

Hearing Transcript

2017 Automobile Insurance Review

September 11, 2018

PRESENT:

The Board:

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

Board Counsel/ Staff:

Ryan Oake, Regulatory Analyst
Peter O'Flaherty, Q.C., Hearing Counsel

Parties (Alphabetical Order)

Atlantic Provinces Trial Lawyers Association
Ernest Gittens

Presenters:

Craig Allen
Presenting for the Campaign

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.
Trevor Foster

Spinal Cord Injury NL

Lara Fraize-Burry
Michael Burry

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1 (9:03 a.m.)
 2 CHAIR:
 3 Q. Good morning, everybody. I'll just turn it
 4 over to you, Mr. Feltham, or Mr. Kennedy.
 5 Who's going to present your presenter?
 6 Thank you.
 7 MR. FELTHAM:
 8 Q. Thank you, Chair, Commissioners. Good
 9 morning. The Campaign this morning is
 10 presenting Mr. Craig Allen, who is an
 11 actuary, and he's got two reports that have
 12 been filed with the Board. The first is
 13 concerning the taxi component of the review,
 14 dated April 4th, 2018, and a second larger
 15 report dealing with the review in a more
 16 fulsome manner, which July 18th is the date.
 17 We intend to deal with the taxi report first
 18 and then move into the second report from
 19 there, with questions to follow. Before we
 20 begin, Mr. Allen, can tell us your name and
 21 where you live?
 22 MR. ALLEN:
 23 A. My name is Craig Allen, and I live in
 24 Somerville, Massachusetts.
 25 MR. FELTHAM:

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1 Q. And how long have you lived there?
 2 MR. ALLEN:
 3 A. I've lived in Somerville for approximately -
 4 in the Boston area for approximately ten
 5 years.
 6 MR. FELTHAM:
 7 Q. And are you from that area?
 8 MR. ALLEN:
 9 A. No, I am Canadian. I grew up in the
 10 Vancouver area, and I spent the first twenty
 11 years of my career in Toronto.
 12 MR. FELTHAM:
 13 Q. And there is at page 3 of your - I'm sorry,
 14 I'm going to jump a little bit because I've
 15 got to go to the 2nd of July, 2018 report to
 16 refer to this. I'm sure it's contained, but
 17 a little bit of biographical information and
 18 I'd like to spend a little bit of time just
 19 to show that we can let the Board know who
 20 you are and some of your experience and your
 21 background. So at page three of that 2nd
 22 July, 2018 report, you've included some
 23 biographical information, and there it is on
 24 the screen. So can you maybe take us
 25 through that a little bit in terms of your

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1 education and your actuarial background?
 2 MR. ALLEN:
 3 A. Yes. So I graduated in 1987 from the
 4 University of British Columbia in
 5 Mathematics. That same year, I moved to
 6 Toronto and joined Canada Life where I
 7 worked for two years in an entry level
 8 actuarial position. In 1989, I moved to
 9 Zurich Canada, now Zurich Insurance North
 10 America, also in an actuarial function and
 11 worked there for some six years with a fair
 12 bit of involvement in private passenger and
 13 commercial vehicle pricing. In 1995, I
 14 joined Lawyers Professional Indemnity
 15 Company, which is the errors and omissions
 16 insurance company of the legal profession of
 17 Ontario, and also between 1995 and 2004 the
 18 legal profession of Newfoundland and
 19 Labrador. So I got my fellowship in the
 20 Casualty Actuarial Society and the Canadian
 21 Institute of Actuaries in 1996, and in 2008,
 22 I moved to the US to join Liberty Mutual
 23 Insurance, worked there for two years, and
 24 for the last eight years I've been an
 25 independent consulting actuary. Since 2015,

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1 I've been Chair of the Actuarial Evidence
 2 Committee of the Canadian Institute of
 3 Actuaries, so notwithstanding my location in
 4 the US, I'm still actively involved in the
 5 Canadian actuarial profession. As well,
 6 from 2014 through 2017, I was Eastern Vice
 7 President of the National Association of
 8 Forensic Economics. That's quantitative
 9 professionals who mainly quantify economic
 10 damages in litigation. As I mentioned, my
 11 previous involvement in Newfoundland and
 12 Labrador was fairly extensive in terms of
 13 the professional liability program for
 14 Newfoundland and Labrador's legal
 15 profession.
 16 MR. FELTHAM:
 17 Q. Mr. Allen, in terms of the - what was the
 18 nature - I guess, there are different
 19 positions that you have. What was the
 20 nature of some of the work that you did for
 21 insurance companies?
 22 MR. ALLEN:
 23 Q. So the primary activities of actuaries in
 24 property casualty insurance companies are
 25 pricing the product and setting reserves.

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1 That is setting the liabilities for unpaid
 2 claims that go on the financial statements
 3 of the insurer. So I did the first of those
 4 primarily while at Zurich, and the second of
 5 those – and both of them at LAWPRO, at
 6 Lawyers Professional Indemnity Company.
 7 MR. FELTHAM:
 8 Q. And today you're here in a consulting
 9 actuarial capacity. You've been retained by
 10 the Campaign to Protect Accident Victims to
 11 do these reports, and to come here and give
 12 a presentation?
 13 MR. ALLEN:
 14 A. That's correct, yes.
 15 MR. FELTHAM:
 16 Q. Okay, Mr. Allen, it's begin with the first
 17 report, we'll call it, which is the report
 18 dated April 4th, 2018, if we could. I gather
 19 this report was issued by you following the
 20 submission of a report that was done by
 21 James Cameron for the Board?
 22 MR. ALLEN:
 23 A. That's correct.
 24 MR. FELTHAM:
 25 Q. And I take it that this report in large part

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1 provides some commentary on a number of
 2 aspects of Mr. Cameron's report or opinion?
 3 MR. ALLEN:
 4 A. Correct, yes.
 5 MR. FELTHAM:
 6 Q. And at the bottom of page one of the report,
 7 if we could just go to that, please, there's
 8 a last paragraph where you note that, "The
 9 Cameron Report put forth the following
 10 measures as a means of controlling loss
 11 costs", and you list those four; an increase
 12 in the deductible applicable to general
 13 damages on bodily injury claims; two, the
 14 introduction of a monetary threshold where
 15 the deductible is waived if the injury claim
 16 for general damages exceeds the threshold;
 17 three, the introduction of caps on general
 18 damages on minor injuries; four, the
 19 introduction of verbal thresholds to
 20 restrict entitlement to general damages on
 21 bodily injury, and I gather that your report
 22 in large part is a commentary on those
 23 concepts that were discussed by Mr. Cameron?
 24 MR. ALLEN:
 25 A. Yes, that's correct. Mr. Cameron's Report

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1 did cover in much detail how well claims had
 2 been handled in the taxi program. I have no
 3 comment to make about that. What I am
 4 commenting on is the recommendation, this
 5 recommendation that the report made as to
 6 measures that would reduce costs, and
 7 perhaps make pricing more affordable for the
 8 taxi program.
 9 MR. FELTHAM:
 10 Q. And if we go to page two of the report to
 11 get us into the report itself here, I'll
 12 turn it over to your somewhat, but we see
 13 here – the first thing we see is a chart.
 14 What is that chart telling us, Mr. Allen?
 15 MR. ALLEN:
 16 A. Yes, so what it makes a comparison between
 17 is the experience, the claims, and number of
 18 vehicles for taxis insured by the Facility
 19 Association, and it's restricted to the
 20 Facility Association because of the filings
 21 that are available from the Facility
 22 Association that provide that data.
 23 However, as Oliver Wyman has pointed out,
 24 that represents 95 percent of the taxis in
 25 Newfoundland and Labrador. So it will be

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1 quite representative of the situation for
 2 taxis. The next two lines, the next two
 3 rows in the table, show the comparable
 4 experience for private passenger vehicles
 5 and for commercial vehicles, and what it
 6 shows is that the – the far right hand side
 7 of the table shows the loss cost per
 8 vehicle; that is the cost of claims per
 9 vehicle, and one can see that the cost is
 10 more than ten times as high for taxis as it
 11 is for private passenger vehicles, and
 12 higher yet compared to commercial vehicles.
 13 For taxis, \$4,839.00, compared to only
 14 \$433.00 for private passenger vehicles. Now
 15 that's for the third party liability
 16 coverage. So that's bodily injury liability
 17 as well as property damage liability. It's
 18 the combined two. We'll see the third from
 19 the right column, that the frequency of
 20 claims is much higher for the taxi program,
 21 228 claims per 1000 vehicles, compared to
 22 only 29 per 1000 vehicles for private
 23 passenger auto. I'll note that certainly
 24 for private passenger vehicles the bulk of
 25 those claims are property damage liability

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1 claims. The frequency of bodily injury
 2 claims is much lower. Unfortunately, we
 3 don't have that information from Facility
 4 Association for taxis, so that's why I'm
 5 making the comparison for the whole third
 6 party liability coverage. So there's a very
 7 large discrepancy in the frequency of claims
 8 per vehicle between taxis and private
 9 passenger. There's a smaller discrepancy in
 10 the severity, and that's the average size
 11 per claim. The average size per claim for
 12 taxis is \$21,253.00, that's the second
 13 column from the right, and for private
 14 passenger vehicles the severity is
 15 \$14,600.00, so \$21,200.00 for taxis compared
 16 to \$14,600.00 for private passenger. What
 17 that shows is that frequency is the big
 18 discrepancy between taxis and private
 19 passenger vehicles. Also of note, and this
 20 is what I'm going to make a comment on in
 21 Comment 1 of the report, the number of
 22 earned vehicles is only 795 for taxis,
 23 that's 795 vehicles, compared to 320,000
 24 private passenger vehicles. The measures
 25 proposed by the Cameron Report for

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1 controlling cost are aimed at reducing the
 2 availability of compensation for bodily
 3 injury claims, and what that's proposed on
 4 is all motor vehicle accidents in
 5 Newfoundland and Labrador, the comment that
 6 I make is that the issue that's being
 7 addressed, that is the high cost of claims
 8 for taxis, is an issue that affects only 795
 9 vehicles compared to 320,000 vehicles for
 10 private passenger. So the proposal is to
 11 limit compensation to accident victims even
 12 though the issue to be addressed affects
 13 only 795 out of more than 300,000 vehicles.
 14 (9:15 a.m.)
 15 MR. FELTHAM:
 16 Q. And when you say the proposal, Mr. Allen,
 17 you mean Mr. Cameron's proposal?
 18 MR. ALLEN:
 19 A. Correct, yes. I should say "his
 20 recommendation", yeah, Mr. Cameron's
 21 recommendation.
 22 MR. FELTHAM:
 23 Q. Okay, and that's essentially – that's
 24 Comment 1?
 25 MR. ALLEN:

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1 A. Correct.
 2 MR. FELTHAM:
 3 Q. Okay, and then if we can move to Comment 2.
 4 MR. ALLEN:
 5 A. Yes. So as I pointed out earlier, the big
 6 discrepancy between taxis and other vehicles
 7 is in the frequency of claims, the number of
 8 claims per vehicle, not as much on the
 9 severity, and yet the recommendations made
 10 in the Cameron Report address severity.
 11 They largely address severity, I should say.
 12 There is a possibility with deductibles that
 13 there will be claims that will not meet that
 14 deductible, and so those claims would go
 15 away. That would reduce the frequency
 16 somewhat, but the other measures, the cap,
 17 in particular, would address primarily the
 18 severity of the claims. So the measure is
 19 aimed not at the biggest discrepancy, it's
 20 aimed at the secondary discrepancy. In
 21 terms of what the impact of raising the
 22 deductible would be on frequency, even
 23 though it could indeed reduce frequency, it
 24 will be on the smallest claims, not the
 25 largest. So hence, even if it does reduce

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1 frequency, it would have only a small impact
 2 on loss cost; that is on the cost of claims
 3 that result in premiums being what they are.
 4 MR. FELTHAM:
 5 Q. Mr. Allen, in paragraph four under Comment
 6 2, you say, "By contrast, measures that
 7 would reduce the number of accidents
 8 involving taxi drivers, particularly those
 9 that reduce the number of severe claims,
 10 would potentially have a much larger impact
 11 on the loss cost per vehicle".
 12 MR. ALLEN:
 13 A. Yes, the deductible would only – it wouldn't
 14 reduce the number of accidents, it would
 15 only reduce or eliminate compensation for
 16 the smallest accidents, and eliminate some
 17 compensation for the other accidents,
 18 whereas eliminating accidents altogether,
 19 especially the most severe accidents, will
 20 have a much larger impact on the loss cost.
 21 Taking \$2,500.00, or even a larger number
 22 from each claim, will not eliminate the
 23 claims that exceed \$100,000.00 or
 24 \$200,000.00, or up to – or even higher.
 25 MR. FELTHAM:

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1 Q. And do you have, you provide it in the
 2 report, but some suggestions of other types
 3 of measures that actually may reduce the
 4 number of accidents and improve the loss
 5 cost per vehicle?
 6 MR. ALLEN:
 7 A. Yeah, including improved driver education
 8 and safety training for taxi drivers, better
 9 screening of taxi drivers, and measures to
 10 improve vehicle condition and
 11 roadworthiness. Now I'm not an expert in
 12 those matters, but I believe those are part
 13 of a program that has been put forth by the
 14 Campaign.
 15 MR. FELTHAM:
 16 Q. And when you say, "accident prevention
 17 measures", or the types of things that
 18 you're just describing, you say, "would be
 19 of benefit to all stakeholders". What do
 20 you mean there?
 21 MR. ALLEN:
 22 A. Yes, certainly, you know, those who are
 23 protected by insurance, preventing a claim
 24 rather than reducing the compensation
 25 available will prevent the uncovered

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1 economic loss that's part of that. In
 2 addition, insurance always covers only a
 3 portion of the total loss that comes about
 4 through an accident. So there are
 5 bystanders, there are a number of other
 6 stakeholders who are adversely affected when
 7 there is an accident.
 8 MR. FELTHAM:
 9 Q. Okay, and in to Comment 3, this is a more
 10 lengthy comment, but I gather – to help set
 11 this up here, I gather what we're talking
 12 about here is this concept of all taxis
 13 having to go to Facility Association versus
 14 improving taxi claims experience, maybe
 15 getting some of those taxis out of the
 16 Facility and into commercial markets,
 17 regular commercial markets?
 18 MR. ALLEN:
 19 A. That's correct, yeah.
 20 MR. FELTHAM:
 21 Q. Can you take us through that?
 22 MR. ALLEN:
 23 A. Yes, so this largely follows from the
 24 comments made by Shawn Doherty, Senior Vice
 25 President of Facility Association, and what

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1 he pointed out is that there is – Facility
 2 Association would like to move this
 3 business, the taxi business, away from its
 4 programs. It is a residual market.
 5 Ideally, insurance companies in the
 6 commercial marketplace will take those risks
 7 instead. What Mr. Doherty pointed out is
 8 that there's currently a state where there's
 9 a lack of confidence. There's a lack of
 10 information that would give insurance
 11 companies the confidence to pick up that
 12 business. So in terms of the Facility
 13 Association itself, it would like to promote
 14 the picking up of this business by
 15 commercial insurers, but due to the
 16 statistical information that's currently
 17 collected, they're not able to identify the
 18 portion of the taxi program that would meet
 19 the risk appetite of insurers. In terms of
 20 insurers having their own expertise and
 21 capabilities to identify insurable risks or
 22 ideal risks, better risks, without
 23 statistical information insurance companies
 24 are now in a state where they don't have the
 25 confidence that there's enough of that in

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1 the current taxi program, and that's because
 2 of a lack of information. So what Mr.
 3 Doherty has pointed out is that this impasse
 4 that's currently in place, the one measure
 5 that he proposes to deal with that is for an
 6 interested party like, for instance, taxi
 7 drivers, to take the initiative and to
 8 develop a program that would, for instance,
 9 prevent accidents. What he proposes is that
 10 if such a program were to go forward and
 11 were to be successful, that that would give
 12 confidence to commercial insurers that there
 13 are subsets of the taxi book that would be
 14 favourable for them. And that would
 15 demonstrate that such a—that taking on
 16 segments of the risk would be favourable.
 17 If that were to happen, then the benefit of
 18 that is that first of all, the poor risks
 19 who are now undifferentiated in the Facility
 20 Association Program would be more clearly
 21 identified and they would likely see their
 22 rates go up or they might—yeah, they would
 23 likely see their rates go up within the
 24 Facility Association Program, and the result
 25 of that would be that they would either

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1 improve their practices in response to their
 2 higher premiums or they might actually leave
 3 the business which might be the best outcome
 4 if they cannot improve their claims
 5 experience. One of the measures as we
 6 touched on earlier that could—that might
 7 demonstrate the possible improvements or
 8 possible—that might demonstrate that there
 9 is a subset of the book that is attractive
 10 to insurers would be a Driver Certification
 11 Program and that was proposed by the
 12 Campaign. The Driver Certification Program
 13 would include training standards, taxi
 14 driving experience requirements, and
 15 tracking of claims and violations by
 16 drivers. So, the program could be monitored
 17 at all times and would be feasible. So, the
 18 overall benefits of such an effort would be
 19 by creating an incentive for drivers to—for
 20 taxis to undertake the program in the form
 21 of lower insurance costs that would create
 22 an incentive take loss control measures
 23 which would then reduce the cost of
 24 insurance for various stakeholders and would
 25 also reduce the number and seriousness of

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1 accidents.
 2 MR. FELTHAM:
 3 Q. And then, Mr. Allen, in switching gears
 4 here, but to comment 4, and I gather this
 5 one is directed at Mr. Cameron’s comment in
 6 his report or suggestion that, you know,
 7 Newfoundland and Labrador could adopt a
 8 threshold system akin to what exists in
 9 Ontario, but you’ve indicated that there may
 10 well be some potential pitfalls arising from
 11 a system such as Ontario which we know had
 12 very high insurance rates?
 13 MR. ALLEN:
 14 A. Yeah, I’ll quote from the 2007 Civil Justice
 15 Reform Project that was undertaken in
 16 Ontario, and that was undertaken by the
 17 Honourable Coulter Osborne, and he did
 18 express in his report some concern about the
 19 verbal threshold that’s been in place in
 20 Ontario. The—and the concern he has is that
 21 to demonstrate that an injury needs or does
 22 meet the threshold often requires the—often
 23 requires requesting a medical legal report,
 24 and the issue is simply the costs of those
 25 reports which add to the costs which are—

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1 which add to the costs of the—of automobile
 2 accidents without that being directly
 3 improving the care of the—of injured
 4 parties. He mentioned one of the issues
 5 with respect to the determination of whether
 6 an accident meets the verbal threshold, and
 7 that’s decided at the end of the trial. So,
 8 the—all the expenses of the trial are under—
 9 are incurred before it’s decided whether the
 10 accident meets the verbal threshold. So, it
 11 if does not meet the threshold, those costs
 12 have all been spent and the threshold has
 13 not saved the system money. The—he did
 14 raise as well just the access to justice
 15 issues that barring recovery for those who
 16 meet the verbal threshold has the
 17 possibility that economically vulnerable
 18 individuals might be among those who are
 19 denied the ability to sue, and that may
 20 include the children and the unemployed
 21 elderly. A year ago, David Marshall
 22 produced a report also in Ontario on the
 23 Ontario system titled “Fair Benefits Fairly
 24 Delivered.” And Mr. Marshall noted that
 25 because of Ontario’s most—or because Ontario

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1 has the most generous accident benefits
 2 program in Canada that it in turn has
 3 created the highest barrier institute tort
 4 recoveries which still has—nonetheless it’s
 5 the highest third-party liability premium
 6 amongst the provinces with a similar
 7 distribution system. Mr. Marshall also
 8 pointed out that in its no-fault benefits
 9 system which also has qualification
 10 requirements based on severity of injury
 11 that thereto the costs of competing medical
 12 opinions have added costs to the system that
 13 don’t go to the care of individuals. So, he
 14 had stated tens of thousands of dollars in
 15 the range of 15 to 20 thousand are spent on
 16 those, can be spent on those reports.
 17 (9:30 a.m.)
 18 MR. FELTHAM:
 19 Q. And Mr. Allen, moving away from the proposal
 20 of threshold system like Ontario, under
 21 comment 5, this refers back to something
 22 from Mr. Cameron in his executive summary,
 23 and he’s saying, “In its Executive Summary,
 24 the Cameron report states that taxi rate
 25 increases have been attributed to

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1 continuously escalating loss costs.” And
 2 Mr. Cameron was asked about that when he was
 3 here, and frankly I think he conceded on
 4 this point, but nonetheless, it’s in your
 5 report and I think we should refer to it to
 6 allow you to explain what we’re talking
 7 about here, because I gather that in your
 8 view that comment is not borne out by what
 9 Oliver Wyman reported in the work that it
 10 did with respect to taxi statistics?
 11 MR. ALLEN:
 12 A. That’s correct. From 2012 to 2016 that is
 13 for accidents that occurred in the period,
 14 Oliver Wyman pointed out that there hasn’t
 15 been a systematic increase in the cost of
 16 claims, and to quote the report, “It appears
 17 that the changes from year to year are due
 18 to random variation. There’s no apparent
 19 trend in this data.”
 20 MR. FELTHAM:
 21 Q. And so, if there’s no apparent trend, that
 22 means we don’t have a continuous escalation
 23 in the loss cost? Is that what that means?
 24 MR. ALLEN:
 25 A. Yes, for that period, yes.

