



Persatuan Pengguna Pulau Pinang Consumers Association of Penang

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Letter to the Editor

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BNM MADE A U-TURN ON NO FAULT LIABILITY SCHEME

Do consumers have to pay more for their motor insurance than what they are paying now when detariffication of motor insurance starts on 1 July? At least this is what the Consumers' Association of Penang (CAP) understands because the General Insurance Association of Malaysia (PIAM)'s reply to its FAQ question "What % increase can I expect (CAP's emphasis) on my motor premium" is:

"It will differ from insurer to insurer. Consumers should shop around for the motor insurance that meets their needs."

A report quoting the Actuarial Society of Malaysia also concurred that "upon de-tariffing of the tariff and Motor businesses, the premium rates are expected to go up for Motor businesses which would result in an improvement of the motor loss ratio from the current loss making or breakeven position."

Detariffication will inadvertently penalise good drivers by a plethora of factors, particularly their gender, their age, car mileage, and the occupation of the driver.

Instead of detariffication, Bank Negara Malaysia (BNM) should introduce the No Fault Liability (NFL) Scheme which will certainly benefit consumers without burdening them financially yet addressing their problems with current motor insurance scheme.

In fact BNM had identified a list of problems that consumers faced as early 2007 and they included:

- 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 resulted from 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 proposed an average flat rate of RM50 in 1995 and CAP concurred with him on that rate.

In August 2007, the Attorney General's Chambers had in fact 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.

We have also successfully implemented the Social Security Organisation (SOCSO) scheme since 1971 which is a NFL scheme. This shows that we have the expertise to design and implement such a scheme.

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 (SOCSO) 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.

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.

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. It is surprising that BNM is persistent in supporting the strong insurance companies but not the people.

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