense of what it
 6 costs to do an application for a rate
 7 increase?
 8 MR. CAMERON:
 9 A. I've looked at some. I have no idea what
 10 the cost is, but I have looked at some of
 11 the materials and it is significant. I can
 12 -
 13 ROWE, Q.C.:
 14 Q. Significant.
 15 MR. CAMERON:
 16 A. Just from telling it—from looking at them,
 17 yes.
 18 ROWE, Q.C.:
 19 Q. Right. So, for Facility Association to
 20 apply to the Board for a rate increase,
 21 they're looking at a significant cost?
 22 MR. CAMERON:
 23 A. That's correct.
 24 ROWE, Q.C.:
 25 Q. And if they wanted to do it this year and

Page 194

1 next years, they'd have to duplicate the
 2 costs again next year, is that correct?
 3 MR. CAMERON:
 4 A. Yes, the work has to be redone basically
 5 every year.
 6 ROWE, Q.C.:
 7 Q. Yes.
 8 MR. CAMERON:
 9 A. Yeah.
 10 ROWE, Q.C.:
 11 Q. Right.
 12 MR. CAMERON:
 13 A. Yes.
 14 ROWE, Q.C.:
 15 Q. So, every time there is an application for a
 16 rate increase, there's some significant
 17 costs associated with it?
 18 MR. CAMERON:
 19 A. Absolutely.
 20 ROWE, Q.C.:
 21 Q. Mr. Kennedy put a number of ideas or
 22 possible proposals that might be put forward
 23 to mitigate taxi premium costs, and I think
 24 they were referred to as kind of common-
 25 sense suggestions?

Page 195

1 MR. CAMERON:
 2 A. I think he referred them—he referred to them
 3 as that, yes.
 4 ROWE, Q.C.:
 5 Q. Yes. And it seemed to be in the context of
 6 some kind of government regulation that
 7 could be put in place to require taxi owners
 8 do A, B, C, to try and help bring down the
 9 risk factor I guess with operating a cab?
 10 MR. CAMERON:
 11 A. And my answer to that, I believe, was that
 12 you don't necessarily need legislation to do
 13 that.
 14 ROWE, Q.C.:
 15 Q. Right.
 16 MR. CAMERON:
 17 A. You can do that as an owner yourself.
 18 ROWE, Q.C.:
 19 Q. Right.
 20 MR. CAMERON:
 21 A. You can accomplish those goals.
 22 ROWE, Q.C.:
 23 Q. Right, and I think it does appear to be
 24 common sense that, for example, having snow
 25 tires on a car driving around St. John's in

Page 196

1 the winter is probably better than not
 2 having snow tires on the car and driving
 3 around?
 4 MR. CAMERON:
 5 A. I would agree. Yes.
 6 ROWE, Q.C.:
 7 Q. Yes. And you wouldn't think you'd need
 8 legislation or regulatory reform to—for a
 9 taxi owner to do that?
 10 MR. CAMERON:
 11 A. Well, that's—yeah. As I had said, I think
 12 that those risk management issues may be
 13 helped by regulations, but you don't require
 14 regulations.
 15 ROWE, Q.C.:
 16 Q. Right.
 17 MR. CAMERON:
 18 A. Regulations force you to do it, which means
 19 that if there's a big cost to it, and you're
 20 running a business and you do it
 21 voluntarily, it's an increased cost. And if
 22 everyone has to do it because it's a
 23 regulation, then that levels the playing
 24 field. So, that's why the regulations play
 25 a part I think in those types of decisions.

Page 197

1 ROWE, Q.C.:

2 Q. Right. And the taxi owner would--you know,

3 if somebody comes to him to apply for a job

4 to drive a cab, obtaining a driver's

5 abstract seems to be a sensible thing to do?

6 MR. CAMERON:

7 A. Well, I would think that should be done in

8 all cases.

9 ROWE, Q.C.:

10 Q. Yes.

11 MR. CAMERON:

12 A. Yes.

13 ROWE, Q.C.:

14 Q. You wouldn't need the government to tell you

15 to do that.

16 MR. CAMERON:

17 A. No. You could--the government could mandate

18 it.

19 ROWE, Q.C.:

20 Q. Right.

21 MR. CAMERON:

22 A. But you should do that yourself, yes.

23 ROWE, Q.C.:

24 Q. But if you were--if somebody comes to me to

25 drive my car for eight or ten hours a day,

Page 198

1 it seems to be a sensible thing to do to

2 find out what his driving record is, or her

3 driving record is?

4 MR. CAMERON:

5 A. I would agree with that, yes.

6 ROWE, Q.C.:

7 Q. During the course of the--your study, did

8 you--was there any sort of breakdown as

9 between the various cap companies as to

10 claims?

11 MR. CAMERON:

12 A. I don't believe so actually.

13 ROWE, Q.C.:

14 Q. That wasn't part of the study?

15 MR. CAMERON:

16 A. The information was there. Yeah, I don't

17 believe so, and in fact, I think if it was

18 there, we wouldn't have put in the report

19 because it probably would -

20 ROWE, Q.C.:

21 Q. No.

22 MR. CAMERON:

23 A. It should be confidential, their own loss

24 records between themselves. Right?

25 ROWE, Q.C.:

Page 199

1 Q. Right, I just asked the question. I think

2 Mr. Kennedy in quoting one of the cab

3 owners, he talks about some of the big

4 companies, bigger cab companies, having some

5 advantage. Overall, I think, Mr. Cameron,

6 you said that the study showed that the

7 score on the handling of the claims, the

8 taxi claims, was above average?

9 MR. CAMERON:

10 A. That's correct, yes.

11 ROWE, Q.C.:

12 Q. And the people handling the claims at the

13 insurance companies, they'd be handling taxi

14 claims and private passenger claims,

15 whatever comes through the door?