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1 MR. FELTHAM:
 2 Q. Okay. And moving, Mr. Allen, to the final
 3 piece of this report, comment 6, and I
 4 gather this particular comment, and I’ll get
 5 you take us through this and there’s a
 6 couple of charts here that require some
 7 explanation, but I gather Mr. Cameron was
 8 suggesting that a cap on general damages
 9 ought to be utilized to control claims
 10 costs. And what were your comments with
 11 respect to that and I guess as it relates to
 12 some of the other Atlantic Provinces?
 13 MR. ALLEN:
 14 A. Yeah. So, I would make a comparison, not
 15 only to what happened here in Newfoundland
 16 and Labrador after the deductible of 2500
 17 was introduced in 2004, I also compared that
 18 to Nova Scotia experience after it
 19 introduced its cap in 2003. Maybe if we can
 20 move a little further along on the –
 21 MR. FELTHAM:
 22 Q. Over to page 7?
 23 MR. ALLEN:
 24 A. Over to page 7, yes. So, the red bars
 25 indicate years before the reform and blue

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1 bars indicate the results after the reform,
 2 and you can see that there was not a
 3 significant change disruption in the year-
 4 to-year progression of loss costs in
 5 Newfoundland and Labrador, but more in terms
 6 of what’s been proposed for caps, the next
 7 chart further down on this page –
 8 MR. FELTHAM:
 9 Q. Chart 2?
 10 MR. ALLEN:
 11 A. Chart 2, if we could move that.
 12 MR. FELTHAM:
 13 Q. And just before we get there, Mr. Allen,
 14 just to refresh us, the titles here, “TPL,”
 15 that’s Third-Party Liability; “BI,” bodily
 16 injury loss; and “ALAE Costs.” What are
 17 the—I mean, what are we talking about there?
 18 What are the—what’s that category of costs?
 19 MR. ALLEN:
 20 A. Yeah, so that’s limited to bodily—the bodily
 21 injury subsection of the third-party
 22 liability coverage. And loss and ALAE, loss
 23 is the amount that’s paid to claimants in
 24 compensation for their injuries, either in a
 25 settlement or a judgment, a trial. The ALAE

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1 is the cost of—that stands for Allocated
 2 Loss Adjustment Expenses. That’s the costs
 3 allocated to individual claims paid by the
 4 defence, paid by the insurance company to
 5 defend the claim. It’s primarily legal
 6 fees, although it can also include
 7 independent adjustor fees. Those are
 8 amounts that are—that can be earmarked to
 9 specific claims.
 10 MR. FELTHAM:
 11 Q. Thank you. Sorry to interrupt, but just—
 12 I’ll take you back to chart 2 now.
 13 MR. ALLEN:
 14 A. Yeah, so in chart 2, so what we see there is
 15 the red bars are years that proceed or—in
 16 2003 partially include the reforms in Nova
 17 Scotia. And what can see is that indeed the
 18 blue bars are lower than the red bars, but
 19 what’s also the case is that the red bars
 20 were dropping. They reached a peak in 2000
 21 and started declining at that point. There
 22 was quite a steep drop between 2002 and 2003
 23 even though the reforms took place in the
 24 year in 2003. It’s a continuation of a
 25 trend that had begun starting in 2000. So,

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1 the loss costs in the blue bars are indeed
 2 below those of the red bars, but that trend
 3 had started before the reforms took place.
 4 MR. FELTHAM:
 5 Q. And so, you know, what you're telling then
 6 is that if we look from 2000, chart 2, the
 7 year 2000, and start to move forward, 2000,
 8 2001, 2002, 2003, we're seeing reduction in
 9 loss in ALAE costs each year, but there are
 10 no reforms then in Nova Scotia in terms of
 11 minor injury regulation reforms?
 12 MR. ALLEN:
 13 A. That's correct. Only late in the year in
 14 2003. So -
 15 MR. FELTHAM:
 16 Q. Right.
 17 MR. ALLEN:
 18 A. But the previous bars, yeah, no reforms,
 19 yeah.
 20 MR. FELTHAM:
 21 Q. Okay. And I note your second report that
 22 we're going to get it does deal with this
 23 issue in much more detail. So, we can—I
 24 think we can conclude this part and we'll
 25 pick it up again, if you will, when we get

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1 to this question in the main report. Chair
 2 and Commissioners, that concludes Mr.
 3 Allen's taxi Report, if I can call it that
 4 for July—April 4th, 2018, and we'd now
 5 propose to move onto the presentation of the
 6 second report. So, Mr. Allen, the second
 7 report from July 18, 2018, I gather this—if
 8 I can set it up, this is divided into two
 9 parts really, right? You have section 1 and
 10 a section 2, if we look at your table of
 11 contents for example. And am I correct that
 12 the first part of your report looks at what
 13 are the drivers or what had been the drivers
 14 of auto insurance premium increases in
 15 Newfoundland and Labrador. In the second
 16 part you examine anticipated costs savings
 17 and premium reductions with a cap. Is that
 18 correct?
 19 MR. ALLEN:
 20 A. Yes.
 21 MR. FELTHAM:
 22 Q. Okay. And there is an executive summary,
 23 but I'm going to move from that right into
 24 the questions and—because we're going to
 25 have to review these in detail in any event.

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1 So, if we go to page 4, and report is
 2 structured in the question-and-answer
 3 manner. So, what I'd like to do is put the
 4 questions to you, and you can take us
 5 through your findings with respect to the
 6 answers. So, question 1 that you were asked
 7 with respect to this issue of the drivers'
 8 premiums for auto insurance in Newfoundland
 9 and Labrador was, "What is the trend for
 10 frequency of bodily injury claims in
 11 Newfoundland and Labrador?" And then a
 12 secondary question of, "Has there been a
 13 trend in the number of motor vehicle
 14 accidents as recorded by the Royal
 15 Newfoundland Constabulary?" And so, what
 16 were your comments on that?
 17 MR. ALLEN:
 18 A. Yes. So, the frequency of bodily injury
 19 claims, that's simply the number of claims
 20 divided by the number of hundreds of
 21 vehicles. And what we see is that in 2003
 22 that number for bodily injury claims in
 23 Newfoundland and Labrador was .93 claims per
 24 100 vehicles. Following the red line, we
 25 see that the number—that the frequency

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1 started declining fairly soon after 2003,
 2 and it almost continuously declined. It
 3 levelled out somewhat between about 2007,
 4 2008, through about 2013, a little of an
 5 uptick, and then it started dropping again.
 6 So, the rate of bodily injury claims per 100
 7 vehicles is now down, in 2017 is .55 per 100
 8 vehicles. So, that's down almost—you know,
 9 down more than 40 percent over that period.
 10 The—what we looked at was the number of
 11 accidents to see what's driving that change.
 12 Is it due to fewer accidents on the road or
 13 is due to a change in the propensity to make
 14 a claim? And what we saw is that between
 15 2006 and 2013 the number of accidents per—
 16 well, between 2006 and about 2011, the
 17 number of accidents as recorded by the RNC
 18 per hundred vehicles was growing. So, even
 19 as the number of accidents was growing, the
 20 number of bodily injury claims was not,
 21 which suggests that the rate at which
 22 actions are—or the rate at which claims are
 23 made for bodily injury is not out of
 24 control. It's—in fact, it's been quite
 25 stable and declining. Stable, if not

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1 declining. The—as has been pointed out, the
 2 RNC does not have jurisdiction over the
 3 whole province. So, this is—whereas the
 4 number of claims is across the whole
 5 province. It is, though, an indication or
 6 likely an indication of the trend from year
 7 to year in the number of accidents in the
 8 province as weather patterns and vehicle
 9 safety measures are—have an effect and
 10 affect much of the province.
 11 MR. FELTHAM:
 12 Q. And Mr. Allen, can you comment on the nature
 13 of the RNC data that you used here and why
 14 that was selected?
 15 MR. ALLEN:
 16 A. It's publicly available. It's reported in
 17 each year by the RNC. I did not find
 18 province-wide accident statistics. So,
 19 that's why the RNC was used. It does
 20 represent jurisdictions that represent about
 21 40 percent of the population of the province
 22 and it also includes the major metropolitan
 23 area of here in St. John's.
 24 MR. FELTHAM:
 25 Q. And moving to question 2, page 5, and you're

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1 asked, "What is the trend in Newfoundland
 2 and Labrador with respect to average total
 3 premium for private passenger automobile
 4 insurance coverage?" And what can you tell
 5 us about that?
 6 MR. ALLEN:
 7 A. Yeah. So, since 2006 which is when the
 8 average per vehicle reached a trough,
 9 reached its lowest level, the amount paid
 10 per—in insurance premium per vehicle has
 11 risen from \$874 to \$1,123. That is an
 12 annual, average annual increase of 2.3
 13 percent per year. Yet it's down from—it had
 14 reached a previous peak in 2003 of \$1,035
 15 and had dropped significantly. It has
 16 increased since then, so, but that's a 2.3
 17 percent per year.
 18 MR. FELTHAM:
 19 Q. And I gather here, we're talking total
 20 premium? So, that's what – included in that
 21 is what folks are paying for, collision,
 22 comprehensive, whatever coverage they buy;
 23 it's not just third party liability
 24 coverage?
 25 MR. ALLEN:

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1 A. That's correct. That's mandatory coverages
 2 and optional coverages and that's divided by
 3 the total number of vehicles purchasing
 4 mandatory coverage. So, if someone adds an
 5 optional coverage to their coverage package
 6 that will increase the amount of premium
 7 paid. It does not increase the number of
 8 vehicles over which that is spread.
 9 MR. FELTHAM:
 10 Q. And then if we go to question three, this
 11 time you were asked "What is the trend in
 12 Newfoundland and Labrador with respect to
 13 premiums for third party liability
 14 coverage?" So, this time now you're
 15 breaking out just the third party liability
 16 portion of the premium?
 17 MR. ALLEN:
 18 A. That's correct, yes. We still have the
 19 total premium represented by the red line.
 20 The blue line is the third party liability
 21 coverage and third party liability coverage
 22 had reached a low level of \$570 in 2006.
 23 It's now – it has since increased to \$654.
 24 That's an annual increase of 1.3 percent per
 25 year. So, the total insurance premium

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1 across all coverages has increased at 2.3
 2 percent per year on average. For third
 3 party liability, it's only 1.3 percent per
 4 year.
 5 MR. FELTHAM:
 6 Q. And what is the third party liability
 7 premium charge for? What coverage does it
 8 relate to?
 9 MR. ALLEN:
 10 A. It relates to bodily injury coverage, as
 11 well as property damage coverage. So,
 12 property damage coverage being the damage
 13 inflicted by at-fault drivers on other
 14 vehicles and other property, including
 15 loading docks or garages, that sort of
 16 thing.
 17 (9:45 a.m.)
 18 MR. FELTHAM:
 19 Q. So, insofar as bodily injury claims costs
 20 tie into premiums, we're talking about the
 21 blue line?
 22 MR. ALLEN:
 23 A. Yes, that's correct. Yes, the blue line
 24 includes both bodily injury and property
 25 damage coverage. The red line does as well,

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1 but the red line includes other coverages,
 2 such as collision coverage. So, that's when
 3 an at-fault driver's own at-fault – or
 4 rather an at-fault driver's own vehicle is
 5 damaged, they'll claim on their optional
 6 collision coverage or if a vehicle is
 7 damaged through adverse weather or is
 8 stolen, that would be covered by
 9 comprehensive coverage, which is another
 10 optional coverage. The red line includes
 11 those optional coverages and accident
 12 benefits as well. The blue line is the
 13 third party liability bodily injury coverage
 14 and third party liability property damage
 15 coverage.
 16 MR. FELTHAM:
 17 Q. And I mean, that change in third party
 18 liability premium being collected by
 19 insurers between – well, when it was \$570 in
 20 2006 to the 2017 figure of \$654, I mean, do
 21 you have any comment on whether that's
 22 significant change, you know, considering
 23 the time period?
 24 MR. ALLEN:
 25 A. We might want to move to question four to

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1 put that into context, but what question
 2 four will do is relate that to growth in
 3 general inflation, that is growth in the
 4 consumer price index for Newfoundland and
 5 Labrador.
 6 MR. FELTHAM:
 7 Q. Okay. Well, let's do that. So, question
 8 four was "Provide an analysis of the change
 9 in third party liability premium in
 10 Newfoundland and Labrador over time as
 11 compared to the increase in CPI during that
 12 same period". Before we get to that, I
 13 mean, why are we comparing the pricing to
 14 CPI? What does that tell us?
 15 MR. ALLEN:
 16 A. So, what the CPI reflects is the growth in
 17 price in most goods and services. There is
 18 inflation in the economy. For the same
 19 product or service, we generally have to pay
 20 more in a later year than in an earlier year
 21 because prices go up. And that's what the
 22 consumer price index measures. So, if a
 23 product goes up at the rate of the consumer
 24 price index, it hasn't really gone up in
 25 economic value. Earnings generally increase

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1 with inflation as well as all other goods
 2 and service – or most other goods and
 3 services. So, if a good or service
 4 increases in price at less than the consumer
 5 price index, it has actually decreased in
 6 cost in terms of economic purchasing power.
 7 MR. FELTHAM:
 8 Q. Okay. And what have we seen in this
 9 province with respect to the third party
 10 liability premium charged by auto insurers
 11 as compared to the consumer price index?
 12 MR. ALLEN:
 13 A. So, as I mentioned earlier, the average
 14 third party liability premium in 2006 was
 15 \$570 per vehicle. Had that increased just
 16 with the rate of general inflation, that is
 17 at the consumer price index, that would have
 18 increased to \$707 by 2017. But in fact, but
 19 in 2017, the average cost of third party
 20 liability coverage was only \$654. So,
 21 that's more than \$50 short of what inflation
 22 would have taken the premium to.
 23 MR. FELTHAM:
 24 Q. So, in 2017, if I understand you correctly,
 25 Newfoundland and Labradoreans are not even

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1 paying for third party liability premiums an
 2 amount that's equivalent to what it would
 3 have been had it kept pace with inflationary
 4 rates?
 5 MR. ALLEN:
 6 A. That's correct.
 7 MR. FELTHAM:
 8 Q. And if something is not even increasing, in
 9 this case this premium, at a rate equivalent
 10 to consumer price index increases, you know,
 11 what does that tell us about that product?
 12 MR. ALLEN:
 13 A. That it's becoming more affordable over
 14 time. That it's – that the cost of the
 15 value – or the cost of the package of
 16 services provided by that has reduced
 17 compared to the overall price level.
 18 MR. FELTHAM:
 19 Q. And moving on to question five, page eight.
 20 Here you were asked: "What is the trend for
 21 frequency of third party liability property
 22 damage claims in Newfoundland and Labrador?"
 23 And then you were asked to compare that to
 24 bodily injury frequency. So, we're talking
 25 about frequency again, and this time,

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1 property damage in the third party liability
 2 context with a comparison to bodily injury
 3 frequency. What can you tell us about that?
 4 MR. ALLEN:
 5 A. Yeah. So, this, to some extent, mirrors
 6 what was in the response to the first
 7 question or to the – yeah, to the first
 8 question. That is how many accidents have
 9 there been relative to the number of bodily
 10 injury claims, and that, to some extent, is
 11 reflected by the number of third party
 12 liability property damage claims. So, many
 13 accidents happen without an injury, but most
 14 accidents result in damage to vehicles and
 15 other installations. So, the third party
 16 property damage coverage generally is more
 17 frequently triggered by an accident than
 18 bodily injury claim. And what we see on
 19 this chart, when we compare the blue line,
 20 which is the frequency of property damage
 21 claims, and that’s across the whole
 22 province. When we compare that to the rate
 23 of accidents as reported by the RNC, we see
 24 that the two lines are generally parallel,
 25

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1 and even though the RNC line is not the
 2 whole province, we see that fluctuations
 3 from year to year are comparable between the
 4 property damage claims and accidents as
 5 reported to the RNC.
 6 So, we see that the number of property
 7 damage claims had grown between 2008 and
 8 about 2013, and it’s since been declining.
 9 The number of bodily injury claims though
 10 did not increase appreciably during that
 11 period.
 12 MR. FELTHAM:
 13 Q. And then over to question six, page nine,
 14 where you were asked: “What is the trend for
 15 severity of third party liability property
 16 damage claims in Newfoundland and Labrador
 17 and how does that compare to BI severity?”
 18 So, this time you’re being asked for a
 19 comparative analysis, I guess.
 20 MR. ALLEN:
 21 A. Yes. So, the chart, Chart 6, the red line
 22 represents average claim sizes for bodily
 23 injury. There’s a scale on the left-hand
 24 side of the chart that’s in tens of
 25 thousands of dollars and that represents the

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1 amounts, the average claim size for bodily
 2 injury claims. The scale on the right-hand
 3 side is only in thousands of dollars.
 4 That’s the average claim size for property
 5 damage. So, as could be expected, the cost
 6 to repair a vehicle will be less than the
 7 loss of earnings and cost of care in a
 8 bodily injury.
 9 When you put those two lines over each
 10 other with different scales, you’ll see that
 11 they increase at a very similar rate and
 12 that’s actually borne out in performing a
 13 regression analysis that is fitting a line
 14 to those data points that I followed the
 15 same procedure that Oliver Wyman did in
 16 using a log linear model that is fitting an
 17 exponential line to those data points. And
 18 what that showed is that between 2004 and
 19 2017, that is post the introduction of the
 20 deductible, bodily injury deductible in
 21 Newfoundland and Labrador, that the rate of
 22 increase in severity per year has averaged
 23 4.4 percent and that’s true for both bodily
 24 injury and property damage. The property
 25 damage is increasing at – or bodily injury

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1 is increasing at a rate no different than
 2 that of property damage.
 3 MR. FELTHAM:
 4 Q. And then if we go to Chart 7, the lines look
 5 a little different there. What are we
 6 seeing here?
 7 MR. ALLEN:
 8 A. So, we’re going back to loss and ALAE per
 9 vehicle. That’s the cost per purchaser of
 10 insurance. And the blue line represents the
 11 property damage cost. The red line
 12 represents the bodily injury cost. As Chart
 13 6 showed us, the rate of increase per
 14 average claim is increasing at the same rate
 15 for property damage and for bodily injury.
 16 What Chart 7 shows is that when you take
 17 frequency into account that the rate of
 18 increase in cost for property damage is
 19 higher than – per vehicle, the rate of
 20 increase per vehicle is higher for property
 21 damage than for bodily injury.
 22 So, part of the major driver is the
 23 cost of – of the third party liability
 24 premium is the cost of claims for each of
 25

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1 property damage and bodily injury. What we
 2 see is that the rate of increase in that for
 3 property damage is higher than that for
 4 bodily injury. So, if there's a driver of
 5 an increase in cost, property damage is
 6 certainly playing a part in increasing the
 7 cost of third party liability premium.
 8 Although as we've seen, third party
 9 liability premium has only increased at less
 10 than the rate of inflation.
 11 MR. FELTHAM:
 12 Q. Speaking of severity changes, I believe
 13 subsequent to this report, you did some
 14 examination of – in response to questions
 15 from the IBC, I believe – some examination
 16 of severity trend changes as it relates to
 17 other Atlantic Provinces?
 18 MR. ALLEN:
 19 A. Yes. So, as I mentioned earlier, between
 20 2004 and 2017, the average severity per
 21 claim for both bodily injury and property
 22 damage has been an increase of 4.4 percent
 23 per year in Newfoundland and Labrador. That
 24 compares to what the increases have been for
 25 New Brunswick and Nova Scotia. New

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1 Brunswick, this is from 2004, so this is
 2 post the reforms that went in place in 2003.
 3 From 2004 to 2017, the rate of increase of
 4 bodily injury claims is 7.6 percent in New
 5 Brunswick compared to the 4.4 percent in
 6 Newfoundland and Labrador. The same rate
 7 for Nova Scotia from 2004 to 2017 is 5.9
 8 percent compared to the 4.4 percent for
 9 Newfoundland and Labrador. So, in both
 10 those provinces, the rate of increase in
 11 claims – or in severity of claims has been
 12 greater since 2004 than it has been in
 13 Newfoundland and Labrador.
 14 MR. FELTHAM:
 15 Q. So, the severity of claims in the two
 16 Atlantic Provinces – with New Brunswick and
 17 Nova Scotia with reforms, what you're
 18 telling us is that the severity – the rate
 19 of increase in severity is greater than it
 20 has been in Newfoundland during the same
 21 period, 2004, 2003-2004 onward?
 22 MR. ALLEN:
 23 A. That's correct. Yeah, the severity is lower
 24 in those provinces and it did decrease with
 25 the introduction of caps. But since then,

