April 4, 2016

Workplace Safety & Insurance Board
Consultation Secretariat
200 Front Street West
Toronto, Ontario M5V 3J1

Email: consultation_secretariat@wsib.on.ca.

Re: Rate Framework Modernization Consultation

Dear Sir/Madam:

Canadian Manufacturers and Exporters, Ontario Division (CME), thanks the Workplace Safety & Insurance Board (WSIB) for the opportunity to provide input to its "Rate Framework Modernization Consultation".

CME supports the WSIB's objective of creating a rate classification system which more closely serves the need of Ontario's employers.

As a member of the Ontario Business Coalition, CME wishes to express support for the position as submitted by OBC on this issue. We also wish to add some additional points, not covered in the OBC submission but critical from our membership's perspective.

As outlined in the OBC submission, our additional comments will also be limited to the following issues: Premium Rate Calculations for 2017-2019; Employer Support Tools; Surcharging Mechanism for Poor Performing Employers; Employers with Multiple Activities; and Monitoring Rate Framework Issues.

PREMIUM RATE CALCULATIONS FOR YEARS 2017-2019

Over the last 6 years, the WSIB's Unfunded Liability has dropped from approximately 14 billion dollars to just over 7 billion. Better investment returns, higher employment rates in some sectors, lower lost time injury rates and emphasis on claims management have all played a critical role in the improved financial position of the WSIB. As a result of its improved financial positon, the WSIB, in its 2015 Fall Economic Statement, announced that overall premium rate reductions in the range of 10-15% should be possible over the next few years.

Consideration of the fairest way to introduce the reductions is critical. Since rate group premium rates have been frozen for several years, changes in new injury costs at the rate group level have not been correctly charged. Under the current rate setting methodology many rate groups are paying too much, while others are not paying enough in comparison to their correct 2016 projected published rates.

The OBC submission outlines 3 options being considered. From CME's perspective, our first preference was the use of a hybrid of the new system and the current system. Our reasoning for this position was our concern about moving employers, whose rates are set to increase under the new framework, further away from their projected rates. However, we understand, the technical and administrative complexities of this approach, and agree that retaining the current rate group premium setting approach with reductions applied, but no increases is the most appropriate approach. The concept would be to apply rate reductions to rate groups which are currently paying too much, but continue to freeze rates for those rate groups that should be paying a higher rate. The current rate setting approach would is well understood by employers. There is no complication or confusion created by introducing elements of the new rate framework which is still being developed. It would maintain a single billed premium rate for each rate group and the existing experience rating systems would continue until the system is implemented. .

EMPLOYER SUPPORT AND TOOLS

CME strongly supports the need for timelier and better quality data for employers to access. We strongly urge the WSIB to develop such a tool, and the ability for the tool to be interactive is critical.

SURCHARGING MECHANISM FOR POOR PERFORMERS

In principle, CME supports the approach of surcharging employers whose poor experience, on a sustained basis, produces premiums above the premium rate cap. Of consideration should be the option of keeping any surcharge revenues in the class itself, to benefit the class as a whole given surcharged firms' experience does impact on their rate as a class.

Key to the surcharge proposition is the need to ensure that the WSIB works more closely with the impacted firms to improve their performance. An additional issue warranting consideration is demonstrating, to impacted employers, the mechanism by which they have been designated a poor performer and the mechanism/rules which will be used to transfer them out of that category.

In terms of a definition of duration for "sustained", an additional consideration (to the position submitted by OBC) might be to capture the true outliers which could be identified as those firms with more than double the average costs.

OBC has properly articulated that instead of developing a surcharge mechanism for application in 2019, that the new system be monitored for a few years to see what types of extreme situations occur. The introduction of a formal surcharge program could wait a few years. But contact with poor performers should be made under some guidelines from the outset. Thus further consultation is warranted on how poor performers should be identified and separated from the risk disparity situations.

EMPLOYERS WITH MULTIPLE BUSINESS ACTIVITIES

The intention of the new classification system is to group all business activities of an employer together and assign that business to the class of the predominant business activity which has the largest percentage of insurable earnings.