16 MR. CAMERON:

17 A. We don't have any--we didn't do any work on

18 determining that, but we would assume so,

19 yes.

20 ROWE, Q.C.:

21 Q. Yes. And it doesn't seem to me that there--

22 it would make much sense for a company to

23 have a taxi claims department with an

24 examiner devoted entirely to just taxi

25 claims?

Page 200

1 MR. CAMERON:

2 A. Well, it depends. It depends on how, you

3 know, how extensive their taxi business is.

4 ROWE, Q.C.:

5 Q. I suppose.

6 MR. CAMERON:

7 A. You know, you would have that. I've seen

8 that in the past. There has been a large

9 fleet,

10 ROWE, Q.C.:

11 Q. But not here in Newfoundland?

12 MR. CAMERON:

13 A. No, I wouldn't think so.

14 ROWE, Q.C.:

15 Q. No.

16 MR. CAMERON:

17 A. No.

18 ROWE, Q.C.:

19 Q. So, presumably if the same people are doing

20 the taxi claims and they're above average,

21 you would expect that that would carry over

22 into the private passenger handling as well?

23 MR. CAMERON:

24 A. Yes, yes. In fact, they were using the same

25 procedures that--which we did look at, that

Page 201

1 they used for all of their claims.
 2 ROWE, Q.C.:
 3 Q. Sure.
 4 MR. CAMERON:
 5 A. So, I can't—wouldn't expect the outcome to
 6 be different in terms of the claims handling
 7 for the private passenger.
 8 ROWE, Q.C.:
 9 Q. There was some question about or some—one of
 10 the people Mr. Kennedy referred to was
 11 suggesting that, you know, he goes into his
 12 broker and he's immediately put into
 13 Facility Association even though he might
 14 have a pretty good record, driving record
 15 himself?
 16 MR. CAMERON:
 17 A. Yes.
 18 ROWE, Q.C.:
 19 Q. And that's an issue for cab drivers. I
 20 guess part of the rating or the risk
 21 assessment that Facility and insurers
 22 generally are looking at is the amount of
 23 time the car is on the road. The longer the
 24 car is out operating on the road, there's
 25 more risk of an accident?

Page 202

1 MR. CAMERON:
 2 A. Well, of course, yes, if it's a 24/7 cab,
 3 that's quite a different risk than a one-
 4 owner driver driving it during the day or
 5 during the night for six or seven hours.
 6 You're tripling your exposure, your exposure
 7 being when you're out there you could get
 8 hit or hit somebody or make a mistake and
 9 have an accident.
 10 ROWE, Q.C.:
 11 Q. Right. I mean it stands to reason the more,
 12 the longer the car is out operating and
 13 driving around in all kinds of weather
 14 conditions, the higher the risk of an
 15 accident?
 16 MR. CAMERON:
 17 A. That's—I would agree with that, yes.
 18 ROWE, Q.C.:
 19 Q. And Facility Association is set up, you
 20 alluded to this earlier, is set up to
 21 provide coverage to the part of the market
 22 where there is a high risk, a higher risk
 23 that most insurers don't want to cover under
 24 their usual underwriting guidelines?
 25 MR. CAMERON:

Page 203

1 A. Yes, things that don't fall within the
 2 insurers' underwriting guidelines, they
 3 refuse to write it, they don't write it,
 4 they don't want to write that business; and
 5 therefore, Facility is the vehicle to which
 6 the insureds and brokers can go to get that
 7 coverage.
 8 ROWE, Q.C.:
 9 Q. Okay, and Facility is set up as part of the
 10 regulatory regime in this province?
 11 MR. CAMERON:
 12 A. Well, I would assume so, yes, I haven't
 13 verified that, but it is under the auspices
 14 of the Board I would think, yes.
 15 ROWE, Q.C.:
 16 Q. Those are my questions, Madam Chair, thank
 17 you.
 18 CHAIR:
 19 Q. Thank you, Mr. Rowe. Mr. Wadden?
 20 MR. WADDEN:
 21 Q. Thank you, Madam Chair. Hi, Mr. Cameron, my
 22 name is Andrew Wadden, I'm counsel for the
 23 Consumer Advocate, the Consumer Advocate is
 24 to my right, Mr. Dennis Browne, Q.C. I just
 25 have a few points of clarification, much has

Page 204

1 already been asked. There was a couple of
 2 mentions today about this fact, and Oliver
 3 Wyman mentioned this too, that 95 percent of
 4 taxis are in Facility here.
 5 MR. CAMERON:
 6 A. That's correct.
 7 (12:45 p.m.)
 8 MR. WADDEN:
 9 Q. And I asked Ms. Elliott, who was here from
 10 Oliver Wyman if she had an answer as to
 11 where the other 5 percent were. I think
 12 someone else may have asked you about that,
 13 Mr. Kennedy may have. The other 5 percent,
 14 assuming they're not uninsured are insured
 15 somewhere, do you know are they insured just
 16 directly through other insurers or what's
 17 going on there?
 18 MR. CAMERON:
 19 A. I don't know the answer to that. It would
 20 have been interesting to look at that 5
 21 percent, but that wasn't in our mandate.
 22 MR. WADDEN:
 23 Q. Right, okay, and I appreciate it wasn't in
 24 your mandate. Can you tell me, do you have
 25 any idea how we would find that out? How