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1 the rate of increase has undone more of that
 2 saving than the rate of increase in the
 3 bodily injury, average bodily injury cost in
 4 Newfoundland and Labrador.
 5 MR. FELTHAM:
 6 Q. Then if we go to question seven, Mr. Allen,
 7 you were asked: "What has been the trend in
 8 Newfoundland and Labrador in terms of the
 9 percentage of vehicles carrying collision on
 10 comprehensive coverage and how does that
 11 compare to the other Atlantic Provinces?"
 12 And then you were asked about the
 13 relationship to total premiums charged. So,
 14 can you take us through this analysis?
 15 MR. ALLEN:
 16 A. Yes. So, as pointed out earlier, the rate
 17 of increase in total premium is 2.3 percent
 18 since 2006 in Newfoundland and Labrador.
 19 2.3 percent compared to 1.3 percent for
 20 third party liability coverage. One of the
 21 explanations for that discrepancy is that
 22 more people in Newfoundland and Labrador
 23 have been buying optional coverages. So,
 24 they've been paying more premium, but
 25 they've been getting more insurance for

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1 that. And as the first chart shows, in
 2 2006, 67 percent of vehicles carried
 3 optional collision coverage. By 2017, that
 4 had increased to 76 percent. So that
 5 increase from 67 to 76 is part of the reason
 6 for the increase in the amount of premium
 7 paid for auto insurance. At the beginning
 8 of that period, Newfoundland and Labrador
 9 was – the percentage was the highest of the
 10 four Atlantic Provinces, but it has
 11 increased at a greater rate than those other
 12 provinces.
 13 In terms of Chart 9, that's looking at
 14 the comprehensive coverage. The collision
 15 coverage that's for moving – or for damage
 16 that's happened with an at-fault driver
 17 who's been moving. Comprehensive coverage
 18 is for when the vehicle is stationary. So,
 19 as I mentioned earlier, weather related
 20 damage or theft is covered by comprehensive
 21 coverage. Back in 2001, Newfoundland and
 22 Labrador had the lowest percentage opting
 23 for comprehensive coverage, only 63 percent.
 24 That has now increased to the highest
 25

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1 percentage in the Atlantic Provinces, now 81
 2 percent of vehicles carry that coverage.
 3 (10:00 a.m.)
 4 So, the red line on Chart 9 shows a
 5 rapid increase in the percentage of vehicles
 6 carrying optional coverage, availing
 7 themselves of more insurance. The other
 8 lines show lesser increases.
 9 MR. FELTHAM:
 10 Q. So, if I understand you correctly, in this
 11 province, insurance consumers, auto
 12 insurance consumers are buying more coverage
 13 when it comes to comprehensive optional
 14 coverages, comprehensive and collision. I
 15 don't mean in terms of limits coverage, but
 16 the numbers of people buying that particular
 17 product, and that's a factor that goes into
 18 the fact that rates are what they are, in
 19 terms of what the average premium being paid
 20 is?
 21 MR. ALLEN:
 22 A. That's correct, yes. I mean, there are two
 23 factors. There are price increases on a
 24 given amount of insurance, but there's also,
 25 certainly in Newfoundland and Labrador, an

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1 increase in the amount of insurance being
 2 purchased.
 3 MR. FELTHAM:
 4 Q. And then turning the page, you've got
 5 another chart here. Same topic, but I
 6 wonder if you can explain this chart for us.
 7 This is a little less straightforward, I
 8 would suggest, than the last two, at least
 9 to me.
 10 MR. ALLEN:
 11 A. Yeah. So what this chart does is it puts
 12 all together the increases that we saw –
 13 that we've seen in third party liability
 14 premium and puts it on the same page, the
 15 same chart as the increase – as the premium
 16 paid for other coverages. So, the dark
 17 blue, that's third party liability coverage
 18 and the red is the optional physical damage
 19 coverages, that is the collision and
 20 comprehensive coverages that I just
 21 mentioned that are being bought at a greater
 22 rate. And the dotted black line that
 23 represents inflation as represented by the
 24 consumer price index. As we seen
 25 previously, the rate of increase in the

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1 premium for third party liability is less
 2 than the consumer price index, so that's why
 3 the dotted black line is going up at a
 4 higher rate than the dark blue bars. You
 5 will see the red bar is increasing in width
 6 at a fairly sharp rate, and that's those
 7 optional physical damage coverages and that
 8 reflects both price increases in those
 9 coverages, as well as the greater rate of
 10 purchase of them. So what this shows is
 11 that it breaks down the increases that
 12 people are paying in terms of premium into
 13 those components.
 14 MR. FELTHAM:
 15 Q. And over to question 8, page 12, here you
 16 are asked, "What is the breakdown of the
 17 proportion of premiums charged in
 18 Newfoundland and Labrador by insurers for
 19 bodily injury claims and for third party
 20 property damage claims? If that date is not
 21 available, please describe a proportionate
 22 breakdown in terms of claims' costs." What
 23 are we getting at here, Mr. Allen?
 24 MR. ALLEN:
 25 A. So unfortunately we don't have a breakdown

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1 in premium into its property damage and
 2 bodily injury components for third party
 3 liability, all we have is the total, so to
 4 look at what's happened under the surface,
 5 this chart shows the average per vehicle of
 6 each of the bodily injury and property
 7 damage, and what we see in 2006, the bodily
 8 injury component of that was \$282.00 per
 9 vehicle. That has increased to \$350.00 per
 10 vehicle by 2017, it actually had increased
 11 and then had since fallen, it increased to a
 12 peak by about 2015 and has since fallen.
 13 The cost of property damage claims per
 14 vehicle was \$65.00 in 2006, it's increased
 15 to \$100.00. So between 2006 and 2017 the
 16 average annual rate of increase of total
 17 third party liability claims is 2.4 percent,
 18 but the rate for bodily injury is only 2
 19 percent per year. The rate for property
 20 damages double that, 4 percent per year. So
 21 the year-by-year increases in cost in bodily
 22 injury are significantly lower, percentage
 23 wise, than property damage.
 24 MR. FELTHAM:
 25 Q. And then over to Question 9, which is your

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1 last question on this particular section
 2 concerning the drivers of increases in total
 3 premium, you were asked, "What appear to be
 4 the drivers of increases in average total
 5 premiums charged to Newfoundland and
 6 Labrador since 2006", and we're talking
 7 about auto insurance, of course, "And how do
 8 bodily injury claims settlement costs figure
 9 into those increases if at all?" And take
 10 us through your answer to that, Mr. Allen.
 11 MR. ALLEN:
 12 A. Yes, so certainly as previously covered, the
 13 total premium increased at a rate of 2.3
 14 percent per year between 2006 and 2017 and
 15 that's higher than the rate of CPI increase,
 16 which is 2 percent per year. Third party
 17 liability premium has only increased at 1.3
 18 percent per year, so we've covered all that
 19 already, and why the difference between the
 20 2.3 percent for the total coverage and the
 21 1.3 percent, the third party liability, it's
 22 the optional physical damage coverage, that
 23 is made up of both price increases for
 24 optional physical damage coverage, as well
 25 as increased take up of the optional

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1 coverage. The price increases had been 3.6
 2 percent per year on average and the rate of
 3 increased of take up of those coverages had
 4 contributed 1.2 percent per year. So the
 5 total increase in physical damage, layout
 6 for physical damage coverages is 4.8 percent
 7 per year upon average. So, the bodily
 8 injury loss cost, as mentioned, is increased
 9 at 2 percent per year, property damage,
 10 third party liability property damage at 4
 11 percent per year, so as we see the bodily
 12 injury increase in loss cost is not the
 13 largest of those percentage increases. The
 14 physical damage and property--and third
 15 party property damage coverages are
 16 increasing at higher rates and those are
 17 hence the drivers of the 2.3, the primary
 18 drivers, the 2.3 percent increase per year
 19 in premium.
 20 MR. FELTHAM:
 21 Q. And, Mr. Allen, I'll draw your attention to
 22 the last paragraph on page 13, first
 23 sentence, "Bodily injury claim settlement
 24 costs appear to have a minor role, if any,
 25 in increases in average premiums in

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1 Newfoundland and Labrador since 2006." So
 2 in your view, what you're telling us is that
 3 to the extent that there have been increases
 4 in the average premium charge for auto
 5 insurance in this province since 2006,
 6 that's not being driven in any meaningful
 7 way by bodily injury claim settlement costs?
 8 MR. ALLEN:
 9 A. That's correct. I mean, they certainly
 10 have—they have contributed to an increase,
 11 but they're certainly not the largest
 12 contributor to that increase and in fact,
 13 they've gone up only at the rate of
 14 inflation.
 15 MR. FELTHAM:
 16 Q. And if we look at your chart on page 14,
 17 Chart 12, which goes with the answer here,
 18 what are you showing us with that?
 19 MR. ALLEN:
 20 A. That's moving the CPI dotted line up from
 21 tracking the blue bars to tracking the total
 22 height of the bars, and what it shows is
 23 that since 2006 the total premium paid for
 24 auto insurance has risen at a higher rate
 25 than CPI, so it's gone up by more than the

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1 rate of inflation.
 2 MR. FELTHAM:
 3 Q. So it's somewhat above, I gather, if you
 4 look at the top of the red, well top of each
 5 bar, say from, looks a little under in 2006
 6 and then it starts to get above in 2009 and,
 7 you know, in the last three years, 2015 to
 8 '17, we see it's a little above the CPI
 9 line. Even still, I would suggest it's
 10 tracking CPI fairly closely, would you
 11 agree?
 12 MR. ALLEN:
 13 A. Yes, pretty closely. To quote the numbers
 14 as pointed our earlier so that the total bar
 15 is increasing at a rate of 2.3 percent that
 16 I had previously mentioned, CPI increases at
 17 a rate of 2 percent per year, so that's that
 18 .3 percent per year difference.
 19 MR. FELTHAM:
 20 Q. All right, Mr. Allen, that does it for
 21 Section 1 or Part 1 of your report. I'd
 22 like now to move on to Section 2 which deals
 23 with the anticipated cost savings and
 24 premium reductions that might come with
 25 proposed caps, and this part of your report

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1 involves some consideration of the work that
 2 Oliver Wyman consultant did on this topic as
 3 well, is that correct?
 4 MR. ALLEN:
 5 A. Yes.
 6 MR. FELTHAM:
 7 Q. Okay, and the first question is rather long,
 8 but I'd like to go through it and it says,
 9 "Examine the assumptions made by Oliver
 10 Wyman concerning percentage change in
 11 frequency, the assumptions are that the
 12 proportion of minor injury claimants would
 13 reduce by 5 percent, 10 percent or 15
 14 percent." And that's the notion that
 15 frequency would change, claim frequency
 16 would change with minor injury reforms with
 17 a cap, and Oliver Wyman notes, "It is
 18 difficult to determine the degree to which
 19 the minor injury regulations contributed to
 20 decline in frequency of BI claims in other
 21 provinces." And then you were asked, "What
 22 does the corresponding decline in frequency
 23 in bodily injury claims in Newfoundland and
 24 Labrador over the same historic time period
 25 examined mean for the reasonableness of this

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1 assumption?" So Ms. Elliott maintains that
 2 the minor injury reforms in New Brunswick,
 3 Nova Scotia, they had an impact on claim
 4 frequency in those provinces. What is your
 5 opinion as to whether the minor injury
 6 regulation in those provinces could be said
 7 to have contributed to a decline in
 8 frequency of bodily injury claims?
 9 MR. ALLEN:
 10 A. Yes, looking at the historic patterns, as we
 11 saw in the Taxi Report, frequency peaked in
 12 most provinces about 2000, so if we can move
 13 forward to Chart 13 –
 14 MR. FELTHAM:
 15 Q. That's page 16 of your report?
 16 MR. ALLEN:
 17 A. Yes. So there we see frequency year by year
 18 for Newfoundland and Labrador and for Nova
 19 Scotia and we see that in both provinces the
 20 frequency peaked in 2000, 2001, it has been
 21 mostly falling ever since. The reforms in
 22 Nova Scotia took place in 2003, looking at
 23 the green line there, we see a drop that
 24 started in 2000 and beginning about 2003,
 25 the rate of decrease actually slowed down,

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1 that is we're seeing the green line dropping
 2 at a certain rate between 2001, 2003 and
 3 then there's a kink in the line, it flattens
 4 out somewhat. And when I calculate the
 5 average rate of decrease, when I fit a
 6 regression line to that green line, what I
 7 find is that if I fit that line between 2001
 8 and 2003, it decreases at an annual rate of
 9 10.9 percent. When I add 2004 to that, the
 10 decrease between 2001 and 2004 drops to 9.8
 11 percent, and then it keeps dropping as I add
 12 additional years to that. When I add 2005,
 13 it drops to 8.2 and then go all the way to
 14 2009, it drops to 7.4. So there was a
 15 decrease between 2001 to 2003 of almost 11
 16 percent in frequency that started slowing
 17 down once the, coinciding with the
 18 introduction of the reforms. What that
 19 suggests is that the reforms, at least there
 20 was not a decrease in frequency that
 21 coincided with the reforms. The other point
 22 that I would make is that the Newfoundland
 23 and Labrador line, which is red, it is
 24 higher. There is indeed a higher frequency
 25 per vehicle of bodily injury claims in

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1 Newfoundland and Labrador; however, changes
 2 in that frequency have largely tracked what
 3 happened in Nova Scotia. Those two lines
 4 are fairly close, you know, generally
 5 parallel, so that too suggests that perhaps
 6 the reforms in Nova Scotia and New
 7 Brunswick—or Nova Scotia in this case, have
 8 not added additional effect. Whatever was
 9 driving frequencies down, whether it's
 10 improved vehicle safety, better roads,
 11 changes in weather patterns, those things
 12 all seem to have affected both Nova Scotia
 13 and Newfoundland and Labrador. The reforms
 14 that only affected Nova Scotia or the cap,
 15 anyway, that did not affect Newfoundland and
 16 Labrador does not appear to have added
 17 additionally to that change in frequency.
 18 Moving forward to Chart 14, we see similar
 19 results for Prince Edward Island, although
 20 the volume is very low. Moving further
 21 forward to Chart 15, in New Brunswick the
 22 frequency has declined at a greater rate
 23 than it has in Newfoundland and Labrador,
 24 but thereto, once the reforms were put in
 25 place in New Brunswick, the rate of decline

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1 declined. It actually increased in one
 2 year, 2004, but subsequent to that it
 3 declined, so from 2001 to 2003, there was a
 4 very steep decline there at 16.1 percent per
 5 year. You can see the blue line going down
 6 quite steeply starting at about 2001. That
 7 continues through to 2004, then there's an
 8 uptick in 2005, so there was actually an
 9 uptick after the introduction of the
 10 reforms. So by the time you get to 2009,
 11 the average rate of decrease has gone down
 12 from 16 percent, down to 9.9 percent. So
 13 the reforms themselves in New Brunswick did
 14 not accelerate the rate of decline in
 15 frequency, the decline was higher than in
 16 Newfoundland and Labrador, but that decline
 17 was in motion before New Brunswick's
 18 reforms.
 19 (10:15 a.m.)
 20 MR. FELTHAM:
 21 Q. So let me see if I can distil this a little
 22 bit. So your opinion then, if I understand
 23 it correctly, is that minor injury
 24 regulation reforms in New Brunswick and Nova
 25 Scotia did not have an impact on claim

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1 frequency?
 2 MR. ALLEN:
 3 A. They did not have an impact on over and
 4 above trends that were already in place.
 5 MR. FELTHAM:
 6 Q. And to the extent that there would be no
 7 change in claim frequency with it, as a
 8 result of the cap, if we take a lesson from
 9 New Brunswick and Nova Scotia that the
 10 trends may have already been in place and we
 11 can't come to that conclusion that it's as a
 12 result of the minor injury regulation, it
 13 follows from that, I take it, that we would
 14 not expect then to see savings in claim
 15 costs due to reduced frequency?
 16 MR. ALLEN:
 17 A. That's correct.
 18 MR. FELTHAM:
 19 Q. And I'll mention this because there are a
 20 number of questions on this topic that were
 21 put to Ms. Elliott in written form by the
 22 Campaign around her opinion as it relates to
 23 the change in frequency and whether it was
 24 brought about by minor injury regulations in
 25 Nova Scotia and New Brunswick after the

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1 reforms, and I gather you read her responses
 2 to those, have you?
 3 MR. ALLEN:
 4 A. Yes, I have.
 5 MR. FELTHAM:
 6 Q. And have those responses that she's provided
 7 as to explain her analysis and why she comes
 8 to this conclusion, has that changed your
 9 view in any way?
 10 MR. ALLEN:
 11 A. It hasn't changed my view. Now I will say
 12 that the responses did not include what the
 13 full model was, the full statistical model
 14 that was used, so to some extent I'm
 15 inferring from statements what's in that
 16 model. I will say that I had requested or I
 17 suggested, asking what would the results be
 18 if the break point, instead of being 2003,
 19 2004, if it had been other years, let's say
 20 2002, 2005, 2006. The response did a
 21 statistical test that took into account both
 22 2004 and those other years, and it was a
 23 statistical test that didn't show the
 24 respective magnitudes, but it would be, the
 25 test in, according to my understanding, does

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1 not necessarily allocate how much the change
 2 in 2004 contributes and how much those other
 3 years contribute. It just looks at is it
 4 due to random fluctuation or not, so I
 5 didn't see in the response a complete
 6 description of what the respective effects
 7 of the reforms and other impacts were. As
 8 well I would like to mention that on Chart
 9 15, we see in 2004 a decline in frequency
 10 offset by an increase in 2005, that the
 11 response remove the 2005 data point and
 12 showed an inordinate test, whether 2004 was
 13 an outlier, I might have removed the 2004
 14 data point, rather than the 2005 data point.
 15 MR. FELTHAM:
 16 Q. Now if we move on to Question 2, Mr. Allen,
 17 page 18, you were asked to "examine and
 18 comment on the assumptions made by Oliver
 19 Wyman concerning the proportion of claims
 20 that would be subject to a cap, if
 21 implemented. Note the discrepancy between
 22 this feature reported by Oliver Wyman and
 23 Intact Insurance. In the event that
 24 Intact's assessment is accurate, what are
 25 the impacts on cost reductions and premium

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1 savings?” And then you were also asked,
 2 “Are there concerns arising from the
 3 validity of reliability of the Closed Claim
 4 Study that may be a factor”—and we’re
 5 talking about the IBC Closed Claims Study,
 6 “that may be a factor in this measurement.”
 7 So I guess to break this down a little bit,
 8 the first thing is, you know, there are two
 9 Closed Claim Study numbers, one arising from
 10 the Insurance Bureau of Canada Closed Claim
 11 Study, but then Intact had done its own and
 12 had given some figures in its submission,
 13 and you were asked to look at what the
 14 outputs would look like if Intact’s Closed
 15 Claim Study sample were considered.
 16 MR. ALLEN:
 17 A. Yes.
 18 MR. FELTHAM:
 19 Q. So looking at that and then there’s a
 20 secondary piece of the reliability on the
 21 IBC and concerns you might have there with
 22 respect to that Closed Claim Study, but
 23 dealing with the first item first, if we
 24 look at proportion of claims estimated to be
 25 subject to a cap with Intact versus what the

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1 IBC’s Closed Claim Study finds and how does
 2 that factor into the results?
 3 MR. ALLEN:
 4 A. Yes, so Intact’s study only found 55 percent
 5 of its claims that it examined would be
 6 subject to the cap and that compared to
 7 Oliver Wyman’s finding of between 66 and 76
 8 percent. The result of that is that for a
 9 \$5,000 cap which was examined by both
 10 studies, the savings, the cost reduction by
 11 Intact was estimated only to be 19.9
 12 percent; whereas it was estimated by Oliver
 13 Wyman, assuming no change in frequency, to
 14 be 21 to 27 percent. Oliver Wyman estimated
 15 a larger saving.
 16 MR. FELTHAM:
 17 Q. So I’ll just stop you there for a second.
 18 So if Intact’s study is more accurate or
 19 gives us a better picture of what reality
 20 would be in terms of the \$5,000 cap, the
 21 result is is that a \$5,000 cap minor injury
 22 reform would not translate into a level of
 23 cost savings that we see produced by Oliver
 24 Wyman.
 25 MR. ALLEN:

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1 A. Correct, it would be a lower cost saving.
 2 MR. FELTHAM:
 3 Q. Okay, and can you comment then, because I
 4 think the rest of your answer goes into
 5 this, reliability or considerations with
 6 respect to both of these Closed Claim
 7 Studies and what are your views on that?
 8 MR. ALLEN:
 9 A. So the Oliver Wyman study does have a
 10 feature that increases what one would expect
 11 to be its reliability and that is that it
 12 draws from a larger population of claims.
 13 The Oliver Wyman study draws from 1,425
 14 claims, 1,741 claimants and that’s drawing
 15 from six different company groups. So all
 16 else being equal, there would be less
 17 sampling—sorry, in contrast, Intact’s study
 18 only drew from 388 claims, so that’s 1400
 19 claims for Oliver Wyman, 388 for Intact. So
 20 all else being equal, a larger sampling size
 21 would have less sampling uncertainty, so the
 22 Oliver Wyman study has an advantage in that
 23 regard. That said, the Oliver Wyman study
 24 taken from the 2018 Closed Claim Study uses
 25 data drawn from 18 different insurers from