We support the WSIB's intention to prevent the "shopping around of premium rates" and for this reason more review and analysis is needed to draft rules which will prevent that "shopping around". CME believes that the issue multiple businesses and the definition of "separate and independent activities" are very complex ones and, as such, require additional consultation. There may be only a few companies in the system that would fit this profile so. An approach which should be considered is that of the development of a tool similar to the independent contractor questionnaire which would help the WSIB determine if in fact an employer truly should be classified under more than one class.

It is accepted that the technical and supporting service element of the employer's workforce is not a separate business. It should be considered ancillary to and part of the true business of the employer, and assigned accordingly. It would not exist without the main focus of the business.

SIEF

Although this phase of the consultation did not include any discussions about Second Injury Enhancement Fund, CME continues to strongly support the need for some type of cost relief where pre-exisiting conditions are a factor in lost time. We recommend that this issue be included in the discussions of the next phase of this consultation.

Closing Remarks

CME will continue to work with the WSIB in creating a rate framework which serves the needs of Ontario Employers and allows them to compete in a global marketplace.

Regards,

Maria Marchese
Director of Policy
CME-Ontario Division

Ian Cunningham, Chair

Rosa Fiorentino, Vice-Chair

Yasmin Tarmohamed, Treasurer

Maria Marchese, Secretary/Secretariat

Association of Canadian Search, Employment and Staffing Services

Business Council on Occupational Health and Safety

Canadian Fuels Association

Canadian Manufacturers & Exporters

Canadian Vehicle Manufacturers' Association

Council of Ontario Construction Associations

Federally Regulated Employers-Transportation and Communication

Japan Automobile Manufacturers Assoc. of Canada

Ontario Hospital Association

Ontario Long Term Care Association

Retail Council of Canada

Sarnia Lambton Environmental Association

Schedule 2 Employers' Group

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ONTARIO BUSINESS COALITION (OBC)

April 4, 2016

Workplace Safety & Insurance Board
Consultation Secretariat
200 Front Street West
Toronto, Ontario M5V 3J1

Email: consultation_secretariat@wsib.on.ca.

Dear Sir/Madam:

Re: Rate Framework Modernization Consultation

The Ontario Business Coalition (OBC) appreciates the opportunity to provide further comments to the Workplace Safety & Insurance Board (WSIB) in this next phase of its "Rate Framework Modernization Consultation" (Rate Framework).

OBC continues to support the WSIB's efforts to create a more transparent and less complex premium rate classification systems for Ontario employers.

OBC will be focussing its comments on the following issues: Premium Rate Calculations for 2017-2019; Employer Support Tools; Surcharging Mechanism for Poor Performing Employers; Employers with Multiple Activities; and Monitoring Rate Framework Issues.

PREMIUM RATE CALCULATIONS FOR YEARS 2017-2019

In its 2015 Fall Economic Statement, the WSIB indicated that overall premium rate reductions, in the range of 10-15%, should be possible over the next few years.

Consideration of the fairest way to introduce the reductions is critical. Since rate group premium rates have been frozen for several years, changes in new injury costs at the rate group level have not been correctly charged. Under the current rate setting methodology many rate groups are paying too much, while others are not paying enough in comparison to their correct 2016 projected published rates.

Three Options for Consideration:

1. The first option is to apply a **constant % rate reduction to all** existing rate group frozen premium rates. While it is simple and the easiest to communicate it prolongs the inequity that currently exists between rate groups. The longer it continues the more difficult it is to correct. The problem was identified by Doug Stanley very early in his work for the WSIB.

2. Another option is to **retain the current rate group premium setting approach with reductions applied, but no increases.** The concept would be to apply rate reductions to rate groups which are currently paying too much, but continue frozen rates for those who are paying too little. The current rate setting approach would be well understood by employers and generally would be expected to apply. It has been accepted that the sharing of the unfunded liability cost will continue to be done pro-rata on the cost of new injuries by everyone. Thus some effort must begin to bring rates back into alignment.

Granting rate reductions to bring rate components back into alignment for those currently paying too much would be understood and appreciated. In addition some will expect to benefit from the overall premium rate reduction.

Maintaining frozen rates for rate groups who should have increases essentially means the overall premium rate reduction is being used to offset the increase otherwise required. This approach permits a clear message from the Board that rate decreases can be clearly seen and have been awarded under the current system. There is no complication or confusion created by introducing elements of the new rate framework which is still being developed. It would maintain a single billed premium rate for each rate group and the existing experience rating systems would continue until 2019.