Page 205

1 can we figure out where those other 5
 2 percent of cabs are? Is there an avenue for
 3 that?
 4 MR. CAMERON:
 5 A. Well I think if you asked, I'm not sure they
 6 can release it, if you asked Facility
 7 whether they could release it under their
 8 privacy legislation of who their insureds
 9 are and taxi cabs and eliminate and you know
 10 how many, who all the taxi cabs are, you can
 11 eliminate it, process of elimination, but I
 12 don't think you can get that information
 13 legally because of the privacy issues,
 14 perhaps, I don't know. You would think the
 15 taxi cab owners, associations, they may have
 16 more access to that information than us, the
 17 insurers.
 18 MR. WADDEN:
 19 Q. The elephant in the report, so to speak, is
 20 that there's a lot of claims, I think you
 21 mentioned there was a hundred—at page 16
 22 your reference is 158 claims. We don't need
 23 to go to the page. Do you know, I mean, how
 24 many accidents are these taxis having a year
 25 in Newfoundland or in St. John's, do you

Page 206

1 know that? Does that equate to the claims'
 2 number? Probably not because you could have
 3 more than one claim coming out of one car in
 4 an accident.
 5 MR. CAMERON:
 6 A. Well, plus you have ones that are not
 7 reported that they handle themselves.
 8 MR. WADDEN:
 9 Q. Right, okay, fair enough. From a reported
 10 standpoint, though, do you know how many
 11 accidents we had in 2016, just for taxis?
 12 MR. CAMERON:
 13 A. I don't have that number, no. I don't think
 14 we have that number, no.
 15 MR. WADDEN:
 16 Q. In terms of your—and I got the sense from
 17 some of the questions that have already been
 18 asked that you did a fairly, what I would
 19 call deep diving of these files, I mean, if
 20 you weren't reviewing paper files at AXA,
 21 you had access to the systems at Royal Sun
 22 Alliance, et cetera, so you got a good look
 23 at these files, probably saw claims
 24 handler's notes.
 25 MR. CAMERON:

Page 207

1 A. Yes, exactly, yes.
 2 MR. WADDEN:
 3 Q. Things of that nature. Did you do any
 4 investigation yourself, and I appreciate
 5 this wouldn't be within your mandate, but
 6 anecdotally can you tell me why are these
 7 accidents happening? Why is there such a
 8 high rate of accidents, it appears, with the
 9 taxi cabs?
 10 MR. CAMERON:
 11 A. Well, we tried to kind of see if there was a
 12 smoking gun that way, but really it was, you
 13 know, a lot of rear ending, rear ended
 14 another vehicle, you know, lane changes
 15 without, you know, inappropriate lane
 16 changes and left turns, left turns in front
 17 of another vehicle. I mean, things that,
 18 just inattentive driving and a lot of rear-
 19 end collisions, actually, which is
 20 inattentive driving, it's just lack of
 21 attention probably is the cause, if you
 22 will.
 23 MR. WADDEN:
 24 Q. Okay, and you mentioned a number of, some of
 25 the most obvious cases, some of the most

Page 208

1 obvious reason why accidents are caused. To
 2 be clear, though, presumably in all of the
 3 accidents that the taxi cabs are having
 4 aren't necessarily on the fault of the taxi
 5 cabs?
 6 MR. CAMERON:
 7 A. No, but a significant proportion were,
 8 though, of the ones we saw, yes.
 9 MR. WADDEN:
 10 Q. Okay, are you able to speak to that
 11 proportion at all? And I appreciate, you
 12 know, I can't nail you down on it, it's not
 13 in your report. I mean, what's your sense
 14 from having reviewed these files of the
 15 accidents that are happening? I assume
 16 they're not just doing the rear ending
 17 themselves, someone is hitting a taxi cab
 18 from behind too.
 19 MR. CAMERON:
 20 A. Oh yes, there are some—you know, I don't
 21 have that number. I could probably come up
 22 with it if you give me a few minutes.
 23 MR. WADDEN:
 24 Q. Well we can make a written submission to you
 25 later, that's fine, thank you.

Page 209

1 MR. CAMERON:
 2 A. Okay, all right.
 3 MR. WADDEN:
 4 Q. Mr. Kennedy, I think, asked you and I have a
 5 note here to talk to you on this, whether or
 6 not you had spoken to any of the taxi
 7 drivers yourself, I suppose, to get some of
 8 their views on accidents and what's going on
 9 them on the street, you did not do that, did
 10 you?
 11 MR. CAMERON:
 12 A. No, other than on the way from the airport
 13 to here and from here this morning and some
 14 interesting comments, actually, some
 15 interesting observations.
 16 MR. WADDEN:
 17 Q. Okay, good.
 18 MR. CAMERON:
 19 A. Put it that way, but no, again, that wasn't
 20 part of our mandate. We were looking at
 21 what happens after the claim has been
 22 reported.
 23 MR. WADDEN:
 24 Q. I appreciate that. Similarly did you speak
 25 to, in going through files of the insurers,

Page 210

1 did you also speak to any of the adjusters
 2 that would have been involved in those files
 3 or you just looked at their notes?
 4 MR. CAMERON:
 5 A. We looked at their notes and the notes were
 6 comprehensive enough, actually, yes.
 7 MR. WADDEN:
 8 Q. Okay, all right. This issue has come up a
 9 couple of times in terms of the unlisted
 10 drivers. I'm just trying to get a better
 11 feel for this. Do you know what that's
 12 happening? Why are there drivers not being
 13 listed on the policies?
 14 MR. CAMERON:
 15 A. I don't know why they wouldn't, perhaps
 16 they're, you know, sort of transient drivers
 17 that nobody is using the cab tonight, so
 18 Joe, here, take her for a spin, I don't
 19 know, that could be what's happening, I
 20 don't know.
 21 MR. WADDEN:
 22 Q. Right. Okay, and actually that's a fair
 23 point because in having conversations with
 24 the taxi drivers ourselves, we're given to
 25 understand that one of the things that can

Page 211

1 happen on the ground practically, is that a
 2 driver shows up to work to take the car that
 3 he or she would normally take, that car, for
 4 example is off the road for some reason,
 5 maybe it's getting some work done or who
 6 knows, and then they're just taking another
 7 cab. They're going out on the road, but
 8 taking a different car. So does that sound
 9 to you, like, something could be happening,
 10 that's the reason for it?
 11 MR. CAMERON:
 12 A. I think we were seeing more of just another
 13 driver, like a neighbour or something, and
 14 wanted to try it out, or you know, someone—I
 15 don't think it was necessarily a fleet type
 16 operations you're talking about.
 17 MR. WADDEN:
 18 Q. No, okay. You make some reference in your
 19 report at one point to the terms of
 20 investigation and difficulty in obtaining
 21 statements from drivers, or at least that's
 22 an experience perhaps that the adjusters are
 23 having in certain cases.
 24 MR. CAMERON:
 25 A. Yes.