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1 six different insurer groups, and those
 2 insurers will have different claims handling
 3 practices. Intact will have set out
 4 policies and procedures that will be uniform
 5 throughout its operations. Six different
 6 companies will have six different sets of
 7 procedures, and so that will, that can be
 8 expected to lead to differences in the
 9 judgments that are used as to whether a
 10 claim fits as a minor injury or not, so it
 11 can just be expected that there will be less
 12 consistency from company to company in the
 13 Oliver Wyman study or in the study that
 14 Oliver Wyman used, rather. And I’ll quote
 15 from the Oliver Wyman study, “Each insurer
 16 operates with its own set of underwriting
 17 rules”, and these, as Oliver Wyman says,
 18 “these rules may lead to conclusions that
 19 are not applicable to any particular
 20 insurer.” So a given claim, classified as
 21 minor injury within one insurer, that same
 22 conclusion may not hold in another insurer.
 23 The next point I would make about the use of
 24 the Closed Claim Study is that the Closed
 25 Claim Study was prepared without independent

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1 audit and IBC managed the collection of data
 2 for that study and IBC is certainly
 3 experienced in that field, but it was only
 4 IBC, and so in a previous Closed Claim Study
 5 done in 2004, the Board engaged three
 6 independent consultants also to assure or to
 7 try and maintain the quality and objectivity
 8 of the study, Bern Fitzpatrick, an
 9 independent insurance consultant; the
 10 accounting firm, MKHK Chartered Accountants;
 11 and a medical consultant, Sue Rideout-
 12 Vivian. They were all retained in order to
 13 ensure that there was a consistent injury
 14 definition and that the classification of
 15 claims followed that.
 16 (10:30 a.m.)
 17 MR. FELTHAM:

18 Q. And Mr. Allen, just on that point, as an
 19 actuary being provided with data to utilize
 20 to make calculations, do whatever you are
 21 going to do, based on that data, how do you
 22 view that in terms of we look at the Closed
 23 Claim Study done in this review and no MKHK,
 24 no Bern Fitzpatrick, no medical mapping
 25 through physician, no audit process, how

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1 would you compare the two in terms of the
 2 data if it was provided to you on one Closed
 3 Claim Study versus the other, what would
 4 your concerns be, or would you have any?
 5 MR. ALLEN:
 6 A. Well, we're often, as actuaries, working
 7 with the data that's available, so you know,
 8 I think Oliver Wyman, that was what he had
 9 available and they're making an estimate.
 10 The more quality assurances in place, the
 11 more weight one would put on the conclusions
 12 drawn from those statistics.
 13 MR. FELTHAM:
 14 Q. If we go to Question 3, page 20, and this
 15 question has to do with ALAE costs and an
 16 assumption that Oliver Wyman made and that
 17 was that ALAE costs would decrease with a
 18 cap, and you were asked, "Have ALAE costs
 19 decreased post-cap in other jurisdictions
 20 and if there's no substantial decrease in
 21 ALAE costs, what are the impacts on cost
 22 reductions and related premium savings?" So
 23 I guess what you're looking at here is, you
 24 know, can we assume that ALAE costs would
 25 decrease if we look at the Nova Scotia and

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1 New Brunswick experience with those costs
 2 post reform, and if that's not the case,
 3 what happens in terms of the impacts on any
 4 kind of premium savings that we might see
 5 from a reform?
 6 MR. ALLEN:
 7 A. Yeah, so what Chart 16 shows is the average
 8 ALAE cost per vehicle and for New Brunswick
 9 and Nova Scotia, blue being New Brunswick,
 10 green being Nova Scotia, and so as we've
 11 seen on other charts, there's a high point
 12 early in the 2000s, so this chart begins in
 13 2001 and average ALAE cost per vehicle is
 14 relatively, it's higher at the beginning of
 15 this period, and it starts to decrease. The
 16 reforms in those two provinces which took
 17 place in 2003, in New Brunswick between 2003
 18 to 2004, we see a drop in ALAE cost per
 19 vehicle, but then we see a rebound in 2005.
 20 If you take out 2004 which appears to be
 21 unusual relative to the trend that's
 22 operating under the other points, we see a
 23 pretty smooth line from 2004 through to
 24 about 2008, see a reduction in ALAE per
 25 vehicle. That reduction was in place before

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1 the reforms, so what that calls into—what
 2 that suggests is that the reforms did not,
 3 themselves, cause the decrease in ALAE, that
 4 there was a trend already in place there.
 5 MR. FELTHAM:
 6 Q. If minor injury regulations don't bring
 7 about savings in the ALAE costs, what's the
 8 conclusion we reach or should reach with
 9 respect to any cost reductions and related
 10 premium savings from those?
 11 MR. ALLEN:
 12 A. Yes, we would expect—we would not expect
 13 savings due solely to caps. And that
 14 follows from the frequency—we've seen
 15 evidence that frequency does not decline or
 16 hasn't been appreciably affected by the
 17 reforms. So, once a claim is opened, their
 18 allocated loss adjustment expenses that are
 19 involved with resolving that, so if the
 20 frequency remains where it was going to be,
 21 ALAE is probably going to remain fairly
 22 close to what it was. So, looking at the
 23 green line, we see there—and in an even more
 24 pronounced fashion from 2002 to 2008, the
 25 ALAE cost per vehicle has, in Nova Scotia,

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1 declined in a fairly smooth fashion. It
 2 appears not to have been significantly
 3 affected by the cap that was put in place in
 4 2003.
 5 MR. FELTHAM:
 6 Q. And they've actually risen since 2008 in
 7 both provinces.
 8 MR. ALLEN:
 9 A. Yes, it can be expected that just inflation
 10 and the cost of ALAE will do that. You
 11 know, as I pointed out earlier, the severity
 12 per claim has increased in those two
 13 provinces since 2004. So, that can be
 14 expected.
 15 MR. FELTHAM:
 16 Q. And in question 4, if you would go to page
 17 21 please, I'm thinking this is more for
 18 illustrative purposes, but you're asked to
 19 assume all other Oliver Wyman assumptions
 20 and applicable factors remain as postulates.
 21 I guess, in other words, let's assume that
 22 Oliver Wyman's conclusions with respect to
 23 decrease in frequency that will come with
 24 the reform, changes in the ALAE costs to a
 25 decline, and the other items changing

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1 nothing in terms of those assumptions that
 2 Oliver Wyman has built into their
 3 calculations. You were asked what are the
 4 impacts on cost savings and premium—I'm
 5 sorry—and reductions for a cap equal to the
 6 present day Nova Scotia cap value of 8,579
 7 versus the 7,500 examined by Oliver Wyman?
 8 So, Oliver Wyman has a category of cap of
 9 \$7,500.00. It was what was put to them, I
 10 understand. Nova Scotia being the example
 11 here, their cap today is actually 8,579.00
 12 and if we use that figure instead, what is
 13 the difference in terms of the changes in
 14 savings and reductions cost?
 15 MR. ALLEN:
 16 A. Yeah, so the Nova Scotia cap was 7,500 in
 17 2010 and it is now increase with CPI each
 18 year. So, that's why it's now at almost
 19 8,600 compared to 7,500. And what you see,
 20 looking at the table, the first row of the
 21 table is an estimate of what the savings
 22 would be just based on Oliver Wyman's
 23 results for 7,500 and 10,000 and it will
 24 just be—I just project that it will be
 25 somewhere in between those two. I used a

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1 straight line approximation to show that the
 2 savings will be less than for 7,500. It
 3 would be more than for 10,000.
 4 MR. FELTHAM:
 5 Q. Okay. And then if we go to the final item
 6 here, Question 5 in your report. You were
 7 asked, "what is the current profitability of
 8 private passenger third party liability
 9 insurance in Newfoundland and Labrador"?
 10 How does that compare to the results for New
 11 Brunswick and Nova Scotia"? So, what are
 12 you being asked here?
 13 MR. ALLEN:
 14 A. Yes, so this report which is produced by
 15 GISE, the General Insurance Statistical
 16 Agency, breaks down, it allocates premiums,
 17 claims and expenses between jurisdictions.
 18 And in order to estimate profitability in
 19 each jurisdiction, it is inherently an
 20 estimate because there are many costs and
 21 revenue sources within an insurance company
 22 that will be generated throughout the
 23 company that may not be ear marked to
 24 specific provinces. But what this does, at
 25 least as an approximation this shows what

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1 the net income was to the industry of in
 2 each province for the third party liability
 3 coverage. And what we're seeing is that in
 4 2016, the profitability, the net income in
 5 Newfoundland and Labrador is a loss of 4.6
 6 million. However, that's that less of a
 7 loss than we're seeing in New Brunswick and
 8 Nova Scotia. New Brunswick almost
 9 31,000,000; Nova Scotia, 27,000,000. So,
 10 the point that I would just make is that the
 11 reforms for what they've done, they haven't
 12 resolved the issue of stability of premium
 13 in those two provinces. If the coverage is
 14 not making money in those provinces, then
 15 rate increases are likely to be necessary.
 16 MR. FELTHAM:
 17 Q. Mr. Allen, I guess it's fairly obvious from
 18 the chart, but in fact, this would suggest
 19 insurers are doing better in Newfoundland
 20 and Labrador on this particular piece.
 21 MR. ALLEN:
 22 A. Yes. You know, I mean, all the caveats
 23 about how this is, this depends on
 24 allocations that may or may not—that are
 25 approximate.

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1 MR. FELTHAM:
 2 Q. Allocations, who is doing the allocating?
 3 MR. ALLEN:
 4 A. GISA is.
 5 MR. FELTHAM:
 6 Q. Okay. Chair and Commissioners, that
 7 concludes the presentation of Mr. Allen’s
 8 report and he’s available for questioning.
 9 CHAIR:
 10 Q. Thank you, Mr. Feltham; thank you, Mr.
 11 Allen. Mr. Gittens, do you have any
 12 questions?
 13 MR. GITTENS:
 14 Q. Thank you, Madam Chair. Mr. Allen, I just
 15 want to go back, first of all, to your
 16 background and the breath of what you do.
 17 And I want to find out a little bit what you
 18 currently do. First of all, it’s obvious
 19 from your CV that you’ve been in the
 20 industry for many years. I take it you’ve
 21 worked on behalf of the insurance companies
 22 for many of those years.
 23 MR. ALLEN:
 24 A. That is correct.
 25 MR. GITTENS:

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1 Q. Okay. And you have gone into consulting
 2 over the last eight years, was it?
 3 MR. ALLEN:
 4 A. Yes.
 5 MR. GITTENS:
 6 Q. And in that capacity, do you still work for
 7 the insurance industry at times and for
 8 persons or organizations challenging the
 9 industry, on occasion?
 10 MR. ALLEN:
 11 A. Yes, I currently do work for insurance
 12 companies and I’m also retained by
 13 plaintiffs as well as defendants to provide
 14 expert testimony on economic damages.
 15 MR. GITTENS:
 16 Q. So, you’re on both sides of the fence
 17 depending upon the retainer, as it were.
 18 MR. ALLEN:
 19 A. I’m independent, yes.
 20 MR. GITTENS:
 21 Q. Yes, that’s another way of putting it,
 22 you’re right. Okay, so with that
 23 background, my next series of questions is
 24 to assist myself, quite frankly, and
 25 hopefully the Board, in some of the basic

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1 concepts of what was going on when we were
 2 talking about the taxi industry study.
 3 Because as a novice, as a neophyte in this
 4 area, my understanding of insurance is that
 5 the basic concept was to have a pool of
 6 insurance purchasers so large that within
 7 that pool, people who may be higher risk or
 8 end up costing more will be covered by the
 9 great majority of—their costs will be eaten
 10 up or covered by the great majority of the
 11 participants. Am I getting that correct?
 12 You can probably put it much more elegantly
 13 that I just did, but please try.
 14 MR. ALLEN:
 15 A. Yes, it is true that those whose claims
 16 costs are unforeseeable in the year coming
 17 up, yes, those who have claims will, their
 18 costs will be borne by, on those who have
 19 smaller or no claims. The distinction that
 20 I would make is if it can be ascertained in
 21 advance, that some insureds have a higher
 22 propensity, either for incurring a claim or
 23 incurring larger claims, then the rate
 24 making principles as promulgated by
 25 actuarial organizations propose

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1 differentiating that indicating a higher
 2 rate for those who are more likely to have
 3 claims and lower rates for those who are
 4 less likely.
 5 MR. GITTENS:
 6 Q. Okay, so therefore I think what you’re
 7 saying is what your current president calls
 8 the bad actors. If you can identify the bad
 9 actors, you can segregate them and charge
 10 them a higher premium and leave the pool
 11 undetermined or more regular folk to pay
 12 their premiums to cover that group and
 13 within that group, any additional bad actors
 14 would be covered that group.
 15 (10:45 a.m.)
 16 MR. ALLEN:
 17 A. I’m sorry, when you mentioned the second
 18 group, additional bad actors, and I’ll use
 19 the term, higher claims costs or higher loss
 20 cost insured, are you speaking of an
 21 additional unidentified group of higher
 22 costs –
 23 MR. GITTENS:
 24 Q. Yeah, I’m thinking that in part of any large
 25 group you’re going to find some people who

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1 are higher costs—what did you say—higher
 2 costs –
 3 MR. ALLEN:
 4 A. Yes, higher loss cost insureds.
 5 MR. GITTENS:
 6 Q. - higher loss costs and the intention of the
 7 insurance program is to have their costs
 8 spread among the larger population.
 9 MR. ALLEN:
 10 A. Yes, those who have claims will be higher
 11 loss cost and yes, their claims will be
 12 spread amongst the larger group. Those who
 13 could be identified as higher claims costs,
 14 ideally they would not be included in
 15 that group. They would be in their own
 16 group. There is always the risk that there
 17 are individuals who cannot be identified in
 18 advance and that’s why there are things like
 19 claims surcharges to try to equalize their
 20 subsequent premiums. But yeah, there is
 21 always a risk that there are individuals
 22 who, at the current state of the art in
 23 insurance, are not yet identified.
 24 MR. GITTENS:
 25 Q. Okay. Because it strikes me that if you

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1 segregate out the taxi industry and you say,
 2 well those guys are going to be higher loss
 3 cost participants and you put them in a
 4 separate group, you being-essentially put a
 5 group that needs to pay more or higher
 6 premiums from the get go. Am I getting that
 7 correct?
 8 MR. ALLEN:
 9 A. It is correct that if you use taxi or
 10 driving a taxi as the primary identification
 11 of those individuals, yes, as a group, they
 12 will have higher loss cost than other
 13 vehicles and that’s as demonstrated in the
 14 statistics that I showed. Within that
 15 group, there will likely be some who have
 16 lower loss costs and other who have higher
 17 loss costs and with skill or with
 18 statistics, that could be predicted in
 19 advance. As the Facility Association told
 20 us, there are the statistics at the moment
 21 to identify those individuals and there
 22 aren’t the incentives at the moment, there
 23 isn’t the confidence in the insurance
 24 industry that its expertise will identify
 25 those higher, or lower loss cost

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1 individuals. So, at the moment, there’s an
 2 impasse, but it’s conceivable that the taxi
 3 group can be subdivided into smaller groups,
 4 some of which have higher loss costs, other
 5 have lower loss cost.
 6 MR. GITTENS:
 7 Q. And I take it, we just identified a taxi
 8 group, but the reality is that there are any
 9 number of factors that can be applied to
 10 discriminate to segregate parts of the
 11 population. I believe years ago that we
 12 segregated young drivers, anybody under 25
 13 have a higher premium if they were just
 14 getting into the driving industry and so on.
 15 Was that—am I getting that correct or am I
 16 making that up in my own head.
 17 MR. ALLEN:
 18 A. Yes, that’s correct.
 19 MR. GITTENS:
 20 Q. Okay. So, you may have young people, you
 21 may have elderly drivers. Whatever
 22 designation you want to put on it, you are
 23 able then to create a separate group for
 24 them which would be at a higher premium than
 25 your general population group.

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1 MR. ALLEN:
 2 A. To the extent they’ve been identified as
 3 higher loss cost, yes.
 4 MR. GITTENS:
 5 Q. Okay. So, when we are dealing with the taxi
 6 industry in this province, and you were
 7 telling us that essentially the studies took
 8 in about 800 or 900 taxis compared to
 9 300,000 of the general population drivers.
 10 MR. ALLEN:
 11 A. Yes.
 12 MR. GITTENS:
 13 Q. Which obviously is an extremely small group
 14 of high loss cost individuals as identified
 15 either by the insurance industry or by
 16 government agency or however they were
 17 determined to be in that group. Is that a
 18 fair statement?
 19 MR. ALLEN:
 20 A. Yes.
 21 MR. GITTENS:
 22 Q. Okay. So, using another American expression
 23 I guess, from the old banks in 2008, too big
 24 to fail. What we’ve actually done is
 25 created a systemic designed group that’s

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1 designed to fail. If they're all going to
 2 be put into the Facility Association and
 3 we've all grouped all these high loss cost
 4 individuals—I prefer bad actors because it's
 5 such an easier thing to say—but higher loss
 6 cost, we've put them all in there. We have
 7 to expect that their premiums are going to
 8 go through the roof. Fair statement?
 9 MR. ALLEN:
 10 A. To the extent that they're not being
 11 differentiated and you know, based on the
 12 loss cost or the statistics that have been
 13 presented, yes, their premiums will need to,
 14 well their loss cost are higher. Through
 15 the mechanism at the Facility Association,
 16 some portion of their costs are being
 17 distributed amongst the industry as a whole,
 18 but yeah, without—if the only identification
 19 is that they drive a taxi, then yes, the
 20 loss costs will be high.
 21 MR. GITTENS:
 22 Q. So, we've grouped them into one group where
 23 we would expect that their loss cost
 24 experience is going to be substantially
 25 higher than the general population group.

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1 MR. ALLEN:
 2 A. Yes, they have been grouped like that, yes.
 3 MR. GITTENS:
 4 Q. Fair statement, okay. So, we can say,
 5 however we do that's been systemically
 6 designed to operate in that fashion.
 7 MR. ALLEN:
 8 A. I would hesitate to say systemically.
 9 Facility Association has identified that
 10 it's unfortunate that there are not more
 11 detailed statistics available to
 12 differentiate individuals within that group.
 13 And has also indicated that underwriting
 14 expertise, the insights that come from
 15 experience are also, that insurers have
 16 within their skillset, that that expertise
 17 is also capable of identifying lower loss
 18 cost individuals. At the moment there's an
 19 impasse in the sense that there's neither
 20 the statistics nor an incentive or
 21 confidence within insurance companies that
 22 there is a large enough market there.
 23 Someone needs to demonstrate that to the
 24 insurance industry.
 25 MR. GITTENS:

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1 Q. So, we're not going to put his on the taxi
 2 drivers, they are not going to keep those
 3 type of statistics. But this is 2018 and I
 4 would think the insurance industry has the
 5 capacity to create those statistics to be
 6 able to make the informed decisions that
 7 people like yourself do, the calculations of
 8 risk and so on to be able to price or to
 9 identify the low loss cost individuals in
 10 that group. Is that a fair statement?
 11 MR. ALLEN:
 12 A. I would say there is a number of bodies that
 13 could take the initiative on that, you know.
 14 It could be the government, it could be an
 15 across Canada organization of taxi drivers,
 16 perhaps if there's a large enough number of
 17 individuals with an interest in it, it could
 18 be them. It could be the insurance
 19 industry, although the insurance industry
 20 has, as pointed out by the Facility
 21 Association, has questions as to whether
 22 there's enough volume to, for it to be
 23 financially sustainable for them to do that.
 24 So, the question is, who is going to take
 25 the initiative? That's what I've seen as

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1 the question in what's being presented.
 2 MR. GITTENS:
 3 Q. So, if we go back to the source of the
 4 complaint, shall we say, the taxi drivers
 5 can complain that they're being charged too
 6 much in the Facility Association book of
 7 rates. The insurance industry can say gee,
 8 sorry, we don't have enough information to
 9 segregate out the low cost individual taxi
 10 drivers and have a different level for them.
 11 So, you're going to be lumped in with all
 12 the high cost taxi drivers, in this very
 13 small sample, 8 or 900, and what you're
 14 telling us is until somebody breaks that
 15 impasse, it's just going to remain that way.
 16 MR. ALLEN:
 17 A. That's my understanding, yes.
 18 MR. GITTENS:
 19 Q. Okay, fair enough. So, we know who can do
 20 something and who is just sitting back and
 21 complaining about it in the sense of saying
 22 that we don't have the information to make
 23 those decisions. When you spoke earlier
 24 about the issue—and you had a fair number of
 25 charts showing the frequency of incidents

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1 and I'm moving on now from the taxi drivers
 2 to the third party liability claims. The
 3 take away I got from pretty much everything
 4 you were saying in that regard was that,
 5 let's face it, whether we put in caps,
 6 deductibles, get up in the morning and swear
 7 you're going to be a good person, whatever
 8 mechanism you put in there is not going to
 9 change the frequency of accidents and then
 10 as a result of that, the frequency of
 11 claims. Am I getting that correct or am I
 12 making that one up because I've tended to do
 13 that, you know.

