



Motor Trades Association of Australia

Ms Fiona Spry
Secretary
Insurance Contracts Act Review Secretariat
Department of the Treasury
Langton Crescent
Canberra ACT 2600

CORPORATIONS AND
FINANCIAL SERVICES DIVISION

14 APR 2004

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Dear Ms Spry

Thank you for the opportunity to comment on the draft Insurance Contracts Amendment Bill.

The Motor Trades Association of Australia (MTAA) would like to make some brief comments on that Bill and the issues canvassed by Mr Alan Cameron A.M. and Ms Nancy Milne (the Review Panel) in their letter which accompanied the draft Bill.

MTAA notes that the report into the operation of section 54 supported *“the continued operation of section 54 in relation to traditional, occurrence based policies”* and recommended that *“that be explicitly noted in order to avoid any slight risk that the changes it will recommend, in the context of ‘claims made’ policies, could ever be interpreted otherwise”*. MTAA acknowledges that the draft Bill appears to be consistent with the recommendations contained in the report into the operation of section 54 (‘the Report’). However, MTAA notes that the Review Panel raises the issue of whether the amended section 54A should extend to other types of policies. MTAA believes that any extension of the proposed scope of the amended section 54A may be inconsistent with the recommendations made in the Report and may also go beyond the amendments reasonably required to address the issues that have arisen in respect of the operation of section 54 in relation to ‘claims made’ and ‘claims made and notified’ policies. Therefore, MTAA does not support any extension of the proposed scope of section 54A that would in any way affect the operation of those sections in relation to occurrence based policies.

In their letter, the Review Panel also raises the issue of whether there is a need to provide a statutory definition of “claim” and, if so, how that term should be defined. MTAA does not wish to provide a view on whether such a definition is necessary and, if so, what form it should take. However, MTAA notes that the term ‘claim’ is employed throughout section 54 and the Association is concerned that if such a definition were to be inserted into the Act, it may impact upon the operation of section 54 in relation to occurrence based policies. MTAA would therefore request that the Review Panel ensure that any proposed amendments to the Act, including the addition of definition sections, do not affect the current operation of section 54 in relation to occurrence based policies.

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I trust that this information is of assistance to the Review Panel in its consideration of section 54 of the *Insurance Contracts Act* 1984.

Yours sincerely

A handwritten signature in cursive script that reads "Michael Delaney".

MICHAEL DELANEY
Executive Director

13 April 2004