Page 212

1 MR. WADDEN:
 2 Q. Making it difficult to investigate properly.
 3 MR. CAMERON:
 4 A. Yes.
 5 MR. WADDEN:
 6 Q. Or as good as you could. So why is that
 7 happening? I mean, there are, most
 8 adjusters who I have ever dealt with are
 9 pretty experienced people, if they don't
 10 have an FCIP, they get CIP, they know how to
 11 get the statements, why is it such a tough
 12 thing to do in some cases?
 13 MR. CAMERON:
 14 A. Well one of the issues with the later
 15 reporting is that sometimes the people are
 16 not available, the witnesses are gone or
 17 they're not available or can't be found.
 18 But the other thing is that their
 19 recollection is not the same, you know, six
 20 months later or a year later what do you
 21 recall about a particular intersection that
 22 there was an accident and if you're
 23 critically injured in it, you're going to
 24 remember, probably or may or may not
 25 remember, but if you're a witness to it,

Page 213

1 you're probably not going to—your
 2 recollection is not going to be as good as
 3 it would be on an immediate investigation.
 4 MR. WADDEN:
 5 Q. Okay, and when you say late reporting,
 6 because you just referenced a couple of
 7 different time intervals, six months or a
 8 year, when you say late reporting generally,
 9 what are you talking about? How late?
 10 MR. CAMERON:
 11 A. Well there was a lot of late—like different
 12 times and it's actually, it should be in the
 13 actuarial exhibits, actually, because it is
 14 a data field that--the reported date is a
 15 data field that the actuaries look at as
 16 well, so they would have—a hundred percent
 17 of the numbers, they would have that number
 18 of what the reporting lag is.
 19 MR. WADDEN:
 20 Q. How do we fix it?
 21 MR. CAMERON:
 22 A. They'd be a better number than our sample
 23 because it was only a small size, right.
 24 MR. WADDEN:
 25 Q. How do we fix the late reporting problem?

Page 214

1 How does that get addressed?
 2 MR. CAMERON:
 3 A. Well, you know, again that's the risk
 4 management, that comes down to who is in
 5 charge, you know, the owner of the vehicle,
 6 of the cab, and who the drivers are and how
 7 you select the drivers, how you train them
 8 and how you make sure if they have an
 9 accident they tell you about it, you know,
 10 like that's the only way to control it
 11 really.
 12 MR. WADDEN:
 13 Q. Is the late reporting something you've seen—
 14 is that a common issue jurisdictionally or
 15 is it just something you've seen here, in
 16 your experience?
 17 MR. CAMERON:
 18 A. It's across the country that we've seen in
 19 cab fleets, it is an endemic problem, yes,
 20 and for the same reasons that, you know,
 21 drivers that are, don't have a long driving
 22 record and maybe they disappear, you know,
 23 they go somewhere else and they had an
 24 accident and they don't tell the owner and
 25 you get an action filed three years later or

Page 215

1 two and a half years later and it's the
 2 first notice that anything had happened.
 3 MR. WADDEN:
 4 Q. Forgetting for the moment about, I'm going
 5 to say Ontario and Quebec because each of
 6 them are outliers, their systems are
 7 somewhat different.
 8 MR. CAMERON:
 9 A. Oh, I agree with you on Quebec.
 10 MR. WADDEN:
 11 Q. Right, and we know Ontario has a
 12 significantly different accident benefits
 13 area and things like that. You know, when
 14 we talk to the taxi drivers, what the
 15 biggest problem they had and we've heard of
 16 this from Ms. Burry and we heard it from
 17 some of the other questioners, is look, I'm
 18 a good driver. I've got no problems, I
 19 haven't had any accidents, yet I'm being
 20 faulted, I'm being lumped in with the masses
 21 here and being shot into Facility and paying
 22 "X" amount of premium when I don't feel I
 23 should be. I'm paying a totally different
 24 premium on my vehicle at home because I'm
 25 looked at in terms of my own driving record,

Page 216

1 okay. Is this what's going on I other
 2 jurisdictions and in other parts of the
 3 country too for the cabs?
 4 MR. CAMERON:
 5 A. For cabs, well, first of all, you mentioned
 6 that they pay a different premium for their
 7 own vehicle, but their own vehicle is quite
 8 a different expose again, we talked about
 9 that.
 10 MR. WADDEN:
 11 Q. Right.
 12 MR. CAMERON:
 13 A. If the vehicle is on the road 24 hours a day
 14 or let's say one driver, 8 hours a day,
 15 that's different than your own vehicle where
 16 maybe you drive it to and from work and it's
 17 a couple of hours, cumulative, total in a
 18 day. You're less exposed to a risk of an
 19 accident, so it's a different risk, it's all
 20 about risk assessment really, and it's
 21 different by province, it's different by
 22 characteristics of the vehicle,
 23 characteristics of the driver, all those
 24 factors. There's a whole myriad of factors
 25 that go into it.