14 MR. ALLEN:
 15 A. The empirical evidence suggests that the
 16 measures that have been put in place haven't
 17 taken the frequency off the path that it was
 18 already on. Now, in terms of the true
 19 cause, you know, looking at the metaphysics
 20 of it, that perhaps, you know, we don't know
 21 the precise reason that claims have
 22 declined. We do know that they started
 23 declining before reforms and that the rate
 24 of decline didn't accelerate in a sustained
 25 fashion after the reforms.

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1 MR. GITTENS:
 2 Q. Okay. So, I get it. I take it what you're
 3 saying there is that we're talking for weeks
 4 now about putting in caps and not putting in
 5 caps and so on, but on the issue of the
 6 frequency of the occurrence, caps/no caps
 7 are not going to make a hell of a
 8 difference.

9 MR. ALLEN:
 10 A. It could be that individuals knowing,
 11 individual drivers knowing that they're
 12 more, that they are taking more risk when
 13 they get behind the wheel, may choose not to
 14 drive. There could be factors like that.
 15 Maybe they would drive more carefully—the
 16 empirical evidence doesn't suggest that
 17 that's happened, but it is possible that
 18 there is what's called more hazard that is
 19 when someone doesn't face the consequences
 20 of their negligent actions. They may be
 21 more likely to engage in those negligent
 22 actions. The empirical evidence that we
 23 have that I've seen is that the reforms
 24 themselves didn't change the frequency from
 25 the path that it was already on.

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1 MR. GITTENS:
 2 Q. That's fair to say, I think, from your own
 3 experience, that for at least three to five
 4 minutes after I see a police car on the
 5 opposite side of the road, I drive a lot
 6 better, but after seven, eight, nine
 7 minutes, I go back to my normal driving
 8 which may not be as good as it should be.
 9 That's the normal experience, is it not?
 10 So, if we're told about caps for a period of
 11 time, it might come to our attention when we
 12 get into the car, but by and large we revert
 13 back to the norm in some degree of time.

14 MR. ALLEN:
 15 A. That's possible. And I don't have any
 16 evidence on that. I've seen the rate at
 17 which claims occur. I mean, as we saw
 18 yesterday people are often, unfortunately,
 19 not necessarily aware of the extent of
 20 coverage that they have in light of the fact
 21 that insurance is fairly technical.

22 MR. GITTENS:
 23 Q. We'll get to that in a second in terms of
 24 the coverage that Newfoundlanders seem to
 25 carry and why. But at the end of the day we

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1 can, as a bottom line for this Board, say
 2 that there is no empirical evidence to tie
 3 in that there will be a drop in the
 4 frequency rate simply because a cap is
 5 instituted.

6 MR. ALLEN:
 7 A. My interpretation of the empirical evidence
 8 is that that has not happened. And that
 9 Oliver Wyman has done a study that says it
 10 has, that based on what I see, I haven't
 11 seen a sustained –

12 MR. GITTENS:
 13 Q. You're not convinced.

14 MR. ALLEN:
 15 A. I don't see it in data that I've seen,
 16 examined.

17 MR. GITTENS:
 18 Q. Okay, so when we talk about things like
 19 frequency however, you did mention that
 20 there may be some very practical things that
 21 can be do not within your expertise. You
 22 talked about certifying taxi driver or
 23 driver education, probably improving road
 24 signs and road quality and things of that
 25 sort, but certainly not simply by the

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1 introduction of some form of cap or
 2 insurance product.
 3 (11:00 a.m.)
 4 MR. ALLEN:
 5 A. Well, a cap, a low enough cap could reduce
 6 the cost of insurance and did, we have seen
 7 in New Brunswick and Nov Scotia in the year
 8 following the introduction of the cap,
 9 severity has dropped, although it has
 10 rebounded somewhat. But in terms of what
 11 would reduce the amount of loss, what would
 12 reduce the amount misery? The elimination
 13 of an accident will eliminate much more loss
 14 than a cap. A cap would shift the burden of
 15 the loss from one party, an insurer to
 16 claimant.
 17 MR. GITTENS:
 18 Q. They went onto the general population.
 19 MR. ALLEN:
 20 A. That's possible too, yes.
 21 MR. GITTENS:
 22 Q. Okay.
 23 MR. O'FLAHERTY:
 24 Q. Madam Chair, I've noticed a lot of the
 25 counsel looking at me and I thought it was

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1 at me, but I see there's a close behind me.
 2 CHAIR:
 3 Q. Yes, I'm just trying to—I was trying to find
 4 a good spot to stop. I didn't want to
 5 interrupt, Mr. Gittens. This might be a
 6 good time for break?
 7 MR. GITTENS:
 8 Q. Thank you.
 9 CHAIR:
 10 Q. Thank you, Mr. O'Flaherty.
 11 (BREAK – 11:02 a.m.)
 12 (RESUME – 11:30 a.m.)
 13 CHAIR:
 14 Q. Back to you, Mr. Gittens.
 15 MR. GITTENS:
 16 Q. Thank you, Madam Chair. Mr. Allen, this may
 17 be an unfair question because I'm just
 18 trying to deal with your broad experience,
 19 as I said. And I had forgotten to ask you a
 20 question on the taxi stuff. Essentially are
 21 you aware of the manner in which taxi
 22 drivers are dealt with in other Provinces in
 23 Canada, as opposed to through the Facilities
 24 Association?
 25 MR. ALLEN:

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1 A. No, I haven't looked into that.
 2 MR. GITTENS:
 3 Q. Fair enough, just thought I'd try. Okay, I
 4 wonder if you could move to your response to
 5 question number 4, second part of your
 6 second presentation. Yes. I noted that
 7 from your analysis there you've indicated
 8 that the cost of the third party liability
 9 premiums in this province since 2006/2007 to
 10 the current time, 2017 at least, there has
 11 been an increase that has been lower than
 12 the consumer price index. Am I correct in
 13 that?
 14 MR. ALLEN:
 15 A. Yes.
 16 MR. GITTENS:
 17 Q. Okay. I would suggest to you that the
 18 perception of the public is that their
 19 insurance premiums have continued to
 20 increase. So, I think what we're dealing
 21 with here would be a question of the facts
 22 versus the feelings. The facts, you're
 23 saying, is that third party costs, third
 24 party liability costs have not increased the
 25 same amount as the consumer price index, but

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1 the public perception is that their
 2 insurance keeps going up. Would you agree
 3 that that is a statement that covers both
 4 the general population and the facts as you
 5 found them here?
 6 MR. ALLEN:
 7 A. Certainly with respect to the facts that I
 8 presented here, yes. The premium has gone
 9 up less than the rate of inflation. As to
 10 what the public's understanding is, I have
 11 no comment.
 12 MR. GITTENS:
 13 Q. You don't know, but you indicated that in
 14 addition to finding that the third party
 15 liability cost of premiums has increased
 16 somewhat, but not at a level of the consumer
 17 price index. But in fact the overall cost
 18 to the Newfoundland population, Newfoundland
 19 and Labrador population as far as insurances
 20 go, that, in fact, has gone up because they
 21 have been purchasing additional insurance
 22 products. Am I getting that correct?
 23 MR. ALLEN:
 24 A. Yes. There have been price increases in
 25 excess of the rate of inflation on physical

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1 damage coverage as well, but yeah, certainly

2 there's been an increase in the rate at

3 which people are purchasing that.

4 MR. GITTENS:

5 Q. In addition to that and I'm always careful

6 because I could be making this up. I

7 thought you indicated somewhere along the

8 line that the additional coverage that

9 people get or the coverage that people get

10 from insurance, it is your belief that many

11 of them don't know what, in fact, they have

12 purchased. I think that came out as a

13 result of the evidence yesterday, the

14 testimony yesterday.

15 MR. ALLEN:

16 A. That's right. The responses to the

17 individuals testifying was that they did not

18 know.

19 MR. GITTENS:

20 Q. Which show that they really didn't

21 understand what Section B coverage was and

22 they may not have a real understanding of

23 what collision or comprehensive coverage

24 amounts to. Am I getting that –

25 MR. ALLEN:

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1 A. It's possible that they don't. I mean, the

2 comments yesterday were, yes, indeed about

3 Section B coverage. I don't know to what

4 extent that extends to the physical damage

5 coverage. People are—one might expect that

6 if people aren't aware of physical damage

7 coverage, optional physical damage coverage,

8 they wouldn't be purchasing it in greater

9 amounts than they were. They are buying it

10 in greater amounts. Perhaps it's their

11 broker who is recommending it, perhaps the

12 bank is requiring it as, you know, with a

13 bank loan or a lease. There could be a

14 number of discretionary or inertial reasons

15 that people are purchasing more of the

16 physical damage coverage.

17 MR. GITTENS:

18 Q. Okay. So, the bottom line from what you're

19 saying is you're aware and your figures

20 support the fact that Newfoundlanders and

21 Labradorians are buying more of other lines

22 of insurance, other insurance products. I'm

23 taking about collision, comprehensive,

24 property damage. They're buying those, but

25 you're not sure that they may all appreciate

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1 what that really amounts to.

2 MR. ALLEN:

3 A. I really have no comment about their

4 appreciation of that. I heard a comment

5 yesterday about Section B. I can only

6 speculate as to people's aware of the

7 optional physical damage –

8 MR. GITTENS:

9 Q.

10 A. Of what those options are and what they

11 actually mean.

12 MR. ALLEN:

13 A. Just one comment I'd like to make. You

14 mentioned property damage, if you're

15 speaking of third party liability property

16 damage, that's a mandatory coverage. So,

17 there's no discretion there. It's the

18 collision, comprehensive, all perils, those

19 are a separate class of optional coverages.

20 MR. GITTENS:

21 Q. And if I remember, I don't remember what

22 table you had, you showed that from

23 Newfoundland and Labrador, started off as

24 being the lowest purchaser of those optional

25 coverages, but currently are the largest

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1 purchaser of those coverage compared to the

2 other Atlantic Provinces. Am I correct on

3 that?

4 MR. ALLEN:

5 A. Yes, only speaking specifically of

6 comprehensive coverage. With respect to

7 collision coverage, Newfoundland was higher

8 up at the beginning of—higher than other

9 provinces, but –

10 MR. GITTENS:

11 Q. If you could just refer—which tables were

12 those again?

13 MR. ALLEN:

14 A. Chart 8 and chart 9 on page 10.

15 MR. GITTENS:

16 Q. Okay. And 8 is in relation to collision

17 coverage.

18 MR. ALLEN:

19 A. Yes.

20 MR. GITTENS:

21 Q. And Newfoundland started off at about 63 and

22 now it's 76. And comprehensive coverage

23 started off again at about 63 percent and

24 now are the highest at 81 percent. That's

25 for comprehensive coverage by province

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1 compared to the other Atlantic Provinces.
 2 MR. ALLEN:
 3 A. Correct.
 4 MR. GITTENS:
 5 Q. Alright. So, while we know this Board has
 6 to deal with both the fact and the feelings
 7 in terms of what it's going to go resolve at
 8 the end of the day, the facts are that
 9 Newfoundlanders and Labradorians are buying
 10 more insurance coverage. Further fact is
 11 that third party liability costs, premium
 12 costs has not kept up with inflation.
 13 MR. ALLEN:
 14 A. That's correct.
 15 MR. GITTENS:
 16 Q. Okay, good enough. Then I'd like to look at
 17 your question 5. You're making some
 18 comments in relation to question 5. Okay,
 19 in question 5, you're being asked the trend
 20 for frequency of third party liability
 21 property damage claims. How does that
 22 compare to bodily injury frequency? But if
 23 I recall you saying that this was not the
 24 full story. This is not the chart I'm
 25 actually looking for. There was a chart in

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1 which you provided the relative costs losses
 2 for the industry in the Province. Could you
 3 get to that chart, please?
 4 MR. ALLEN:
 5 A. Are you speaking of losses in terms of
 6 profit and loss?
 7 MR. GITTENS:
 8 Q. Yes.
 9 MR. ALLEN:
 10 A. Yes. That's page 22.
 11 MR. GITTENS:
 12 Q. Okay, thank you. We have that chart now.
 13 When you were describing the performance of
 14 the insurance industry and you were looking
 15 at Newfoundland and Labrador, you said there
 16 was a loss in, I believe, it was third party
 17 liability of four hundred six hundred and
 18 twenty million?
 19 MR. ALLEN:
 20 A. 4,620,000.
 21 MR. GITTENS:
 22 Q. I was close, 4,620,000. Then you mentioned
 23 that that's not the full picture. I thought
 24 you did anyway because it doesn't really
 25 account for the allocations. Am I getting

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1 that correct?
 2 MR. ALLEN:
 3 A. There are allocations that are made and my
 4 understanding is this is all encompassing
 5 profit and loss, but what I was bringing up
 6 is that there are expenses and revenues that
 7 are, in fact, not allocated, not specific in
 8 the operations of the insurance company to
 9 either Newfoundland and Labrador, nor to
 10 this coverage in particular. Like, for
 11 instance, investment income is not—
 12 investments aren't made specific to premium
 13 brought in from third party liability from
 14 Newfoundland and Labrador. The insurance
 15 company will invest funds through its—
 16 collected from other jurisdictions, other
 17 coverages in one pool. And similarly there
 18 are expense that are incurred, that are
 19 incurred from an office. Let's say an
 20 office could be in another province, but
 21 serving Newfoundland and Labrador and it's
 22 serving other coverages, the rent, the heat,
 23 even some of the salaries will, in fact, be
 24 shared between this coverage, this province
 25 and others jurisdictions, other coverages.

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1 MR. GITTENS:
 2 Q. So, when we look at this 4,620,000, do I
 3 understand you to be saying while that's a
 4 figure that's here to be compared with the
 5 31,000,000 loss in New Brunswick and the
 6 27,000,000 loss in Nova Scotia. The reality
 7 is that there are aspects of those numbers
 8 which are not reflected at the current time,
 9 in those figures.
 10 MR. ALLEN:
 11 A. If I'm understanding your question
 12 correctly, when you say not reflected at the
 13 current time, I'm not sure what you're
 14 meaning by that.
 15 MR. GITTENS:
 16 Q. Okay. Well, let's break it down then.
 17 There's \$4,620,000.00 in loss. That's for
 18 2016.
 19 MR. ALLEN:
 20 A. Yes.
 21 MR. GITTENS:
 22 Q. You talked about allocations, but another
 23 word for allocations or one component of
 24 allocations would be the reserves that are
 25 being held to pay off claims that are

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1 associated with the insurance year or claims
 2 year 2016. Is that correct?
 3 MR. ALLEN:
 4 A. The reserves are indeed an expense component
 5 reflected here. Those are actually—actually
 6 that’s not what I would first describe as an
 7 amount to be allocated. Those are actually
 8 more readily identified to this coverage in
 9 this province.
 10 MR. GITTENS:
 11 Q. Okay. So, the reserves are something quite
 12 different than the allocation, but the
 13 reserve for 2016, I take it, would not have
 14 settled as yet, because that’s very recent.
 15 It’s two years ago and there may be still
 16 claims to be paid out for 2016 which those
 17 reserves may be intended to cover and when
 18 they’re done, there may be some left over
 19 that will go back into profit as opposed to
 20 being associated with a loss.
 21 MR. ALLEN:
 22 A. No, those amounts, they are not specific to
 23 accidents in 2016. They are specific to
 24 insurance company operations in the
 25 financial year 2106. So, there will indeed

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1 be reserves in that number. There also will
 2 be reductions in reserves from previous
 3 accident years or increases in reserves from
 4 previous accident years. So, it is not the
 5 case that this figure represents 2016 claims
 6 exclusively at a young age.
 7 (11:45 a.m.)
 8 MR. GITTENS:
 9 Q. Okay, so when the dust settles, taking from
 10 your testimony and the figures produced
 11 here, there’s one thing we can say. We can
 12 say that 4,620,000 is not the final word on
 13 the performance of the insurance industry in
 14 Newfoundland and Labrador for the year 2016.
 15 MR. ALLEN:
 16 A. In terms of financial reporting, it is the
 17 final word, although it’s allocated. In
 18 terms of what had gone into that, there are
 19 indeed claims in progress, and so in
 20 subsequent calendar years, yeah, those
 21 claims, depending how they’re –
 22 MR. GITTENS:
 23 Q. That final word will change in a year’s time
 24 when some more of the 2016 claims have
 25 solidified or completed?

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1 MR. ALLEN:
 2 A. That will go into a subsequent row in this
 3 table for 2017 or 2018. If those claims –
 4 if the estimated value of those changes,
 5 then that change will be reflected in the
 6 year in which the change is made. So if
 7 they change in 2017, that will go into the
 8 row 2017. If they change in 2020, then it
 9 would go into a subsequent row in 2020.
 10 2016 would not change.
 11 MR. GITTENS:
 12 Q. That really confuses me, I’ll tell you,
 13 because I’m asking if indeed when the
 14 insurance industry reports its performance
 15 for the year 2016, and part of that
 16 performance reflects that they have had
 17 losses as a consequence of payouts for third
 18 party liability claims, bodily injury, that,
 19 in fact, because that’s a recent year and
 20 there are still reserves being held to pay
 21 for claims that arose in 2016, that that
 22 figure is not the final figure that will
 23 reflect how they actually performed for the
 24 year 2016? Am I making a complete
 25 misunderstanding – am I displaying my

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1 complete ignorance here, or can you help me?
 2 MR. ALLEN:
 3 A. No, no, it is correct that for claims that
 4 occurred in 2016, the outcomes of those will
 5 be distributed over a number of financial
 6 statements issued and reported by the
 7 insurance company. So those will be seen in
 8 subsequent rows of it. To the extent this
 9 table is updated, those would be seen in
 10 subsequent rows. The income of an insurance
 11 company reported its financial year end is
 12 the mix of payments and estimates, and if
 13 there are changes in estimates, those are
 14 assigned to that particular year. If you’re
 15 speaking of how the 2016 underwriting year
 16 performs, yes, that will take a number of
 17 years to be finalized.
 18 MR. GITTENS:
 19 Q. So, I guess, my question becomes when we
 20 look at figures like this and a claim is
 21 being made that there was a loss of
 22 \$4,620,000.00 in the Newfoundland and
 23 Labrador environment, the fact that figure
 24 does include an amount that has been
 25 reserved for the settlement of claims that

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1 occurred in 2016, but may not be settled
 2 until 2017, '18, '19, or '20?
 3 MR. ALLEN:
 4 A. That is correct, yes.
 5 MR. GITTENS:
 6 Q. So the profits that they made from what they
 7 did underwriting in 2016 may not show up on
 8 their books until '17, '18, '19, '20, '21,
 9 until that 2016 year has been completely
 10 dealt with?
 11 MR. ALLEN:
 12 A. That is correct, yes. Each years financial
 13 statements is a measure, it's the best
 14 information available at the time, but the
 15 best information available at the end of
 16 2016 on claims that occurred in 2016, it is
 17 the best information available at the time,
 18 but it's subject to adjustment at later
 19 years.
 20 MR. GITTENS:
 21 Q. Okay, and I take it you are familiar with
 22 the history of what took place because you
 23 have the charts between 2003 and 2008 in the
 24 other provinces where the cap came in, and
 25 the argument for the cap was that the

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1 insurance companies were losing money. In
 2 fact, for the next five years or so, they
 3 made substantial profits in the range of
 4 between 20 and 30 percent ROE, simply
 5 because what had occurred in 2001, 2002, and
 6 2003, had not come home to roost until '05,
 7 '06, and '07, later years?
 8 MR. ALLEN:
 9 A. Yeah, I don't have any comment on what the
 10 rates were that were charged in those
 11 provinces subsequent to the –
 12 MR. GITTENS:
 13 Q. Yeah, I'm not talking about the rates. I'm
 14 talking about the results, the profits that
 15 they made after the introduction of caps in
 16 Nova Scotia, New Brunswick, and PEI, in
 17 2003, which were presumably brought in to
 18 assist the industry in becoming profitable,
 19 and then for those next five or six years
 20 they were extremely profitable because the
 21 results exceeded the expectations, and also
 22 exceeded what they had told the various
 23 boards they anticipated for those years?
 24 MR. ALLEN:
 25 A. Not having looked at, unlike what you've

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1 done, I haven't looked at the results for
 2 those years. I haven't referred to this
 3 table for those years, so I don't have any
 4 comment on that.
 5 MR. GITTENS:
 6 Q. Okay. No further questions for this
 7 witness, Madam Chair.
 8 CHAIR:
 9 Q. Thank you, Mr. Gittens. Ms. Fraize, do you
 10 have any questions for this witness?
 11 MS. FRAIZE-BURRY:
 12 Q. We have no questions.
 13 CHAIR:
 14 Q. No questions, thank you. IBC.
 15 STAMP, Q.C.:
 16 Q. Yes, thank you. Mr. Allen, just a few
 17 questions on the Taxi Report material, if we
 18 could. Did I understand you to say that the
 19 chart at the second page of your report – I
 20 don't guess the pages are there. It's the
 21 2015 accident year results chart.
 22 MR. ALLEN:
 23 A. Yes.
 24 STAMP, Q.C.:
 25 Q. This is the second page of your April 4th