3. A third option is a Hybrid approach **which introduces elements of New Rate Framework to set different individual employer premium rates within existing rate groups**. This approach would maintain the existing rate groups but set billed premium rates at the individual employer level within a rate group by introducing elements of the new rate framework program. The premiums paid by the employer would still be subject to the existing NEER and CAD7 experience rating programs. Thus, there would not be a uniform premium rate or rate adjustment by rate group. The existing rate group system is essentially disbanded because a large proportion of rate groups are being split and allocated to a range of classes in the new system.

This approach is the most complicated and would not be easily understood by employers. At this time employers are not yet familiar with all the components which would go into setting their premium rates under the new rate framework. It is really a mixture of two systems which seems like an unnecessary extra complication for a few years.

Regarding the 2017-2019 Premium Rate calculations, OBC supports Option 2, of retaining the current rate group premium setting approach with reductions applied, but no increases. Furthermore, in determining premium rate adjustments, OBC continues to support the WSIB's stated commitment of ensuring that the funding sufficiency targets, set by the government, are met and efforts to eliminate the UFL are not impacted as it move towards implementing the new predictable rate framework."

EMPLOYER SUPPORT AND TOOLS

Better and More Access to Employer Data

Regarding ways in which the WSIB can support employers under a new Rate Framework, employers' primary need is to have more timely access to their own claims costs data for experience rating. OBC recommends that the WSIB focus on what features are available with the WSIB's Accounts and Claims Enterprise System (ACES) which can be expanded to provide more data to employers on a more timely basis.

One very critical need for employers is some sort of interactive tool which would allow an employer to see how return to work initiatives can reduce his claim costs as they play into experience rating. It may not be useful yet to create a full system that allows employers to calculate their ultimate premium rate. This is because the Board probably will need to make refinements to the new system and certainly to the overall level of Schedule 1 rates yearly which in turn affects class level projected premium rates that are the major drivers of rates for smaller employers.

Claim Payment Record

Since the relevant employer claims costs will be a rolling 6 years of cash payments categorized by year of payment for the past 6 accident years, this information should be available to employers on an ongoing basis. To be more specific, the payment information must include all claims, and not just lost time injury claim payments.

This information could be presented in the same type of table used in the Board's current rate framework material. Most importantly, it should be made accessible electronically by employers, rather than having the Board send it several times a year to all employers (which is neither timely nor cost effective).

SURCHARGING MECHANISM FOR POOR PERFORMERS

OBC supports the approach of surcharging employers whose experience, on a sustained basis, produces premiums above the premium rate cap. The premium rate cap is indicated to be about 3 times the class average projected premium rate.

Many smaller employers would have trouble ever exceeding this premium rate cap because of lower credibility given to their experience. It seems the surcharging mechanism has greater application to somewhat larger employers. In these cases where higher credibility applies, if an employer's premium rate would exceed 3 times the class average projected rate on a sustained basis a surcharge appears to have merit. However some consideration should also be given to recognizing sustained bad experience by a small employer before application of credibility and claim limits.

This raises the question about the definition of duration for "sustained". One recommendation is the use of three years of poor experience, in the past 6 years, as the trigger point. Also it may be useful to consider tests on whether a different premium rate cap should be considered for employers with lower credibility. In the interest of fairness the surcharge mechanism should probably have some chance of application to more than just larger employers.

Caution is needed to differentiate bad experience from higher regular costs that are essentially a risk disparity issue. During the early years of the new system this subject will receive considerable attention. For instance, it is possible that the merging of different groups of employers under the new NAICS system will bring together groups within a new class that will have such dramatically different experience that one group could tend to have cost levels three times the class average. In such case it makes more sense to address the risk disparity issue first.

On balance perhaps the new system should be monitored for a few years to see what types of extreme situations occur, rather than crafting the specific surcharge details from the outset. The introduction of a formal surcharge program could wait a few years. But contact with poor performers should be made under some guidelines from the outset. Thus further consultation is warranted on how poor performers should be identified, and separated from the risk disparity situations.