Page 217

1 MR. WADDEN:
 2 Q. Yeah, more to my question though, tell me
 3 what you're seeing in other provinces with
 4 respect to taxi drivers and the availability
 5 of insurance to them, this whole idea of
 6 them being able to go to different insurers
 7 and get prices, is that happening elsewhere?
 8 MR. CAMERON:
 9 A. Well there certainly have always been issues
 10 and there are, for example, in Ontario,
 11 again I'm more familiar with Ontario than
 12 anything else, so I use that as an example.
 13 MR. WADDEN:
 14 Q. That's fine.
 15 MR. CAMERON:
 16 A. I'm not saying it's better than Newfoundland
 17 or not, but there are some taxi cab
 18 companies who have taken it into their own
 19 hands to say, well, you know, let's insure
 20 or let's participate in the insurance
 21 product and they participate. There are
 22 some legal impediments to that, you have to
 23 have an insurance policy to show proof of
 24 insurance legally to drive a vehicle, but
 25 they work with insurance companies to self-

Page 218

1 insure some of that portion.
 2 MR. WADDEN:
 3 Q. Uh-hm.
 4 MR. CAMERON:
 5 Q. And they would self insure it either
 6 themselves, like they would buy the claims
 7 back from the insurance company. If they
 8 had a million dollars of losses, they might
 9 have to pay \$500,000.00 back to the
 10 insurance company and the insurance company
 11 would pay the million, but collect 500,000
 12 from the taxi cab company, or they might do
 13 the same thing but accomplish it through
 14 another corporation which would be called a
 15 captive insurer or a reinsurer and they
 16 actually reinsure, it's a complicated—you
 17 have to have a lot of dollars in premium to
 18 do this and it's a scale to do it, but you
 19 can do that, you end up essentially self
 20 insuring for a substantial portion of the
 21 claims. And even they still have problems
 22 with late reporting -
 23 MR. WADDEN:
 24 Q. Right.
 25 MR. CAMERON:

Page 219

1 A. - you know, some of the issues.
 2 MR. WADDEN:
 3 Q. Still have the province, but are their
 4 premiums, their premiums reflective?
 5 MR. CAMERON:
 6 A. Well the premiums are less because they self
 7 insure or they take it into themselves if
 8 they argue that the insurance companies are
 9 making too much money, I mean, they're
 10 participating at the same rate and they know
 11 and I think in my experience the ones doing
 12 that, because I've been involved in a few of
 13 them that have gone bankrupt, not the
 14 insurance companies, but the taxi cab owners
 15 who have tried that, thinking that the
 16 insurance companies, you know, had the wrong
 17 numbers or something and then ended up
 18 having to go bankrupt because they couldn't
 19 fund the losses or their portion of the
 20 losses. So I mean, it's not an easy fix.
 21 MR. WADDEN:
 22 Q. Not a simple task, but it can work. From
 23 what you're telling me, it seems like
 24 another possible way to "skin the cat". I
 25 mean, we've looked at here, one thing we all

Page 220

1 seem to agree on and understand is that we
 2 need to get the accidents down and that's an
 3 entirely different process, fix the roads,
 4 put the winter tires on, curb distractive
 5 driving, that's one thing, but as another
 6 option, this is something else that possibly
 7 taxis could look at, it is being done in--
 8 other jurisdictions it can work.
 9 MR. CAMERON:
 10 A. It is an option, but again, that option
 11 alone, it's just where the money comes from,
 12 if the losses are there, they have to be
 13 paid by someone.
 14 MR. WADDEN:
 15 Q. Yes, okay.
 16 MR. CAMERON:
 17 A. And controlling the losses is really the
 18 key, you can control it either by the risk
 19 management efforts of controlling the number
 20 of losses and perhaps the severity of the
 21 losses, but also you can try to control the
 22 costs, I guess, by doing those type of
 23 mechanisms. It is very, very expensive to
 24 put in place.
 25 MR. WADDEN:

Page 221

1 Q. Sure.

2 MR. CAMERON:

3 A. And you have, and again, you have to get a

4 test to comply with the regulatory

5 requirements on an insurance company.

6 You're basically becoming an insurance

7 company, in essence.

8 MR. WADDEN:

9 Q. Okay. It appears from your report there was

10 three main insurers looked at, all of whom I

11 should say pay into Facility. I think it

12 was Unifund, AXA, and one other who is

13 escaping me right now.

14 MR. CAMERON:

15 A. The Co-operators.

16 MR. WADDEN:

17 Q. Why did it work out like that? How come

18 there was—because obviously we have other

19 insurers here write business, Travellers,

20 entities like that. Is there a reason why

21 it worked out like that, there was just

22 three?

23 (1:00 p.m.)

24 MR. CAMERON:

25 A. Well that's all there was and in some years

Page 222

1 there was only one. I think in three of

2 those years it was only Unifund, through RSA

3 or RSA owns Unifund, was the only insurer

4 and I would assume because those insurers

5 pulled out because it wasn't profitable and

6 they stopped writing the business, which is

7 the downside they mentioned before if the

8 government tries to regulate insurers to say

9 you will write this, you will write these

10 taxi cabs at this rate, or with these

11 parameters being met, some insurers might

12 say, well, no, thank you, I'd sooner not

13 write in the Province of Newfoundland, you

14 know, those type of exit strategies have

15 been threatened at times by insurers and

16 probably participated by insurers when it

17 gets to the point how can you force someone

18 to do something that's going to cost them

19 money.

20 MR. WADDEN:

21 Q. I just want to revert for just a moment

22 because I had asked you already about driver

23 statements and difficulty in getting them,

24 whether it be driver statements, witness

25 statements, things like that, the time lag,

Page 223

1 what was your experience in reviewing the

2 files as to the adjuster's efforts in

3 getting them?