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1 letter. Did you say that the 795 FA taxis,
 2 the earned vehicles for 2015, that that was
 3 about 95 percent or something?
 4 MR. ALLEN:
 5 A. That represents – according to Oliver Wyman,
 6 that represents 95 percent of the taxis in
 7 Newfoundland and Labrador.
 8 STAMP, Q.C.:
 9 Q. And so should we assume that 5 percent are
 10 either uninsured or insured somewhere else?
 11 MR. ALLEN:
 12 A. I would – it could be there are those, I
 13 suspect, insured somewhere else, but I don't
 14 know.
 15 STAMP, Q.C.:
 16 Q. All right. In terms of, I guess, your
 17 Comment 3 which, I guess, picks up on this
 18 chart as well, I guess, if I – if I sort of
 19 summarize where I think you are, you're
 20 thinking that FA should try and download or
 21 offload some of the taxi business?
 22 MR. ALLEN:
 23 A. Yes, FA wishes to do so if they can.
 24 STAMP, Q.C.:
 25 Q. But, of course, that issue of who insures

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1 the taxis, that only just determines, I
 2 guess, what premium those taxis will pay. I
 3 mean, if they're moving to a different
 4 market from FA, maybe their taxi rates might
 5 lower, I don't know, but let's assume that
 6 they might, it only – where they are,
 7 whether they're in FA or out of FA, only
 8 decides how much premium they pay?
 9 MR. ALLEN:
 10 A. No, I would actually make the comment, I
 11 think I made it here, that to the extent
 12 that the lower loss cost risks are moved out
 13 of FA, then there's less opportunity to
 14 subsidize the higher loss cost.
 15 STAMP, Q.C.:
 16 Q. Yes, I was going to come to that, but what
 17 it means is that if you take some of those
 18 drivers, the taxis, out of FA, leaving we'll
 19 say the worst taxis who can't get out, those
 20 worst drivers will pay more and the people
 21 who come out will pay less? Is that the
 22 broad strokes of what you're saying?
 23 MR. ALLEN:
 24 A. Yes.
 25 STAMP, Q.C.:

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1 Q. But the taxi loss, that deals with premium,
 2 does it not? That discussion deals with
 3 premium. Where these people are insured,
 4 there's a focus of premium payments, premium
 5 costs?
 6 MR. ALLEN:
 7 A. If they were to be moved from Facility to a
 8 commercial insurer, it would result in a
 9 different premium, is that what you're
 10 asking?
 11 STAMP, Q.C.:
 12 Q. I'm assuming that's what would happen.
 13 MR. ALLEN:
 14 A. Yes, in that I would expect that the
 15 commercial – well, I would expect that the
 16 commercial insurers would choose the lower
 17 loss cost taxis in the sense that – to the
 18 extent they're able to identify them, that
 19 would be their first choice. If they were
 20 able to charge the premium sufficient for
 21 the other risks – Facility Association
 22 hasn't been able to do that, but if
 23 commercial insurers were able to do that,
 24 they presumably would also – they might also
 25 choose to insure higher loss cost taxis at a

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1 commensurate premium.
 2 STAMP, Q.C.:
 3 Q. But the taxi loss issues, which is what you
 4 were focused on in that chart we looked at,
 5 I guess, the loss cost per vehicle, you
 6 know, a factor of ten or so, or whatever it
 7 was, higher than private passengers, that
 8 loss cost, that exists based not on who
 9 insures the taxis, but on who drives the
 10 taxis?
 11 MR. ALLEN:
 12 A. That's correct, yes.
 13 STAMP, Q.C.:
 14 Q. Isn't that right?
 15 MR. ALLEN:
 16 A. Yes.
 17 STAMP, Q.C.:
 18 Q. So the theory that you've, I guess,
 19 suggested could play out is you make the
 20 worst taxi drivers pay that much more. They
 21 can't stay in the market, they can't even
 22 live in the market of last resort. It's
 23 just so expensive, they can't stay?
 24 MR. ALLEN:
 25 A. Uh-hm.

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1 STAMP, Q.C.:
 2 Q. Is that – is that the thinking?
 3 MR. ALLEN:
 4 A. Yes.
 5 STAMP, Q.C.:
 6 Q. So when I look at – when I look at the
 7 Cameron Report, which you are commenting on,
 8 at page 15, I think, of the Cameron Report –
 9 so when I look at this page, Mr. Allen, I
 10 see that there are, I guess, 31/110 non-
 11 listed individually rated taxi drivers. I
 12 guess, some, I don't know, 28 percent maybe
 13 or so. So about 28 percent of the drivers
 14 are not listed?
 15 MR. ALLEN:
 16 A. Yes.
 17 STAMP, Q.C.:
 18 Q. According to this commentary here?
 19 MR. ALLEN:
 20 A. On this sample of claims, yes.
 21 STAMP, Q.C.:
 22 Q. Right, and then when I compare that to the
 23 251,000 to the 663, that's about 38 percent
 24 roughly?
 25 MR. ALLEN:

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1 A. Oh, yes, okay, yes. I'm sorry, could you
 2 repeat the percentage?
 3 STAMP, Q.C.:
 4 Q. Well, I observed that it's about 28 percent
 5 for the number of files, and about 38
 6 percent for the total of the expenses?
 7 MR. ALLEN:
 8 A. Yes.
 9 STAMP, Q.C.:
 10 Q. More or less?
 11 MR. ALLEN:
 12 A. Okay, yes.
 13 STAMP, Q.C.:
 14 Q. And, I guess, what I'm focused on is this
 15 not listed individually rated driver, and
 16 there's a discussion above that says, "One
 17 of the areas of leakage identified was with
 18 respect to drivers not listed on policies.
 19 Although fleet policies do not always have
 20 to list their drivers, individual rated
 21 policies do". Cameron found some 30 - 38
 22 percent, which is what we just spoke about.
 23 So what I'm wondering is this, if you, for
 24 example, do what you talked about, you know,
 25 you leave the worst of the drivers in FA

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1 paying the highest premiums, what happens if
 2 they just move to taxi operations where
 3 they're not listed and they're still
 4 driving? Doesn't that defeat the objective?
 5 (12:00 p.m.)
 6 MR. ALLEN:
 7 A. That could be an unintended consequence,
 8 yes.
 9 STAMP, Q.C.:
 10 Q. I know this is speaking about accident
 11 benefits, but I presume if they're getting
 12 accident benefits, they're involved in third
 13 party claims as well?
 14 MR. ALLEN:
 15 A. Most – yeah, quite likely, yes.
 16 STAMP, Q.C.:
 17 Q. Sure. So you'd have to be able to say not
 18 only are they out of Facility themselves as
 19 a listed driver, they somehow can't get back
 20 in as an unlisted driver?
 21 MR. ALLEN:
 22 A. Oh, you mean if what I'm suggesting would
 23 work, it would be that they could not get
 24 back in as an unlisted driver?
 25 STAMP, Q.C.:

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1 Q. They could sneak right back in again as an
 2 unlisted driver. The word "sneak" is
 3 probably not the right word, but, you know,
 4 they could come back in?
 5 MR. ALLEN:
 6 A. Yeah, I'm not sure what the process would be
 7 by which they would do that, who they would
 8 – they would have to get the cooperation of
 9 a currently listed driver or – a currently
 10 operating taxi, so that perhaps – perhaps
 11 there are individuals who would do that. I
 12 suspect those who would allow them in would
 13 have their own difficulties with if the
 14 premium has risen.
 15 STAMP, Q.C.:
 16 Q. But that is certainly a potential that those
 17 worst drivers become unlisted drivers on
 18 another policy?
 19 MR. ALLEN:
 20 A. Perhaps.
 21 STAMP, Q.C.:
 22 Q. I wanted to look at your – I think it's in
 23 your Comment 6, but it's a chart, in
 24 particular. I'm looking at Chart 1 and 2 on
 25 page 7 of your taxi report.

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1 MR. ALLEN:
 2 A. Yes.
 3 STAMP, Q.C.:
 4 Q. And the two charts, Mr. Allen, are they not
 5 comparing a TPL BI and ALAE in Newfoundland
 6 with Nova Scotia?
 7 MR. ALLEN:
 8 A. Yes, they are.
 9 STAMP, Q.C.:
 10 Q. So the difficulty I have is that those
 11 costs, when I look at the Nova Scotia chart,
 12 particularly for, say, 2009 – maybe I should
 13 go to 2010. 2010, it looks to me like every
 14 year – because the scale on the left side is
 15 different, is it not?
 16 MR. ALLEN:
 17 A. No, the scale is the cost per vehicle.
 18 STAMP, Q.C.:
 19 Q. Sure, but the scale doesn't go as high in
 20 Nova Scotia as it does in Newfoundland?
 21 MR. ALLEN:
 22 A. Oh, that – yes, that's correct.
 23 STAMP, Q.C.:
 24 Q. And as a result, when I look at 2010 – when
 25 I look at the two scales, the two charts, I

<p style="text-align: right;">Page 117</p> <p>1 and 2, when I look at 2010, '11, '12, '13, 2 '14, '15, '16, in the Nova Scotia chart, the 3 Newfoundland costs will be off the chart, 4 won't they? 5 MR. ALLEN: 6 A. Yes, they would be – well, they would be 7 higher, yes. 8 STAMP, Q.C.: 9 A. Yeah, they don't fit on your chart. They 10 don't even fit on the Nova Scotia chart? 11 MR. ALLEN: 12 A. Correct. 13 STAMP, Q.C.: 14 Q. They're that high? 15 MR. ALLEN: 16 A. That's true, yes. Yeah, one chart goes to 17 \$350.00; the other goes to \$500.00, yes. 18 STAMP, Q.C.: 19 Q. Now on your – I guess, the other report, the 20 July 18 report, it's presented as a series 21 of – is it nine questions in the first 22 grouping and maybe five questions, I think, 23 in the second group? 24 MR. ALLEN: 25 A. Yes.</p>	<p style="text-align: right;">Page 119</p> <p>1 STAMP, Q.C.: 2 Q. So the questions are not your questions, 3 they are their questions? 4 MR. ALLEN: 5 A. Correct. I had had communications with them 6 before, and I'd done analyses before that I 7 had shared with them, but subsequent to that 8 they had these questions. 9 STAMP, Q.C.: 10 Q. And did the analysis that you had done 11 before suggest questions or focuses that you 12 should bring to their attention or bring to 13 the Board's attention? 14 MR. ALLEN: 15 A. Some did, yes. 16 STAMP, Q.C.: 17 Q. We've heard quite a bit about the, I guess, 18 rate of change in certain coverages and 19 expenses and so on in the various provinces, 20 Newfoundland and Nova Scotia and New 21 Brunswick. And I take it the general, I 22 guess, conclusion that you've come to is 23 that the rate of change doesn't appear to be 24 driven by the caps in some of the other 25 provinces that have been imposed? Is that</p>
<p style="text-align: right;">Page 118</p> <p>1 STAMP, Q.C.: 2 Q. So tell me how those arrangements were put 3 in place? I mean, by whom were you 4 contacted to assist in this presentation? 5 MR. ALLEN: 6 A. I was contacted by the Campaign. 7 STAMP, Q.C.: 8 Q. And who particularly? 9 MR. ALLEN: 10 A. Brad Wicks and Colin Feltham. 11 STAMP, Q.C.: 12 Q. Okay, and did you have phone discussions 13 with them or did you come and meet with 14 them, how did that work? 15 MR. ALLEN: 16 A. Both by phone and I met with them. 17 STAMP, Q.C.: 18 Q. Okay, and the series of questions that we're 19 looking at here, are these questions that 20 they put to you and you gave the answers, or 21 are these questions you posed that should be 22 answered and you posed the questions and you 23 posed the answers? 24 MR. ALLEN: 25 A. They posed the questions to me.</p>	<p style="text-align: right;">Page 120</p> <p>1 fair to say? 2 MR. ALLEN: 3 A. Yes. Some rates of change have been; some 4 have not. Frequency—the timing of changes 5 in frequency has not been directly aligned 6 with the timing of the reforms. 7 STAMP, Q.C.: 8 Q. But is a rate of change--I mean, when we 9 look at absolute numbers, absolute dollars 10 and so on, doesn't the rate of change sort 11 of—don't you lose something when you look at 12 just the rate of change and don't look at 13 the absolute numbers? 14 MR. ALLEN: 15 A. Oh yes, yes. 16 STAMP, Q.C.: 17 Q. So, coming right to the question that I 18 guess the Board is primarily interested in, 19 is you know, would the introduction of a cap 20 of 5,000 or 7500 or whatever the number 21 might be, is it not very realistic to assume 22 it would bring about a lowering of cost of 23 BI costs? 24 MR. ALLEN: 25 A. All else being equal?</p>

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1 STAMP, Q.C.:

2 Q. Sure.

3 MR. ALLEN:

4 A. Yes, it would.

5 STAMP, Q.C.:

6 Q. Sure.

7 MR. ALLEN:

8 A. Yes.

9 STAMP, Q.C.:

10 Q. I mean, it sounds—it doesn't sound like it's

11 very much even in debate if everything else

12 is equal, if you cap certain claims that are

13 presently being paid. If you cap them at

14 \$5,000, there will be a reduction in loss

15 costs?

16 MR. ALLEN:

17 A. That's correct. The frequency has—the

18 frequencies that I've seen don't appear to

19 have changed as a result of the caps, but

20 severity, its BI severities did decrease in

21 2004 compared to 2003.

22 STAMP, Q.C.:

23 Q. But is it possible that those changes would

24 have been different without the caps?

25 MR. ALLEN:

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1 A. Yes.

2 STAMP, Q.C.:

3 Q. I mean, the –

4 MR. ALLEN:

5 A. Yeah, the severity would, I have to imagine

6 would be higher without the caps than it

7 would have—than it was with the caps.

8 STAMP, Q.C.:

9 Q. Sure, right. So, the caps are doing

10 something?

11 MR. ALLEN:

12 A. Yes.

13 STAMP, Q.C.:

14 Q. It just may not be revealed in the

15 percentage changes?

16 MR. ALLEN:

17 A. You know, the percentage changes do reflect

18 the—I would expect that they would reflect

19 changes such as the introduction of caps.

20 STAMP, Q.C.:

21 Q. Sure.

22 MR. ALLEN:

23 A. Frequency has not shown evidence of being

24 affected. Severity, yes. It did decline

25 in—sharply declined in those provinces when

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1 it was introduced.

2 STAMP, Q.C.:

3 Q. And let's assume that even when it—when the

4 decline flattened--the severity I'm talking

5 about now, not frequency.

6 MR. ALLEN:

7 A. Yeah.

8 STAMP, Q.C.:

9 Q. Even when the severity of the decline seemed

10 to flatten with the caps in place, would it

11 not be reasonable to suppose that if the

12 caps were not in place, that the decline

13 would not have been more gradual? It might

14 have been an increase in fact in costs?

15 MR. ALLEN:

16 A. That's a reasonable conclusion.

17 STAMP, Q.C.:

18 Q. Sure.

19 MR. ALLEN:

20 A. Yes.

21 STAMP, Q.C.:

22 Q. Okay.

23 MR. ALLEN:

24 A. That has the offsetting impact of claimants

25 receiving less money for their injuries.

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1 STAMP, Q.C.:

2 Q. Oh, I understand, sure.

3 MR. ALLEN:

4 A. But yes, it—what we saw, what I saw on the

5 severities, the severities were lower. And

6 I don't know precisely that the caps were

7 the cause, but that's the most likely

8 explanation.

9 STAMP, Q.C.:

10 Q. But the very concept of a cap as in Nova

11 Scotia or New Brunswick or Prince Edward

12 Island, or the very concept of the threshold

13 in Ontario for example, which is around 35

14 or more thousand dollars, all of those

15 features are reducing claims costs, are they

16 not?

17 MR. ALLEN:

18 A. From what they would have been?

19 STAMP, Q.C.:

20 Q. Yes.

21 MR. ALLEN:

22 A. That's likely the case. Yeah, that would be

23 the case in those Atlantic Provinces that

24 have adopted them. Ontario there is a

25 question as Coulter—as Coulter Osborne

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1 raised that perhaps the costs of—with
 2 respect to a verbal threshold are eaten away
 3 by the cost of expert reports as the two
 4 sides make their case for whether it has
 5 exceeded the threshold or not.
 6 STAMP, Q.C.:
 7 Q. But if you say you're not going recover the
 8 first \$35,000 in expenses or in claims in
 9 Ontario, that a number, that appears to be a
 10 significant reduction in what you can
 11 recover. If your claim is \$40,000 without
 12 any kind of threshold, and a threshold of 35
 13 applies, your claim is significantly
 14 affected?
 15 MR. ALLEN:
 16 A. Yes, yes.
 17 STAMP, Q.C.:
 18 Q. I want to just turn to one of the—I guess
 19 the table or the table in—on August the 8th
 20 you gave certain responses to the IBC?
 21 MR. ALLEN:
 22 A. Yes.
 23 STAMP, Q.C.:
 24 Q. And it's comprised in I think maybe four
 25 pages. I want to turn to page 3 if we

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1 could, the bottom of page 3. The very
 2 bottom of the page, please. Yes, thank you.
 3 That's the part I want to see. So, you have
 4 that in front of you now, Mr. Allen. We're
 5 looking at bodily injury loss costs, and
 6 despite coverage, so we have bodily injury
 7 loss cost for Newfoundland, New Brunswick
 8 and Nova Scotia. And it appears that the
 9 bodily injury loss cost in dollars, in
 10 absolute dollars, forget about rates of
 11 change and adjustments that way, is
 12 significantly higher in Newfoundland than in
 13 the other provinces?
 14 MR. ALLEN:
 15 A. Yes.
 16 STAMP, Q.C.:
 17 Q. Why is that?
 18 MR. ALLEN:
 19 A. The frequency of bodily injury claims is
 20 higher in Newfoundland than in the other two
 21 provinces. It was in Nova—it was higher
 22 than Nova Scotia before Nova Scotia's
 23 reform. So, there could be a number of
 24 explanations for that. Perhaps the
 25 topography, the roads, the kind of vehicles

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1 that individuals buy, the safety features
 2 that they purchase. There's a number of
 3 reasons that could be—could explain the
 4 higher frequency in Newfoundland compared to
 5 the other two, those other provinces.
 6 STAMP, Q.C.:
 7 Q. Well, it's certainly dramatically higher,
 8 isn't it?
 9 MR. ALLEN:
 10 A. It is higher. Yes.
 11 STAMP, Q.C.:
 12 Q. I mean, would you say dramatically higher?
 13 Like 440 versus 232 for example?
 14 MR. ALLEN:
 15 A. It's roughly a factor of two.
 16 STAMP, Q.C.:
 17 Q. Yes.
 18 MR. ALLEN:
 19 A. In terms of the—the benefits that come from
 20 it, there may well be higher benefits that
 21 come to claimants as a result of that.
 22 STAMP, Q.C.:
 23 Q. So, but those numbers when you speak about
 24 the, you know, the developments over time
 25 and you talk about rates of change and so

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1 on, the—somehow the rates of change being
 2 moderate and so on, maybe flattening as you
 3 described, that doesn't pick up on the
 4 absolute numbers which are developed here?
 5 MR. ALLEN:
 6 A. It does not, although it raises the question
 7 of what would be the measure that would
 8 bring the Newfoundland premium in line with
 9 the other provinces? Would it be caps?
 10 There are factors that the statistics have
 11 shown that show that the frequency before
 12 the caps was introduced in Nova Scotia, was
 13 lower. So, I—the question would be what the
 14 measures are that would equalize premiums
 15 between the two provinces.
 16 STAMP, Q.C.:
 17 Q. Well, I mean this is loss costs now. I
 18 mean, obviously premium is -
 19 MR. ALLEN:
 20 A. Or would equalize loss cost.
 21 STAMP, Q.C.:
 22 Q. Yes.
 23 MR. ALLEN:
 24 A. Yeah.
 25 STAMP, Q.C.:

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1 Q. As you said, when you talk about loss costs
 2 in Nova Scotia, and I think New Brunswick
 3 you spoke about as well, you saw it coming
 4 down, and then you saw it flattening out?
 5 MR. ALLEN:
 6 A. Yeah.
 7 STAMP, Q.C.:
 8 Q. And you know, so we—so you were describing
 9 modification or a reduction in the rate of
 10 change, but in absolute dollars, this is
 11 where the absolute numbers are. Right here
 12 for two thousand and—is it '15? I'm sorry?
 13 MS. GLYNN:
 14 Q. '16.
 15 STAMP, Q.C.:
 16 Q. '16, I'm sorry. Yes, 2016. That's the
 17 absolute numbers right there?
 18 MR. ALLEN:
 19 A. It is, true, yes. The –
 20 (12:15 p.m.)
 21 STAMP, Q.C.:
 22 Q. So, rates of change give one kind of
 23 perception, absolute dollars give a
 24 different perception?
 25 MR. ALLEN:

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1 A. Yes, although the rates of change illuminate
 2 what the effectiveness of various measures
 3 would be or what the impact of measures such
 4 as a cap would be.
 5 STAMP, Q.C.:
 6 Q. Sure. Well, on that point, how do you--when
 7 you say for example that the rate of change,
 8 you know, in Nova Scotia is what it is, if
 9 the cap wasn't there, don't we expect a
 10 different rate of change?
 11 MR. ALLEN:
 12 A. Yes, yes. The severity I would expect would
 13 be higher.
 14 STAMP, Q.C.:
 15 Q. Sure.
 16 MR. ALLEN:
 17 A. Without a cap.
 18 STAMP, Q.C.:
 19 Q. Yes.
 20 MR. ALLEN:
 21 A. Yeah.
 22 STAMP, Q.C.:
 23 Q. Okay.
 24 MR. ALLEN:
 25 A. With that said, we've seen in New Brunswick

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1 a severity that for accident year 2017 for
 2 bodily injury is higher than that we're
 3 seeing in Newfoundland. Now, the 2017
 4 claims are very early in their lifespan.
 5 So, we—will that holdup, is the question,
 6 but at least based on the information that
 7 GISA has compiled to date, the New Brunswick
 8 severity has—is how equal to that of
 9 Newfoundland, or greater than that of
 10 Newfoundland and Labrador.
 11 STAMP, Q.C.:
 12 Q. Right. And Mr. Allen, wouldn't that suggest
 13 to you that without the cap in New
 14 Brunswick, it would be higher yet again for
 15 '17?
 16 MR. ALLEN:
 17 A. Yes, yeah, most likely.
 18 STAMP, Q.C.:
 19 Q. Sure.
 20 MR. ALLEN:
 21 A. Yes.
 22 STAMP, Q.C.:
 23 Q. I want to just ask you if you could turn to
 24 your—the July report, at question 7, which
 25 is at page 10 I believe. What I'm wondering

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1 is what was the theory behind looking at—I'm
 2 sorry, maybe I'm in the wrong chart. I was
 3 looking at the RNC information. Is this the
 4 RNC information you have here at chart 8 and
 5 9 or is that—no –
 6 MR. ALLEN:
 7 A. Page 8 has the frequency per vehicle of the
 8 RNC, and chart 1 I think it is has—yeah,
 9 that also has –
 10 STAMP, Q.C.:
 11 Q. I may have taken you to the wrong document.
 12 MR. ALLEN:
 13 A. So, pages 8 and pages—and page 8 and page 4.
 14 STAMP, Q.C.:
 15 Q. I'm sorry, Mr. Allen, I've taken you to the
 16 wrong document. I meant to go to the
 17 questions in the Response to the Public
 18 Utilities Board.
 19 MR. ALLEN:
 20 A. Oh yes, okay.
 21 STAMP, Q.C.:
 22 Q. My mistake. So, that's an August 8
 23 document?
 24 MR. ALLEN:
 25 A. Yes.

