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**The Secretary
Legislative Council - Economy and Infrastructure Committee
Parliament of Victoria
Parliament House, Spring Street
EAST MELBOURNE VIC 3002**

July 7, 2020

Dear Secretary,

Slater and Gordon Lawyers appreciates the opportunity to make a submission to the Victorian Parliament's Economy and Infrastructure Committee Inquiry into the Increase in Victoria's Road Toll.

Company Background

Slater and Gordon Limited is a publicly listed company employing 800 people in 40 locations across the country. We provide specialist legal and complementary services in a broad range of areas including: personal injury, superannuation and insurance, class actions, commercial litigation and employment law.

As one of Australia's leading personal injury law firms, Slater and Gordon assists many Australians to exercise their rights and obtain their full and correct legal entitlements following a life-changing event such as a transport accident. Since our establishment in 1935, we have built a powerful reputation as a law firm built on social justice values that fights to achieve the best outcomes for our clients, while reducing the stress they go through to obtain justice.

Response to the Terms of Reference

Slater and Gordon acknowledge that the terms of reference are focussed primarily on the effectiveness of proactive road safety strategies. Given our extensive experience dealing with the consequences of transport accidents Slater and Gordon will always support and advocate for strategies aimed at reducing the social and economic consequences of road trauma. To this end we recognise that the Committee will receive many submissions from researchers with a far greater understanding of the effectiveness of proactive road safety strategies based on the safe-system principles.

However, to the extent that the Terms of Reference focus on the current Towards Zero Road Safety Strategy and its effectiveness in meeting road trauma reduction targets, Slater and Gordon would like to make some brief observations to highlight the importance of Victoria aspiring to deliver both the highest standards in accident prevention, and the highest standards in care and support for those affected by road trauma.

In Slater and Gordon's experience, the impact of road trauma on the individuals involved can be exacerbated by the quality and effectiveness of the treatment and support systems available to them following the incident that caused the initial injury. This can involve both the medical and financial interventions required to treat the injuries sustained, and the effort required to ensure the delivery of their entitlements under the legislated insurance arrangements. Therefore any consideration of the effectiveness of Victoria road safety strategies must take into account threats and opportunities to the Victorian Transport Accident Scheme.

The Cost of Road Trauma

Victoria has long been regarded as a leader in both the global and Australian context and should be applauded for its efforts over a sustained period to reduce road trauma and support those impacted by its scourge. However, there is always scope for improvement.

While the public perception of effectiveness of the road safety strategy tends to focus on the road toll alone it is only one element to gauge the effectiveness of the overall strategy. More importantly, the effectiveness of the strategy has a strong correlation to the affordability of the transport accident scheme (in terms of direct cost to the Transport Accident Commission) and indirect cost to the community. This issue was explored in detail by the Victorian Auditor General in the "*Making travel safer: Victoria's speed enforcement program 2006*" Report.

The Auditor General's Report noted:

"The full economic costs of road crashes are greater than just the costs of care for the injured. The Bureau of Transport and Regional Economics (BTRE) estimates the costs of road trauma taking into account the value of a victim's lost output or productivity caused by injury or premature death. This lost output includes both paid work, usually measured in terms of the victim's work-related income, and unpaid work, which involves an estimate of the victim's contribution to household and community work. The BTRE estimates of total road crash costs also take into account costs of property damage and traffic delays from road crashes, as well as costs of medical treatment and long-term care."

Making travel safer: Victoria's speed enforcement program (page: 17)
Victorian Auditor General - July 2006

Observations

Taking all this into account Slater and Gordon recognise that if Victoria is to aspire to the very highest standards of support and compensation for victims of road trauma it is incumbent on policy makers to aspire to the very highest standards of road safety.

This is a far more preferable approach than we have seen in some jurisdictions where insurers constantly seek to reduce their costs by imposing barriers that restrict or limit people's opportunity to access their full entitlements.

The public policy framework must always take into account the need for continued improvement in the quality of the client experience in interacting with insurance systems that are inherently weighted in favour of the insurer rather than the insured. For example, most people injured in a road or transport accident are navigating the post-accident experience for the first time. Having already dealt with a potentially life-changing experience which has impacted their health, as well as their social and economic wellbeing, they are then faced with a complex scheme in order to both understand their entitlements and ensure their timely delivery.

Unfortunately, this process is all too often beset with behaviour that seems to unreasonably leverage this imbalance to deny or delay these entitlements in a way that exacerbates the original injury and/or transfers the cost to other areas of the economy (such as the public health and social security systems).

This behaviour is not unique to physical injuries resulting from a road accident. The Australian Securities and Investment Commission (ASIC) Report 621 "*Road blocks and Roundabouts: a review of car insurance claim investigations*" found that insurers are investigating some claims in ways that are causing significant consumer harm, eroding trust in insurance and without fair process. ASIC's research raised concerns that consumers are being worn down by lengthy and confusing processes.

The Report focusses in particular on claims which are investigated supposedly on the basis of fraud and observes that of all the claims insurers decided to investigate, only 4% were declined for fraud. Despite such a low cohort of claims falling into this category the Report notes that many consumers who had their claim investigated - and eventually paid - nonetheless reported poor practices by insurers and their investigators, including:

- interviews that felt like interrogations, with some investigators suggesting to consumers that they had fabricated their claim;
- interviews in consumers' homes, excessively long or successive interviews, and interviews without notice;
- onerous, unexplained and successive information requests for a wide range of documents including criminal record checks, social media histories, birth certificates, telephone and text message records, financial statements for every bank and loan account and information about family members and friends; and
- inadequate support for additional needs such as consumers with limited English literacy not being offered an interpreter.

In Slater and Gordon's view the practices and experiences exposed in the ASIC Report extend (to varying degrees) into the practices of personal injury insurers providing coverage to victims of road trauma and their families nationally - and lead to increases in the social and economic impact of road trauma.

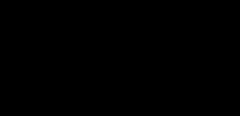
Victoria has to some extent benefitted from a level of integration and coordination between the prevention aspects of road safety and the provision of care support and compensation following a transport accident that does not exist in other states. By and large this has led to a public policy environment that recognises the relationship between investments in road safety that improve the underlying economics of the transport accident scheme. This in turn improves the financial viability of the scheme in terms of meeting its responsibilities to the injured that occur as a consequence of a transport accident.

To that end the TAC's new claims management framework focussing on early intervention and treatment, including for psychological injuries, as a means of assisting people to get their lives back on track after a motor vehicle accident is a step in the right direction and should be acknowledged and used as an example for other insurers.

Investments in both the safety and compensation elements of the road safety system should not be an either/or scenario. Both are vital elements and articulated as such in the relevant legislation. Victoria's leadership in this space should be acknowledged and the Committee is to be commended for its examination of the factors. The policies determining road safety priorities must continue to be determined based on a thorough assessment of the data and evidence and not just to those with the loudest voices.

Slater and Gordon would be pleased to provide further details to support the Committee's examination of these issues and give voice to the many people injured and killed in transport accidents – whose voices might otherwise not be heard.

Yours sincerely,

A black rectangular redaction box covering the signature of Phil Reed.

Phil Reed
Head of Government and Stakeholder Relations
SLATER & GORDON LIMITED