4 MR. CAMERON:

5 A. Well they did their due diligence and

6 efforts in trying to obtain these statements

7 on a timely basis and sometimes they were

8 just not available.

9 MR. WADDEN:

10 Q. Right. Can you define for me what you view

11 as a timely basis?

12 MR. CAMERON:

13 A. Well, within getting a claim reported.

14 MR. WADDEN:

15 Q. Right.

16 MR. CAMERON:

17 A. Often there is, well I guess not standards,

18 it's probably practices, generally accepted

19 practices to contract the parties involved,

20 certainly within the first 48 hours. Some

21 adjusters have different rules that they use

22 and it would depend again on the severity of

23 the loss.

24 MR. WADDEN:

25 Q. Right, so timely investigation, though, is

Page 224

1 important in any claim, especially in auto

2 accidents.

3 MR. CAMERON:

4 A. Yes.

5 MR. WADDEN:

6 Q. So I'm just trying to bring this down to the

7 ground level, help me get this, so the claim

8 comes in, adjuster is assigned, tries to

9 make contact with the various parties,

10 whether that's one or two drivers, a couple

11 of passengers, et cetera, difficulty getting

12 hold to these people. Let's assume that

13 it's taking that particular adjuster up to

14 six months to get all the information in, in

15 terms of the statements they want to get.

16 How many abeyances are we seeing in that six

17 months, like I want to know how diligent, in

18 general, you saw them to be?

19 MR. CAMERON:

20 A. Oh they were diligent, I would say they were

21 pursued, you know, probably monthly if they

22 hadn't obtained it within the first few

23 weeks, probably follow up. Again, it

24 depends on the circumstance, you can't just

25 say the one general rule and it depends on

Page 225

1 how critical that one, like witness
 2 statement may not be that critical if you
 3 have three already or if you have even one
 4 good one or if you have two witness
 5 statements, do you need a third, you know.
 6 Maybe you do; maybe you don't.
 7 MR. WADDEN:
 8 Q. Okay, and just, and we'll differentiate it,
 9 of course, as between the time it takes to
 10 properly investigate it and the late
 11 reporting itself, like in terms of late
 12 reporting, again, you can be seeing a claim
 13 reported or an accident reported a few
 14 months after, six months after, was it that
 15 late?
 16 MR. CAMERON:
 17 A. Or it could be two years you get the first
 18 notice is an action being filed.
 19 MR. WADDEN:
 20 Q. Okay, I'm just struggling with that a little
 21 bit because I guess what I'm thinking
 22 practically, a cab driver as an accident,
 23 let's assume there's another vehicle
 24 involved, okay, it wasn't a situation where
 25 he or she hit a pole, there's another car.

Page 226

1 The other car, assuming they're insured and
 2 I appreciate some would be uninsured, are
 3 probably going to report it to their own
 4 insurer, isn't that a situation then where
 5 that insurer is going to end up contacting
 6 the insurer for the cab company and they
 7 would find out in that manner?
 8 MR. CAMERON:
 9 A. Sometimes, yes, they should, but you also
 10 get pedestrians, also get persons in the cab
 11 being injured, passengers, and they may not
 12 report that and, you know, those are the
 13 kinds of things that end up and two years
 14 later you have an action, some of them.
 15 MR. WADDEN:
 16 Q. And would it be the case here where a
 17 pedestrian would contract the insurer for
 18 the cab?
 19 MR. CAMERON:
 20 A. Well not necessarily, I mean, it's up to
 21 them when they bring their claim. They're
 22 not compelled to bring a claim within a
 23 certain period of time.
 24 MR. WADDEN:
 25 Q. Yes, and I understand, I fully appreciate

Page 227

1 limitations and the two-year limitation
 2 period, but it doesn't necessarily mean that
 3 they wouldn't contact the insurer prior to
 4 two years, right?
 5 MR. CAMERON:
 6 A. Oh, I think they should, but sometimes they
 7 don't. They don't have to, I don't think
 8 there's any law that they have to.
 9 MR. WADDEN:
 10 Q. Okay, it's just surprising to me to see the
 11 late reporting, so I'm just trying to get to
 12 the bottom of what that's happening.
 13 MR. CAMERON:
 14 A. Yeah, no, it's a fact, it happens.
 15 MR. WADDEN:
 16 Q. Mr. Gittens asked you a bit about, I think
 17 these no payment claims, they're at the, you
 18 have reference at the bottom of page 7.
 19 MR. CAMERON:
 20 A. Yes.
 21 MR. WADDEN:
 22 Q. Maybe we're just using different
 23 terminology, by "no payment", is that a
 24 situation where a claim was denied or -
 25 MR. CAMERON:

Page 228

1 A. No, these would be claims that were
 2 withdrawn or closed without payment.
 3 MR. WADDEN:
 4 Q. Okay, some that could be denied claims, some
 5 could just be lost contact, closed the file.
 6 MR. CAMERON:
 7 A. I don't think we saw any denied claims,
 8 actually.
 9 MR. WADDEN:
 10 Q. Is that right?
 11 MR. CAMERON:
 12 A. Denied to the policy holder you mean?
 13 MR. WADDEN:
 14 Q. Yeah, or denied to perhaps the passenger or
 15 maybe some passenger -
 16 MR. CAMERON:
 17 A. No, no, if you deny a claim to a third
 18 party, you can't close that file. I mean,
 19 you have to, you know, I could, I suppose if
 20 he doesn't bring an action within two years,
 21 you could close the file. But in the
 22 interim, you probably have incurred some
 23 expenses and costs in investigating it and
 24 perhaps, you know, tried to settle it. But
 25 that's a rare case that that would happen.