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1 MS. KEAN:
 2 Q. What page?
 3 STAMP, Q.C.:
 4 Q. Page 15. So, I'll start with this document,
 5 and what I'm wondering is why are we looking
 6 at the RNC jurisdiction as opposed to the
 7 province as a whole?
 8 MR. ALLEN:
 9 A. Okay, the reason is that those are the
 10 statistics that are available for a number—
 11 for the number of accidents. And yeah, the
 12 issue—the matter to be addressed on
 13 insurance claims is the propensity to make a
 14 claim once there's been an accident. So,
 15 we—certainly I look, as you've seen, I've
 16 looked very closely at the accident or the
 17 claims frequency, but that raises the
 18 question, how—are there more claims being
 19 raised per accident or are there fewer? And
 20 to obtain the most objective measure
 21 available of the number of accidents, not of
 22 the number of claims, that was the available
 23 source of information. The fact that the
 24 two lines on—back on page 8 of my July 18th
 25 report.

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1 STAMP, Q.C.:
 2 Q. Yes.
 3 MR. ALLEN:
 4 A. The fact that the PD line, the property
 5 damage liability claim frequency, the fact
 6 that it moves largely in parallel with the
 7 RNC's accident count suggests that the
 8 property damage frequency is reasonable
 9 indicative of the number of accidents.
 10 STAMP, Q.C.:
 11 Q. But aren't those number of accidents
 12 available through GISA for the whole of the
 13 province?
 14 MR. ALLEN:
 15 A. The number of claims are. I don't believe
 16 the number of accidents are. The number of
 17 property damage claims are and that's what's
 18 reported here. I don't believe that the
 19 number of accidents.
 20 STAMP, Q.C.:
 21 Q. I had been under the impression that one of
 22 the Oliver Wyman documents showed number of
 23 claims and number of accidents and it's a
 24 different number.
 25 MR. ALLEN:

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1 A. Okay. Yeah, I'd be interested -
 2 STAMP, Q.C.:
 3 Q. I'm not sure if I'm right.
 4 MR. ALLEN:
 5 A. I'd be interested in seeing that.
 6 STAMP, Q.C.:
 7 Q. Yes, okay. In any event, this is sort of 40
 8 percent of the population.
 9 MR. ALLEN:
 10 A. Yes.
 11 STAMP, Q.C.:
 12 Q. And there's 60 percent not accounted for in
 13 this process?
 14 MR. ALLEN:
 15 A. Yes.
 16 STAMP, Q.C.:
 17 Q. So, I don't know what the - it's a bit like
 18 taking property values for assessment
 19 purpose and going to one neighbourhood and
 20 saying well, we'll do them here and then
 21 we'll apply them across the board to
 22 everybody. It's a bit like that because
 23 you're only doing a segment.
 24 MR. ALLEN:
 25 A. That's true, and statistical sampling

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1 unfortunately has that drawback in that it's
 2 not taking account of everyone. It's taking
 3 a sample and then extending those
 4 conclusions to broader population.
 5 STAMP, Q.C.:
 6 Q. Mr. Allen, are you familiar with the
 7 requirement - what level of apparent
 8 accident or accident damage or injury
 9 triggers the RNC responding or making a
 10 note?
 11 MR. ALLEN:
 12 A. No, I'm not.
 13 STAMP, Q.C.:
 14 Q. There is a provision in our - I think it's
 15 in the Highway Traffic Act - which requires
 16 that the police be notified if the apparent
 17 property damage is, I think, \$2,000 or
 18 there's an injury or death, of course. So
 19 that would mean if that is the rule that's
 20 imposed on drivers, so to approximate the
 21 apparent damage, only have to notify the
 22 police if it's \$2,000 or higher, there's a
 23 whole subset that are under the radar, so to
 24 speak.
 25 MR. ALLEN:

1 A. Um-hm.
 2 STAMP, Q.C.:
 3 Q. That you don't get – you don't even have in
 4 the RNC report?
 5 MR. ALLEN:
 6 A. Yes.
 7 STAMP, Q.C.:
 8 Q. But that, all those claims would be revealed
 9 in the GISA data, would they not?
 10 MR. ALLEN:
 11 A. I don't believe they would be. Are there
 12 accidents where there's no third party
 13 liability claim reported? I suspect there
 14 are. If the damage – if the magnitude of
 15 the accident is small enough, an insurance
 16 claim may not be made. You know, perhaps
 17 there's no damage or there's too little
 18 damage for it to be worth the process of
 19 making a claim. So, my understanding is
 20 that – and I look forward to you pointing me
 21 in the direction of what Oliver Wyman found.
 22 My understanding is that GISA has compiled
 23 the number of claims, not the number of
 24 accidents. And the gap between those two
 25 would be the number of accidents that are of

1 Study, which is April 19th, 2018.
 2 MR. ALLEN:
 3 A. I don't have a printed copy of that.
 4 STAMP, Q.C.:
 5 Q. They'll bring it up on the screen for you,
 6 if you want, Mr. Allen.
 7 MR. ALLEN:
 8 A. Oh, put it up on the screen, okay, sure.
 9 STAMP, Q.C.:
 10 Q. I'm not sure if it's what I'm looking for to
 11 tell you the truth, but it may be some help.
 12 So, when we see a claim count at Appendix A1
 13 – this is a Closed Claim Study now, so it's
 14 come from insurance folks.
 15 MR. ALLEN:
 16 A. Yes.
 17 STAMP, Q.C.:
 18 Q. I guess to some extent. Does the claim
 19 count that's referred to in Column 2 of that
 20 package, is that an accident count or a
 21 claim – is that the same thing?
 22 MR. ALLEN:
 23 A. I would take that to be – and you know, I
 24 hadn't even considered the alternative. I
 25 would take that to be claim count, claims

1 low enough severity that no insurance claim
 2 is made.
 3 STAMP, Q.C.:
 4 Q. But if there's – I mean, if there's an
 5 accident that does no property damage or no
 6 bodily injury, we'll call that no accident
 7 at all, I guess.
 8 MR. ALLEN:
 9 A. Ah -
 10 STAMP, Q.C.:
 11 Q. What would be the – what would make it an
 12 accident if it results in neither property
 13 damage nor bodily injury?
 14 MR. ALLEN:
 15 A. A lucky occurrence and people go through –
 16 you know, they might – you know, there could
 17 be contact between vehicles without – either
 18 without damage or such minor damage that the
 19 driver and the other party are willing just
 20 to accept the scuff on the vehicle. That's
 21 my thought as to what the difference is
 22 between an accident and insurance claim.
 23 STAMP, Q.C.:
 24 Q. When – I don't know if it would help if we
 25 brought up Oliver Wyman's Closed Claim

1 that have been reported to insurance
 2 companies, not – excluding accidents where
 3 no claim was filed.
 4 STAMP, Q.C.:
 5 Q. Is there a number that – I vaguely recall
 6 from what we've been doing here that the
 7 accident numbers sort of translated into
 8 maybe 1.2 or 1.3 claim counts. Is that
 9 something you've come across in this
 10 discussion?
 11 MR. ALLEN:
 12 A. What I have come across, if this is what you
 13 have in mind as the distinction between
 14 occurrences or between claims and claimants.
 15 STAMP, Q.C.:
 16 Q. Yes.
 17 MR. ALLEN:
 18 A. Because one insurance claim which
 19 corresponds to an insured event like an
 20 accident -
 21 STAMP, Q.C.:
 22 Q. Yes, sure.
 23 MR. ALLEN:
 24 A. - can affect more than one party. And so, I
 25 think I have seen a factor referring to

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1 that. It would still be the case that if
 2 the accident is of such low severity or for
 3 whatever reason the parties don't report it
 4 as a claim, it wouldn't appear in these
 5 statistics.
 6 STAMP, Q.C.:
 7 Q. Okay. And so when I look, for example, at –
 8 just I'm going to see if I can figure out
 9 from your own documentation. When I go back
 10 to your July 18 report, when I look at the
 11 Chart 7 and Chart 8, does this in some way –
 12 well, when you see it, I'm sorry. Wait
 13 until you get them up. Tell me when you
 14 have that, Mr. Allen, please.
 15 Sorry, does that – do Charts 8 and 9
 16 give anything at all, information at all
 17 about accident – about accidents?
 18 MR. ALLEN:
 19 A. No, they don't. They are just the
 20 percentage of drivers who've purchased the
 21 optional coverage.
 22 STAMP, Q.C.:
 23 Q. Okay. So, back to the RNC as a proxy of
 24 some sort.
 25 MR. ALLEN:

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1 A. Yes.
 2 STAMP, Q.C.:
 3 Q. Which is what I guess you're – it's used
 4 for.
 5 MR. ALLEN:
 6 A. Yes.
 7 STAMP, Q.C.:
 8 Q. That is some four-tenths of the population?
 9 MR. ALLEN:
 10 A. Correct.
 11 STAMP, Q.C.:
 12 Q. We don't know if it's four-tenths of the
 13 vehicles or not, do we? We don't know that
 14 either I guess?
 15 MR. ALLEN:
 16 A. No, no.
 17 STAMP, Q.C.:
 18 Q. And to the extent that there is a
 19 requirement in the Highway Traffic Act to
 20 report accidents of a certain, I guess,
 21 intensity or, you know, certain level, if
 22 you're under that, that's also coming off
 23 the reported stats as well. So, the RNC
 24 wouldn't know about all those accidents,
 25 whatever they are, whatever numbers there

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1 are that don't get reported to them because
 2 they're not required to be reported?
 3 (12:30 p.m.)
 4 MR. ALLEN:
 5 A. Yes, yeah, that is absolutely true and the
 6 comment I would make is that if there's a
 7 concern that the rate at which people are
 8 making bodily injury claims is – if the
 9 concern is that it's increasing or that it's
 10 high, comparing it to the RNC numbers will
 11 understate – or rather, it'll overstate the
 12 rate at which individuals are making claims
 13 because the bodily injury claims frequency
 14 is of all bodily injury claims that are made
 15 in this province.
 16 STAMP, Q.C.:
 17 Q. Yes.
 18 MR. ALLEN:
 19 A. Whereas the RNC is of only a subset. So,
 20 there will be accidents that are not
 21 accounted for here and so, we're seeing
 22 bodily injury claims in response to the
 23 number of accidents. There are actually
 24 more accidents than that and yet, you know,
 25 we're only seeing this rate of bodily injury

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1 claims. So, the fact that this undercounts
 2 the number of accidents assists with the
 3 conclusion or the view that the number of
 4 bodily injury claims is not out of control.
 5 STAMP, Q.C.:
 6 Q. Well, I mean, we're talking about severity
 7 on that point. And of course, obviously if
 8 you don't have to report an accident because
 9 it's under \$2,000 – apparently under \$2,000
 10 in property damage and doesn't involve an
 11 injury -
 12 MR. ALLEN:
 13 A. Yes.
 14 STAMP, Q.C.:
 15 Q. - then obviously that's not going to trigger
 16 a bodily injury claim, you would think,
 17 because it's under the radar for both damage
 18 and injury.
 19 MR. ALLEN:
 20 A. It shouldn't. You know, if there's a
 21 concern that minor bodily injury claims are
 22 clogging the system, then one might be
 23 concerned that claims that are very small
 24 are in fact being reported as bodily injury
 25 claims.

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1 STAMP, Q.C.:

2 Q. Well, when we look at one of the charts in

3 Oliver Wyman's materials and I think again

4 it's on the Closed – I think it's again in

5 the Closed Claim Study. Just give me a

6 moment, I'll see if I can find that.

7 Yeah, what I'm looking at now is the

8 Closed Claim Study which is April 19th, 2018,

9 which I think we had up a moment ago, at

10 page seven. Do you see that, Mr. Allen?

11 MR. ALLEN:

12 A. Yes.

13 STAMP, Q.C.:

14 Q. So that's a breakdown of, I guess, in 20

15 percent increments -

16 MR. ALLEN:

17 A. Yes.

18 STAMP, Q.C.:

19 Q. - of the percentile range of claims and a

20 full 20 percent have an average non-

21 pecuniary damages claim of about \$4500.00.

22 So, there's quite a significant number that

23 fall in that fairly minor category, is there

24 not?

25 MR. ALLEN:

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1 A. Yes. So, you're saying there's a full 20

2 percent that have a non-pecuniary of less

3 than -

4 STAMP, Q.C.:

5 Q. An average of less – of under – of 45 – have

6 an average of 4500.

7 MR. ALLEN:

8 A. Yes, yes.

9 STAMP, Q.C.:

10 Q. And of course, we look at that same column,

11 the total settlement is 5,000. So, there's

12 – most of that is a BI claim I take it.

13 MR. ALLEN:

14 A. Most of it is – sorry, do you mean a non-

15 pecuniary claim or -

16 STAMP, Q.C.:

17 Q. I do. I mean a non-pecuniary claim.

18 MR. ALLEN:

19 A. Yes.

20 STAMP, Q.C.:

21 Q. Yeah, pain and suffering claim essentially,

22 right?

23 MR. ALLEN:

24 A. Yes.

25 STAMP, Q.C.:

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1 Q. Is that true?

2 MR. ALLEN:

3 A. I would agree with that, yes.

4 STAMP, Q.C.:

5 Q. So, there's quite a few accidents that are

6 relatively minor in nature, even if you look

7 at this chart?

8 MR. ALLEN:

9 A. Yes, yes.

10 STAMP, Q.C.:

11 Q. I wanted to just – I'm sorry, by the way,

12 just that section of the Highway Traffic

13 Act, for purposes, is – I think it's Section

14 170.1 for the Board and counsel and for

15 yourself, Mr. Allen.

16 Can I come back to your loss table,

17 which I think is in Answers, is it not or is

18 it in your main report? I can't remember,

19 Mr. Allen. I think it's in your July

20 report, the last page.

21 MR. ALLEN:

22 A. Yes.

23 STAMP, Q.C.:

24 Q. So, this is a – is this intended to be all

25 coverages we're looking at here in, for

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1 example, 2016 for Newfoundland?

2 MR. ALLEN:

3 A. No, just third party liability.

4 STAMP, Q.C.:

5 Q. Okay, just third party liability. And so,

6 we have Oliver Wyman's ROE calculations for

7 years 2012 to 2016. I can tell you they are

8 in their report on their profitability

9 review at two percent for 2012, minus four

10 for 2013, plus six percent for 2014 and

11 minus eight percent for both 2015 and 2016.

12 MR. ALLEN:

13 A. I'm sorry, I'll write them down.

14 STAMP, Q.C.:

15 Q. Okay, sure, yeah. 2012 is plus two.

16 MR. ALLEN:

17 A. Okay.

18 STAMP, Q.C.:

19 Q. 2013, negative four. 2014, plus six. And

20 2015 and '16 each, negative eight. That's

21 an ROE after tax.

22 MR. ALLEN:

23 A. Okay.

24 STAMP, Q.C.:

25 Q. How does this number here correlate with

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1 ROEs that Oliver Wyman have calculated in
 2 those years? You have 2012 to 2016 and I've
 3 just given you their ROE calculations after
 4 tax for those same years. Is there some
 5 connection between your numbers that you
 6 have at page 22 and their rates?
 7 MR. ALLEN:
 8 A. Their rates are different certainly. I'm
 9 not – I haven't reviewed in detail how those
 10 are calculated.
 11 STAMP, Q.C.:
 12 Q. Maybe you could – do you want us to bring
 13 this up for you, Mr. Allen? It's page 11 of
 14 the March 29, 2018 Oliver Wyman report,
 15 Profit and Rate Adequacy. While that's
 16 coming up, have you seen all the Oliver
 17 Wyman reports?
 18 MR. ALLEN:
 19 A. I've seen most of them, yes.
 20 STAMP, Q.C.:
 21 Q. Okay. Well, maybe you can tell me if you've
 22 seen this one?
 23 MR. ALLEN:
 24 A. I haven't – I might have seen it. I haven't
 25 reviewed it in detail.

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1 STAMP, Q.C.:
 2 Q. Okay. It's March 29th. You've got a page,
 3 of course, but the face page is March 29,
 4 2018 and the subject is Profit and Rate
 5 Adequacy Review, Private Passenger
 6 Automobiles. So, this is – and at page 11,
 7 which we have on the screen now, shows the
 8 Oliver Wyman ROE after tax calculations that
 9 they've done.
 10 MR. ALLEN:
 11 A. Um-hm.
 12 STAMP, Q.C.:
 13 Q. And so, obviously this is an ROE for the
 14 province for auto insurance, private
 15 passenger auto, showing the ROE as a result
 16 of operations in those years. Is that
 17 right?
 18 MR. ALLEN:
 19 A. Okay. And is that for all coverage? Is
 20 that for private – yes, for private
 21 passenger only?
 22 STAMP, Q.C.:
 23 Q. Private passenger I understand, yes.
 24 MR. ALLEN:
 25 A. Okay. And it includes the coverages other

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1 than third party liability, if I -
 2 STAMP, Q.C.:
 3 Q. I think so, yes. I think it includes all
 4 coverages.
 5 MR. ALLEN:
 6 A. Okay. So, that's one difference between
 7 these and the GISA numbers that I'm
 8 reporting here is that the GISA numbers are
 9 for third party liability only.
 10 STAMP, Q.C.:
 11 Q. Right, and I mean, you can't, I presume,
 12 conveniently do a rate of return, rate of
 13 return on those numbers you have at page 22.
 14 You'd have to do a whole lot of analysis to
 15 do that?
 16 MR. ALLEN:
 17 A. Um-hm, yes.
 18 STAMP, Q.C.:
 19 Q. But it does reflect the fact that in the
 20 last three years, there have been
 21 significant losses and even in 2012-13, the
 22 amounts that are on third party liability
 23 shown as – if you want to call it profit, is
 24 still subject to a lot of other adjustments
 25 to find out what the overall ROE is for

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1 those – for the companies in that grouping?
 2 MR. ALLEN:
 3 A. I'm sorry, even in 2012, 2013 -
 4 STAMP, Q.C.:
 5 Q. Well, based on the rates that I've given
 6 you-
 7 MR. ALLEN:
 8 A. Yes.
 9 STAMP, Q.C.:
 10 Q. - only two of those years, '12 and '14, have
 11 an ROE that's positive?
 12 MR. ALLEN:
 13 A. Yes, just as the numbers reported by GISA,
 14 same thing, only two years are showing
 15 profit. The other -
 16 STAMP, Q.C.:
 17 Q. And they do it on a different basis. I
 18 think one is calendar year; one is accident
 19 year. I'm not sure about that, but -
 20 MR. ALLEN:
 21 A. Probably. Yeah, what is certainly a
 22 difference that I'm seeing is that the
 23 Oliver Wyman figures will include all the
 24 coverages, including collision,
 25 comprehensive.

