



Persatuan Pengguna Pulau Pinang Consumers Association of Penang

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Letters to the Editor

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HAVE THE CONSUMERS BEEN SHORT-CHANGED?

As early as 2007 Bank Negara Malaysia (BNM) had identified problems and issues of the current motor insurance scheme which many consumers can easily relate to:

- Inadequate access to third party insurance cover, particularly for old and commercial vehicles.
- Lengthy claims settlement process.
- Premiums which have not been revised since 1978.
- Insurers were reluctant to offer third party insurance cover as premiums are insufficient.
- Risk of accident victims not receiving adequate or any compensation.

The current fault-based system is based on the principle of Corrective Justice which means that you have to pay if you are at fault. Under this system, not every person injured in a Motor Vehicle Accident (MVA) receives compensation. Moreover, the claimants have to wait a considerable length of time and spend substantial amounts of money before the final determination of their rights and award of compensation, besides having to encounter other problems.

In 2010, the Consumers' Association of Penang (CAP) then proposed a No Fault Liability (NFL) Scheme to BNM. In fact, the introduction of this NFL scheme in relation to bodily injury and death as a result of MVAs was proposed by the late Tan Sri Dato' Harun Hashim.

The advantage is that NFL would cost only a fraction of most of the motor insurance policies; Tan Sri Dato' Harun Hashim himself proposed an average flat rate of RM50 in 1995 and CAP concurred with him on that rate.

In fact, in August 2007, the Attorney General's Chambers issued a Preliminary Issue Paper proposing that a No Fault Liability (NFL) Scheme be introduced.

Subsequently CAP submitted a memorandum that NFL be guided by the following principles:

- Adequate, efficient and quick compensation for victims of MVAs without the need for litigation or dispute resolution on the issue of fault;
- Rehabilitation and life-long care for victims with serious injuries and support for dependents of deceased victims;
- Effective accident prevention strategies; and
- Low administrative costs so that more funds are available for road accident victims.

NFL is nothing new and CAP proposed that Malaysia can emulate the model practiced in Victoria, Australia, and run by the Transport Accident Commission (TAC). NFL has been adopted in the USA, Canada, and Australia.

In Malaysia, CAP suggested that the scheme could be funded by the existing insurance third party premiums. CAP reasoned that the legal and administrative fees of insurance companies were expected to be reduced as there is no longer a need to prove fault, and there will no longer be any commissions to agents and the existing premiums may suffice.

Moreover, funding may also be derived from the Social Security Organisation (SOCSSO) as it also deals with claims by workers who are injured in the course of their employment, including travelling to and from their work place.

One common concern is accident prevention to make the scheme viable on long-term. As in the case of Victoria, there was a reduction of more than 38,000 claims over a 10-year period, resulting in a saving of more than AUD\$ 1 billion. The number of fatalities plunged to 377 in 2006 from 776 in 1987.

The Australian government took pro-active steps to improve road conditions, vehicle safety and hard-hitting and emotive road safety campaigns.

In fact BNM had interest to implement NFL until 2010 when BNM announced the Basic Motor Cover Framework (BMCFF) which dealt a knell for the NFL. Then in late April 2017, BNM announced it was liberalising the motor insurance industry so that individual insurers and takaful operators can determine the pricing of motor insurance products.

When the detariffication of motor insurance starts on 1 July, it is going to affect all Malaysians who owns a vehicle. According to the Malaysian Institute of Road Safety Research (MIROS), there were 27.61 million registered vehicles in the country in 2016. The impact of detariffication has on every person who owns a vehicle license is unimaginable.

CAP is flabbergasted at how this decision can come about because the premium that a person has to pay (after detariffication) depends on a range of factors that includes the age and gender of the driver, the location of driver's residence, and the driver's claim history.

It is because that there had been a general consensus between CAP, BNM and the Attorney General's Chamber that NFL was good in terms of remedies for accident victims. With the detariffication, it is not going to have significant improvement on the problems that BNM had identified in 2007.

A person acquiring motor insurance would be victimised because of the generalisation of the risk factors considered in determining the quantum of premium. Are the consumers' problems identified by BNM in 2007 been comprehensively addressed or is BNM merely protecting the interests of the insurance industry when motor insurance is detariffed?

CAP reiterates that the NFL should immediately be adopted and implemented for the greater interests of consumers.

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