Page 229

1 MR. WADDEN:
 2 Q. Flush these out for me, these claims closed
 3 with no payment. Just give me some
 4 examples, like what are you talking about
 5 there?
 6 MR. CAMERON;
 7 A. I had those written down, give me a minute,
 8 had some of them written down. It's
 9 probably in my computer. It will take me a
 10 mind to get that, but I think there were, I
 11 think I mentioned that before, there were,
 12 for instance the driver or the owner would
 13 have settled the claim directly, minor
 14 property damage claim and he settled it with
 15 the third party directly and withdrew their
 16 claim, so they're not presenting an
 17 insurance claim.
 18 MR. WADDEN:
 19 Q. Okay.
 20 MR. CAMERON:
 21 A. Or it was damage to their own vehicle and no
 22 one was injured and they withdrew the claim
 23 and sometimes claims are reported, you don't
 24 know if there was injuries for a certain
 25 period of time sometimes, so you can report

Page 230

1 those and then nothing comes of it.
 2 MR. WADDEN:
 3 Q. I think at one time in your report you
 4 referenced—or maybe today you said it, I'm
 5 sorry, I can't recall, but you referenced
 6 the \$2,500.00 deductible system that we
 7 currently have here in Newfoundland.
 8 MR. CAMERON:
 9 A. Yes.
 10 MR. WADDEN:
 11 Q. And I think you called it "meaningless"?
 12 MR. CAMERON:
 13 A. Yes.
 14 MR. WADDEN:
 15 Q. Okay, so how do we get around that? How do
 16 you make the \$2,500.00 deductible, is there
 17 a way to make that meaningful?
 18 MR. CAMERON:
 19 A. Well, okay, again, going back to Ontario, a
 20 deductible of \$38,000.00. Now that's a
 21 significant amount of money, so if you have
 22 a claim that you have a minor sprain, a neck
 23 sprain, a whiplash, associated disorder
 24 claim, is that worth \$40,000.00, \$38,000.00?
 25 Probably not. In Ontario if you want to

Page 231

1 make a claim and you want to sue the third
 2 party for that, you have to figure that you
 3 might lose that case and if you lose that
 4 case, then you're responsible for the costs
 5 on the other side, as you know, and it could
 6 end up costing you money and your chances of
 7 recovery may not be that good. They've
 8 taken the jury trials and the issue of
 9 whether it's a deductible or not doesn't
 10 come into play until the jury has made their
 11 determination of what the value of the claim
 12 is.
 13 MR. WADDEN:
 14 Q. Right.
 15 MR. CAMERON:
 16 A. So if a jury comes back and says it's worth
 17 \$25,000.00, you get zero because the
 18 deductible is \$38,000.00. That discourages
 19 claimants from making a claim, unless they
 20 have a claim that they're advised can be
 21 worth, that their counsel advises them is
 22 worth more than \$38,000.00 or they can work
 23 it up to be more than \$38,000.00
 24 MR. WADDEN:
 25 Q. So sticking with the idea of a deductible

Page 232

1 for the moment, I mean, does the deductible,
 2 to be meaningful, to use your terminology,
 3 does it have to be 25,000 or can, in your
 4 opinion if we had a \$10,000.00 deductible
 5 and that's meaningful, do you think
 6 something like that would work?
 7 MR. CAMERON:
 8 A. That could be more meaningful, certainly,
 9 than \$2,500.00 because \$2,500.00, I mean,
 10 any claim is worth more than \$2,500.00.
 11 \$10,000.00, that might be a number that
 12 could work that some claimants might think,
 13 look, I have to make this decision, can I
 14 recover more than \$10,000.00? If I can't,
 15 maybe I shouldn't be presenting my claim and
 16 that would discourage some of those
 17 claimants from making that call. But again,
 18 to the points made here, it does take away a
 19 right of a victim to make a claim in certain
 20 circumstances if they fall in whatever
 21 definition of that deductible is.
 22 MR. WADDEN:
 23 Q. I know it wasn't within your mandate to
 24 delve into reduction of accidents and the
 25 relevant department here, or government, is

Page 233

1 currently looking at that and have
 2 introduced measures around that, but I'm
 3 just wondering is that something you have,
 4 in your career, ever done, looked into
 5 measures for accident reduction?
 6 MR. CAMERON:
 7 A. I've been involved on a smaller scale with
 8 individual insurers, for instance the
 9 transportation companies and looking at risk
 10 management processes to reduce the—the goal
 11 is to reduce the accidents, the number of
 12 accidents they have, and it comes back to
 13 the same type of features, the diligence on
 14 who drives the vehicle, what do you train
 15 and what procedures and practices you have
 16 that the driver has to do when driving that
 17 vehicle and maintenance of the vehicle, all
 18 those things that have been talked about are
 19 across all industries, really, where
 20 transportation vehicles are involved, the
 21 same kind of factors apply that if you
 22 diligently examine those and check them
 23 before you let somebody drive that vehicle,
 24 they have an impact. As I say, I've been
 25 paid by people to do that, to help them come

Page 234

1 up with those ideas.
 2 MR. WADDEN:
 3 Q. All right, so help me there, what in your
 4 view are the more meaningful of the changes,
 5 the ones that have an impact? I'll tell you
 6 by way of example, like here in Newfoundland
 7 it turns out that while we don't have
 8 mandatory snow tires, it looks like most
 9 people, a lot of people had them anyway, so
 10 if we made that change, it may not make a
 11 difference, I don't know, but it may not,
 12 okay?
 13 MR. CAMERON:
 14 A. Okay.
 15 MR. WADDEN:
 16 Q. So what, in your view, changes or what have
 17 you seen in other jurisdictions done in
 18 terms of changes to rules of the road or
 19 other laws that have made an impact?
 20 MR. CAMERON:
 21 A. Well you've done some of those already, like
 22 seat belt legislation is a great example,
 23 and the seat belt laws. One of the biggest
 24 problems has been impaired driving, probably
 25 still is a major issue, but I was going to