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1 STAMP, Q.C.:

2 Q. Right.

3 MR. ALLEN:

4 A. Accident benefits. Whereas the GISA numbers

5 do not. They're only third party liability.

6 STAMP, Q.C.:

7 Q. Of course, and these amounts that you show

8 in brackets being losses in '14, '15 and '16

9 at your page 22 is only one part of all the

10 coverages that they're involved with?

11 MR. ALLEN:

12 A. Yes, that's correct.

13 STAMP, Q.C.:

14 Q. That's all the questions I have, Mr. Allen.

15 Thanks very much.

16 MR. ALLEN:

17 A. Thank you, Mr. Stamp.

18 CHAIR:

19 Q. Thank you, Mr. Stamp. Consumer Advocate.

20 MR. WADDEN:

21 Q. Good morning, Mr. Allen. Just a couple of

22 questions.

23 MR. ALLEN:

24 A. Good morning.

25 MR. WADDEN:

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1 Q. I want to go back to your April 4th, 2018

2 report just briefly, if we can. Go to page

3 three, sixth paragraph down. Mr. Feltham

4 already asked you a couple of questions on

5 this. I just want to get some clarity

6 around it. You're discussing there in terms

7 of the taxis obviously examples presumably

8 to help stop accidents, correct?

9 MR. ALLEN:

10 A. Yes.

11 MR. WADDEN:

12 Q. Improved driver education, safety training,

13 et cetera. Screening for taxi drivers. I'm

14 just wondering, have you done any studies

15 similar to the one you've done here in any

16 other jurisdictions in Canada or actually in

17 fact anywhere?

18 MR. ALLEN:

19 A. Similar in the sense of examining frequency

20 severity or -

21 MR. WADDEN:

22 Q. In relation to taxis.

23 MR. ALLEN:

24 A. On taxis?

25 MR. WADDEN:

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1 Q. Yeah.

2 MR. ALLEN:

3 A. No, not with respect to taxis.

4 MR. WADDEN:

5 Q. Okay. And I only asked because I was

6 curious about what your experiences have

7 been there. Are you able to elaborate on

8 these measures you're suggesting here at

9 all? I appreciate that on page four you

10 make some comments as to what the president

11 of Facility has suggested. And you know, I

12 appreciate this is not your area of

13 expertise, but do you have anything to add

14 to that? Because this is of great interest

15 to us, how to – you know, how to reduce the

16 frequency of accidents amongst vehicles on

17 the whole, but certainly amongst taxis, so

18 we could hopefully alleviate the fact that

19 they're in Facility.

20 MR. ALLEN:

21 A. Yeah. Well, Facility Association, the

22 comments made by them I think were primarily

23 around who – well, the reasons for the

24 current impasse, the current unsatisfactory

25 situation, and who would need to take – who

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1 could – who might take the initiative to

2 break that. With respect to the measures

3 that – you know, how that would go about,

4 there's, yeah, what was suggested by the

5 Campaign to me.

6 MR. WADDEN:

7 Q. Okay.

8 MR. ALLEN:

9 A. But beyond that, you know, I just – in

10 general terms, it makes sense to me that a

11 situation that would improve driving and the

12 condition of vehicles should reduce the

13 number of accidents.

14 MR. WADDEN:

15 Q. Okay.

16 (12:45 p.m.)

17 MR. ALLEN:

18 A. With respect to Mr. Gittens' questions

19 earlier about how risks are classified,

20 there are various proxies that have been

21 used, such as age and such that, you know,

22 to – that correlate with higher risk.

23 Ideally, I mean, they're all trying to

24 identify the causes of accidents, the causes

25 of higher cost accidents. This would have

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1 the appeal of being a very direct – or as
 2 having addressed the causes of accidents and
 3 there’s a possibility that some individuals
 4 would be more susceptible to higher risk
 5 behaviours. This actually would address
 6 that directly.
 7 MR. WADDEN:
 8 Q. Mr. Stamp when he was starting off asked you
 9 a question around the questions that are
 10 posed in your July 18th, 2018 report and
 11 where did they come from, who devised them.
 12 I understand that, you know, that sort of
 13 came from conversations as between you and
 14 some of the folks at the Campaign. Are
 15 there any questions that perhaps you
 16 discussed initially or that may have been in
 17 an initial draft of this report that are not
 18 in this report?
 19 MR. ALLEN:
 20 A. There might be perhaps.
 21 MR. WADDEN:
 22 Q. Okay, any that you can actually think of off
 23 the top of your head?
 24 MR. ALLEN:
 25 A. What prompted this analysis was the increase

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1 in the overall premiums in Newfoundland and
 2 Labrador and in my investigation it showed
 3 the increase rate of take up of the optional
 4 coverages, so that’s what prompted looking
 5 at the other provinces, but you know, the
 6 average vehicle prices in the various
 7 provinces is something that I have looked at
 8 but that doesn’t vary much from province to
 9 province and it doesn’t vary much between
 10 the Atlantic provinces and other provinces
 11 in Canada, so we chose not to include
 12 anything about that because it wasn’t
 13 illuminating.
 14 MR. WADDEN:
 15 Q. Okay, and I’m sorry if I need a point of
 16 clarification on that, why would you be—why
 17 would you have been in the first instance
 18 looking at the prices of vehicles at all?
 19 MR. ALLEN:
 20 A. To trying to explain why the increase in the
 21 take up of the optional coverages, so the
 22 fact that why are more people buying
 23 collision coverage and comprehensive
 24 coverage. If they’re buying higher value
 25 vehicles, that could be an explanation for –

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1 MR. WADDEN:
 2 Q. Got you, okay. And what is the answer to
 3 that, by the way, that was raised, you
 4 raised it just now and you raised it earlier
 5 in terms of over the past few years people
 6 buying more coverage or opting into the
 7 optional coverages. I don’t think you gave
 8 the reason for that earlier, why is that
 9 happening?
 10 MR. ALLEN:
 11 A. We don’t know specifically, I don’t know
 12 specifically. It could be, you know, the
 13 relative prosperity of this province as
 14 economic development in the oil industry
 15 has, I mean, it’s down from what it was, but
 16 it’s still has a, it’s probably changed
 17 people’s expectations in terms of their,
 18 what they will purchase, so that’s a
 19 possibility. The other is perhaps more
 20 people are borrowing, taking out loans to
 21 purchase vehicles because interest rates are
 22 as low as they are.
 23 MR. WADDEN:
 24 Q. Okay.
 25 MR. ALLEN:

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1 A. And once a car loan is—and sometimes the
 2 lender will require the physical damage
 3 coverage.
 4 MR. WADDEN:
 5 Q. Okay. One of the things we were trying to
 6 determine, at least on this part of the
 7 table, is if auto premiums should be as high
 8 as they are in the first place, like should
 9 they be as high as they are right now?
 10 Okay? Now, I know you looked at current
 11 premiums in Newfoundland and Labrador and
 12 you’ve looked at, you know, what they appear
 13 to be compiled of, you sort of flushed them
 14 out, portions of the premium attributable to
 15 what sort of coverage. Let’s assume there’s
 16 no reforms, okay, let’s assume everything in
 17 Newfoundland stays as is, there’s no
 18 changes, no cap, no change in deductible or
 19 anything like that. Could the premiums here
 20 be reduced? Did anything you see suggest
 21 some sort of allow ability to have insurance
 22 premiums for consumers go down?
 23 MR. ALLEN:
 24 A. I haven’t investigated the adequacy of, the
 25 overall adequacy of the current premium

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1 rates, so I don't have a view on that.
 2 Based on the income for third party
 3 liability coverage, it appears that, you
 4 know, that there's a loss currently on third
 5 party liability but that's subject to all
 6 kinds of allocations, so I'm –
 7 MR. WADDEN:
 8 Q. Okay. Can you go to page 16 of your report,
 9 your main report, July 18th report? So I
 10 think we discussed and the obvious thing
 11 here in these two tables, in terms of BI
 12 claim trends is the fact that the trends
 13 seem quite similar, right, as between
 14 Newfoundland and Nova Scotia, and
 15 Newfoundland and PEI, right?
 16 MR. ALLEN:
 17 A. Uh-hm, yeah.
 18 MR. WADDEN:
 19 Q. Well, what stands out to us here is that the
 20 redline is always a lot higher, right?
 21 MR. ALLEN:
 22 A. Yes, it is, yes.
 23 MR. WADDEN:
 24 Q. And you answered a question on a separate
 25 table I think that Mr. Stamp put to you in

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1 terms of some rates being much higher in
 2 Newfoundland. I can't remember which table
 3 it was. Just generally tell us why is it
 4 consistently higher here?
 5 MR. ALLEN:
 6 A. Actually, sorry, I should correct myself.
 7 In New Brunswick it was not, New Brunswick's
 8 was not higher around 2000, they were, the
 9 Newfoundland –
 10 MR. WADDEN:
 11 Q. Right early on there, sorry, on page 17,
 12 yeah.
 13 MR. ALLEN:
 14 A. Yeah, they were comparable. You know, it
 15 could be the weather, it could be the
 16 configuration of the roads and topography,
 17 the various hills and such. Yeah, I don't
 18 have an answer as to why it's higher.
 19 MR. WADDEN:
 20 Q. Okay.
 21 MR. ALLEN:
 22 A. It could be that claimants are better served
 23 by the bar. Maybe people who have injuries
 24 that need compensation are getting advice
 25 that lets them know what they're entitled

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1 to.
 2 MR. WADDEN:
 3 Q. Okay. How do we get premiums down here? Or
 4 at least make sure they're stable, what's
 5 the answer for Newfoundland?
 6 MR. ALLEN:
 7 A. Well the answer, and it may not be an easy
 8 one, is, well for taxis, a fairly small
 9 population, a driver certification program.
 10 Accident prevention is certainly the best
 11 means to reduce, there's already, it seems
 12 there's progress that's gone on in the sense
 13 that the frequency has declined over the
 14 last many years of bodily injury claims, so
 15 it appears that fewer people are being, are
 16 needing compensation, so that in itself
 17 would assist in the process of reducing
 18 insurance claims ultimately. To the extent
 19 people are—and there's already not a bad
 20 situation in the sense that premiums are not
 21 going up, third party liability premiums are
 22 not going up greater than the rate of
 23 inflation and you and the underlying costs
 24 are keeping, are only keeping pace with
 25 inflation. So I mean, I know that would

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1 leave in place the status quo. The way to
 2 bring it down would be most likely to, well
 3 one measure would be to reduce the number of
 4 accidents.
 5 MR. WADDEN:
 6 Q. Right, okay. And just one final thing, I
 7 guess it's been mentioned a number of times
 8 and we've come across it in our research in
 9 terms of the number of accidents that are
 10 reported and those accidents are often used
 11 in analysis, your analysis in particular and
 12 those numbers come from the RNC, and those
 13 numbers in and of itself have some
 14 limitations in terms of what actually gets
 15 reported to the RNC, et cetera, and what
 16 jurisdictions the RNC operates in. Are you
 17 aware of any other source from which to get
 18 information in terms of accident numbers in
 19 this province at least?
 20 MR. ALLEN:
 21 A. No, I'm not aware. I haven't searched, I
 22 haven't gone above and beyond to find such
 23 statistics, I was primarily looking for
 24 whether the property damage frequency
 25 statistics were representative of the number

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1 of accidents, so I'd be satisfied when I saw
 2 some consistency between the RNC numbers and
 3 property damage, but as far as I know, I'm
 4 not aware of another source.
 5 MR. WADDEN:
 6 Q. Okay. That's all I have, Madam Chair?
 7 BROWNE, Q.C.:
 8 Q. Just two questions. In reference to the
 9 deductible, is this the only province that
 10 has a deductible, \$2,500?
 11 MR. ALLEN:
 12 A. Ontario has a deductible, much higher, and I
 13 don't know of other provinces that might.
 14 BROWNE, Q.C.:
 15 Q. From an actuarial perspective everyone's
 16 talking cap, but what of the deductible
 17 increased to \$7,500 or \$10,000, would that
 18 have the same effect or what is the
 19 difference between a deductible and a cap,
 20 can you comment on these, please?
 21 MR. ALLEN:
 22 A. Yeah, the deductible affects the smaller
 23 dollars, so by taking out the lower end of
 24 claims it will, it leaves higher amounts of
 25 compensations untouched. But whereas a cap

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1 will cut off the higher amount. Now in
 2 terms of the caps that the IBC would propose
 3 that would be minor injuries only, so the
 4 extent of cutting off the higher amounts
 5 would be limited. One effect of a
 6 deductible is that it erodes over time,
 7 that's a term that the Oliver Wyman studies
 8 have used, so you know, as claims get larger
 9 with inflation over time, the proportion of
 10 the claim dollars that are eliminated
 11 through the deductible decreases; whereas
 12 with a cap, as inflation continues, the
 13 proportion taken out by the cap increases as
 14 inflation continues. Those are the
 15 differences that I see between the two.
 16 BROWNE, Q.C.:
 17 Q. You mentioned in your evidence that in terms
 18 of the threshold where minor injuries and
 19 cap jurisdictions are subject to a
 20 legislative jurisdiction, there are
 21 competing expert reports from time to time
 22 to argue whether or not such and such's
 23 injury is into the threshold or outside of
 24 it, are you taking about court applications
 25 in reference to these expert reports or are

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1 there arbitration provisions that the
 2 parties rely upon to make these
 3 determinations?
 4 MR. ALLEN:
 5 A. I think both are situations that give rise
 6 to those costs. Are you speaking of
 7 mandatory arbitrations or mandatory
 8 mediation?
 9 BROWNE, Q.C.:
 10 Q. Yeah, mandatory arbitration, are there
 11 mandatory arbitration provisions which
 12 probably would be less costly, as opposed to
 13 going to court to decide whether a matter
 14 falls inside the legislative jurisdiction or
 15 it does not.
 16 MR. ALLEN:
 17 A. Ontario has a tribunal to resolve at least
 18 some of those disputes, and it did have,
 19 when the Osborne report came out, so that
 20 may reduce costs, there is still, even in
 21 the tribunal there is still the competing
 22 experts, so my understanding is it may
 23 reduce costs, maybe by a portion, that's my
 24 understanding.
 25 BROWNE, Q.C.:

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1 Q. But that's in Ontario where they have the
 2 larger deductible as well, right?
 3 MR. ALLEN:
 4 A. Yes, actually I'm speaking of their accident
 5 benefits, their no-fault benefits and the
 6 limits that apply to that, so that actually
 7 may be only analogous to—unless there's an
 8 attempt to put a similar accident benefits
 9 put into place.
 10 BROWNE, Q.C.:
 11 Q. But in the other jurisdictions here in
 12 Atlantic Canada where the cap is, are you
 13 familiar, can you comment on whether or not
 14 there are arbitration provisions which can
 15 govern to decide whether the injury is
 16 threshold or not?
 17 MR. ALLEN:
 18 A. I'm not familiar with that. I suspect that
 19 may not be as much of an issue, I believe
 20 that the Osborne report was primarily
 21 commenting on verbal thresholds and the caps
 22 in the other Atlantic provinces would be
 23 purely money oriented or limiting the amount
 24 of money that's paid. So my understanding
 25 is that the Osborne report was referring to

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1 verbal as opposed to financial limitations.
 2 BROWNE, Q.C.:
 3 Q. Thank you.
 4 CHAIR:
 5 Q. Thank you, Mr. Browne. Mr. O’Flaherty, any
 6 questions?
 7 MR. O’FLAHERTY:
 8 Q. Thank you, Madam Chair. I don’t have any
 9 questions for the witness.
 10 MR. FELTHAM:
 11 Q. Madam Chair, I do have something that arises
 12 from Mr. Stamp’s questioning on the
 13 frequency piece.
 14 CHAIR:
 15 Q. Absolutely.
 16 MR. FELTHAM:
 17 Q. Thank you. Mr. Allen, I want to take you to
 18 Oliver Wyman’s April 19 report on Minor
 19 Injury Reform Cost Estimates.
 20 MR. ALLEN:
 21 A. Is that the one that was subsequently
 22 amended?
 23 MR. FELTHAM:
 24 Q. Yes, that’s correct. It was subsequently
 25 amended, so I may have the date, I’m not

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1 sure of the date of the amended document, it
 2 looks like it’s May -
 3 MR. ALLEN:
 4 A. I have May 17th as the amended one.
 5 MR. FELTHAM:
 6 Q. Yes, okay, sorry, yes, that’s it. Go to
 7 page 3, please. So Mr. Stamp was asking you
 8 questions, you know, suggesting, look, we’ve
 9 got to look at real dollars, you’re talking
 10 about frequency because you’ve done some
 11 analysis of whether minor injury caps
 12 correspond with a reduction in frequency of
 13 claims being made. And Mr. Stamp’s
 14 suggestion was, if I can characterize it
 15 this way, you have to look at the dollars
 16 and cents because a cap saves costs, and I
 17 guess I’ll put it to you this way, if an
 18 insurance company collects premiums and
 19 doesn’t have to pay claims, it will make
 20 more money than if it does have to pay
 21 claims?
 22 MR. ALLEN:
 23 A. Yes.
 24 MR. FELTHAM:
 25 Q. That’s a logical flow through for that?

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1 MR. ALLEN:
 2 A. Collects a fixed amount of money and if
 3 you’re contrasting lower—not having to pay
 4 for anticipated paying out claims.
 5 MR. FELTHAM:
 6 Q. Right, and if there are no claims, they
 7 don’t have to pay the money out, then
 8 they’ll make more money than if they do.
 9 MR. ALLEN:
 10 A. Yes, or lose less money.
 11 MR. FELTHAM:
 12 Q. Or lose less, okay. So if we look, though,
 13 at the work that Oliver Wyman has done and
 14 in this report—you’ve read this report, I
 15 take it?
 16 MR. ALLEN:
 17 A. Yes.
 18 MR. FELTHAM:
 19 Q. They are providing some estimates here, at
 20 Table 2, of what they say the average
 21 reduction in premiums can be with caps of
 22 different levels. But they don’t stop at
 23 just absolute dollars here of \$5,000, \$7,500
 24 or a \$10,000 cap, they add on columns to
 25 show increase savings with changes in minor

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1 injury frequency. Am I reading that
 2 correct?
 3 MR. ALLEN:
 4 A. Yes, they provide a number of scenarios,
 5 zero percent change in frequency, five
 6 percent, 10 percent and 15 percent.
 7 MR. FELTHAM:
 8 Q. And setting aside for a moment as to whether
 9 I agree with the figures in the IBC’s Closed
 10 Claim Study from which these figures are
 11 derived, that first column, that’s the
 12 absolute dollar figures that Mr. Stamp is
 13 talking about, these are what are being
 14 suggested as changes that will only come
 15 from a cap alone, forgetting frequency
 16 changes.
 17 MR. ALLEN:
 18 A. That’s correct, yes.
 19 MR. FELTHAM:
 20 Q. And the balance beyond that, all these
 21 additional savings that are postulated here
 22 for hypotheticals are built upon that
 23 because they are suggesting there could be
 24 some change in frequency of claims.
 25 MR. ALLEN:

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1 A. That's correct, yes.

2 MR. FELTHAM:

3 Q. And if we don't have that, that doesn't

4 happen, we don't have a change in minor

5 injury frequency, we don't get the results

6 in savings that we see in those additional

7 three columns to the right?

8 MR. ALLEN:

9 A. That's correct, yes.

10 MR. FELTHAM:

11 Q. And then you go further, if you turn the

12 page to page 4, Oliver Wyman adds on again

13 for reductions in average settlement and

14 ALAE costs. Again, going beyond the

15 absolute savings on the claim itself, from a

16 cap, from the bodily injury claim payout, to

17 also say—and also if you get some savings on

18 the ALAE costs, you will also get some

19 savings in required premium?

20 MR. ALLEN:

21 A. Yes.

22 MR. FELTHAM:

23 Q. But if you don't get those things, you don't

24 have an ALAE cost savings and if you don't

25 have a percentage change in minor injury

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1 you tomorrow.

2 Upon conclusion at 1:08 p.m.

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1 frequency, then those savings do not come to

2 fruition, do they?

3 MR. ALLEN:

4 A. That's correct. There is on Table 2 a

5 scenario where there that reduction in

6 frequency doesn't come to fruition. There

7 is no scenario where ALAE does not get

8 reduced.

9 MR. FELTHAM:

10 Q. Okay, thank you, Mr. Allen.

11 CHAIR:

12 Q. Thank you. I guess we're finished with you,

13 thank you, Mr. Allen, that was very helpful.

14 Tomorrow morning we are back to, IBC is

15 making a presentation tomorrow morning?

16 STAMP, Q.C.:

17 Q. Yes, Ms. Riis.

18 CHAIR:

19 Q. Yes, okay, and do we have another

20 presentation scheduled for tomorrow as well?

21 MR. FELTHAM:

22 Q. I believe tomorrow we have the Ontario Trial

23 Lawyers Association.

24 CHAIR:

25 Q. Okay, that's good, thank you. We will see

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CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of the 2017 Automobile Insurance Review heard before the Board of Commissioners of Public Utilities, 120 Torbay Road, St. John's, 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 September, 2018

Judy Moss

A				
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