EMPLOYERS WITH MULTIPLE BUSINESS ACTIVITIES

The intention of the new classification system is to group all business activities of an employer together and assign that business to the class of the predominant business activity which has the largest percentage of insurable earnings. This approach may be somewhat extreme and deserve some modification.

A company which has two operating divisions engaged in completely separate and independent activities warrants some examination. In particular, if the operations are of a meaningful size and involve quite different levels of accident risk it may be inappropriate from an insurance risk viewpoint to force a single level of insurance premium on them.

In considering the definition of "separate and independent" business activities, it seems there should be a significant difference in claim risk to warrant the separation, and the size of the independent divisions should be large enough to be considered viable on their own. If a company has two divisions sharing 90% and 10% of the payroll it is challenging to see the smaller as truly independent if the company only has 50 employees in total. But if the company had 1000 employees in total then a 90%/10% split could certainly produce truly independent businesses. Further if the two divisions exhibit very different risk profiles it is better for the whole system to have them classified separately.

Much further consultation on the definition of "separate and independent activities" is warranted. There may be only a few companies in the system that would fit this profile so, with the help of some generally agreed upon guidelines, it may be possible to consider them on a case by case basis. The development of a tool, similar to the Independent Operator Questionnaire, could be an option for gathering information needed to help determine if a company truly has separate businesses. Further discussion and modelling of what such a tool would include is critical to ensuring that the new tool is not fraught with the same problems plaguing the current Independent Operator Classification Tool.

It is accepted that the technical and supporting service element of the employer's workforce is not a separate business. It should be considered ancillary to and part of the true business of the employer, and assigned accordingly. It would not exist without the main focus of the business.

RATE FRAMEWORK ISSUES TO MONITOR OVER NEXT FEW YEARS

OBC recommends that the following components of the new Rate Framework be monitored over the next few years:

1. **Risk Disparity –** The Board has indicated that risk disparity issues will continue to be monitored closely. It is agreed this is important. Sometimes industries are well enough organized with analytical assistance that they can bring their concerns to the Board. This has happened so far to date for some industries. But other

industries, perhaps consisting of primarily smaller employers, do not have the support to analyze this disparity issue. The Board needs to make sure all industries receive attention on this issue.

2. **Multiple Rated Companies –** It appears that some compromise will be reached on the issue of multiple business activities. Certainly the rules will not be perfect and monitoring of this effort is required.

3. **Experience Rating Off Balances** – This issue has not received attention so far possibly because the new system will not be comparing cash refunds and surcharges. But a Prospective Experience Rating system will have an off balance of discounts and surcharges to the class premium rate which impact the total premium collected. This needs to be monitored. Ultimately a decision will be made about including or not including a premium adjustment factor. Generally the expectation is that experience rating should be cost neutral.

4. **Focus on Short vs Long Term Claims –**Since only the first 6 years of cash payments on a claim are assessed, it would appear that the focus is on managing shorter rather than longer term claims. It may be useful to monitor the ongoing duration experience on longer term claims. The Board has made excellent progress in bringing long term awards under better control over the past few years.

5. **Fatal Claim Cost Charge** – Since the fatal claim cost charge will be a lump sum system average cost of a claim, this approach is different than the charge of annual payments for 6 years on all other claims. Some monitoring should be done to see if this produces the expected impact on premiums after application of claim limits and credibility. Also while a fatal claim and a 100% long term disability may have the same cost impact on the system, they will be treated quite differently under experience rating. Some monitoring of the impact is needed to be comfortable with the result.

6. **Surcharging Mechanism for Poor Performers –** The profile of employers and any similar employers who are tending to reach the surcharge trigger points that may be introduced should be monitored. For instance the cause could be risk disparity rather than genuinely worse than expected experience.

Although it has not been specifically addressed in the consultation document, OBC strong supports the introduction of some sort of cost relief measures to address costs resulting from injuries with pre-existing conditions. We recommend that this issue form part of the next phase of the Rate Framework Modernization Framework Consultation.

CLOSING REMARKS

From OBC's perspective, the ongoing dialogue in the creation of the new Rate Framework is critical to the development of a system which truly serves the needs of Ontario employers.

Please feel free to contact us should you require clarification of any of the points we have raised.

Yours sincerely,

Ian Cunningham

Ian Cunningham
Chair