Page 235

1 say the insurance industry, spearheaded
 2 through the IBC, actually, because I
 3 remember these campaigns, spearheaded along
 4 with Mothers Against Drunk Driving, the
 5 concepts of driving impaired is not a
 6 socially acceptable thing to do; whereas, 20
 7 years ago, it probably was and there was all
 8 kinds of accidents as a result of that that
 9 were attributed to impaired driving. So it
 10 has, you have changed people's behaviour
 11 through those, they're very expensive things
 12 to do and it needs a lot of cooperation with
 13 governments and everything else, but the
 14 thing is to change behaviour and I think
 15 they're facing the same thing now with
 16 distracted driving, people with cell phones
 17 and taxi cab driver, perfect, he's on the
 18 radio, you know, oh, you got this call,
 19 that's a distraction, so I mean, how do you
 20 reduce that? I don't know, they're out
 21 there, there could be ways to assist in
 22 that, and activities doing that reduces the
 23 number of accidents, so it's better for
 24 everybody.
 25 MR. WADDEN:

Page 236

1 Q. Okay. Sorry, I'm just confirming with my
 2 client on his handwriting.
 3 MR. CAMERON:
 4 A. Sure, okay, you wouldn't be able to read
 5 mine.
 6 MR. WADDEN:
 7 Q. Are there jurisdictions that you're aware
 8 of, like we have seat belt laws in
 9 Newfoundland, obviously, and if you don't
 10 have your seat belt and you're in an
 11 accident, you make a claim, there's an
 12 automatic reduction unless you can prove
 13 that it didn't matter.
 14 MR. CAMERON:
 15 A. Prove otherwise, but that's on the edge,
 16 that's the leading edge of that –
 17 MR. WADDEN:
 18 Q. Yes, and that's beneficial, we assume, but
 19 in terms of when a passenger gets into a
 20 taxi cab, while we have the law that you
 21 have to wear your seat belt or you get the
 22 reduction, we don't have any particular or
 23 specific laws around the driver of the cab
 24 telling the passenger, you know, unless
 25 they're under 16, "put your belt on". Would

Page 237

1 something like that make a difference?

2 MR. CAMERON:

3 A. It could, I believe in Ontario that the taxi

4 cab drivers, they can be charged if the

5 passenger does not have a seat belt on if

6 they are the driver of the vehicle.

7 MR. WADDEN:

8 Q. Is that right, notwithstanding any—their age

9 is not determinative of that, in terms of

10 the passenger?

11 MR. CAMERON:

12 A. Well I think there are some exceptions, you

13 know, you can't put a seat belt on a two-

14 year old, I think there must be exceptions

15 to that, but generally I think that's the

16 rule.

17 MR. WADDEN:

18 Q. And accident benefits, as you know, are not

19 compulsory here and you went into some

20 length the impact in terms of accident

21 benefits in relation to cabs in your report,

22 we're the only province where it's not

23 mandatory. If it was mandatory, would that

24 change anything in your report in terms of

25 the taxis?

Page 238

1 MR. CAMERON:

2 A. Because everything we looked at they had

3 purchased accident benefits, so there

4 probably isn't. What it might change is the

5 time spent on the subrogation if they

6 accident benefits, if the other vehicle does

7 not have accident benefits, you can

8 subrogate for accident benefits paid against

9 the uninsured person, uninsured for accident

10 benefits, and you know, those kinds of

11 claims take up a lot of time, I think and

12 expenses, so they could get rid of those.

13 That's a small, relatively small component

14 of the whole exercise though.

15 MR. WADDEN:

16 Q. Yeah. Did most taxis, I know this may not

17 have been within your mandate, but I'm

18 wondering did you notice did most of the

19 taxis or the claims that you looked at

20 involve taxis that had all the coverages, A,

21 B, C, D?

22 MR. CAMERON:

23 A. Well, I mean, they had accident benefits,

24 well BI and PD, whether they had collision,

25 I don't know, we didn't really look at the

Page 239

1 collision coverage, whether they had

2 collision. I think a lot of them didn't

3 and, you know, it makes sense, really. It's

4 a very expensive –

5 MR. WADDEN:

6 Q. To try and reduce the premium.

7 MR. CAMERON:

8 A. Yeah, it's very expensive coverage. But if

9 you can afford to self insure that, you know

10 what the cost is going to be to repair a

11 vehicle but you can't really self insure,

12 like hitting somebody, you know, what's that

13 going to cost, what's an injury cost,

14 there's too much risk, right.

15 MR. WADDEN:

16 Q. All right, those are our questions, thank

17 you.

18 MR. CAMERON:

19 A. Thank you.

20 CHAIR:

21 Q. Thank you, Mr. Wadden.

22 COMMISSIONER OXFORD:

23 Q. No questions.

24 CHAIR:

25 Q. Thank you very much, Mr. Cameron and thank

Page 240

1 you everybody. What's the plan for

2 tomorrow, Ms. Glynn?

3 MS. GLYNN:

4 Q. We start with the presentation from IBC at

5 9:00.

6 CHAIR:

7 Q. See you in the morning.

8 MS. GLYNN:

9 Q. There was a copy of a slideshow presentation

10 that has been circulated to all the parties.

11 It should be in your email box.

12 MR. CAMERON:

13 A. Okay, thank you.

14 CHAIR:

15 Q. Thank you everybody.

16

17 Upon conclusion at 1:16 p.m.

18

19

20

21

22

23

24

25

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript of the 2017 automobile Insurance Review hearing heard on the 11th day of June, 2018 before the Board of Commissioners of Public Utilities, 120 Torbay Road, 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 June, 2018

Judy Moss