Submission

by

THE NEW ZEALAND INITIATIVE

to the Accident Compensation Corporation

on the

2024 ACC Levy Consultation

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1. INTRODUCTION AND SUMMARY

1.1 This submission to the Accident Compensation Corporation (ACC) on the 2024 ACC Levy Consultation is made by The New Zealand Initiative (**The Initiative**), a Wellington-based think tank supported primarily by major New Zealand businesses. In combination, our members employ more than 150,000 people.

1.2 The Initiative undertakes research that contributes to the development of sound public policies in New Zealand. We advocate for the creation of a competitive, open and dynamic economy and a free, prosperous, fair and cohesive society.

1.3 The Initiative's members span the breadth of the New Zealand economy. An efficient and effective system for accident compensation and rehabilitation is important to them. Most will be participants in the Accredited Employer Programme (AEP). The views expressed in this submission are those of the author rather than The Initiative's members.

1.4 The Initiative is concerned about the rising costs of ACC and that these rising costs are driving higher ACC levies. Higher ACC levies will add further pressure on businesses, workers, and motor vehicle owners during challenging economic times and cost-of-living pressures. The government is responding by seeking to restrain core Crown operating spending and it has called on local government to focus on 'doing the basics brilliantly'. ACC should do likewise.

1.5 ACC should strive to be more efficient and effective. It should work to contain the rising costs of claims; maximise returns from its investments; ensure its accounts are fully funded; and minimise cross-subsidisation within its accounts.

1.6 ACC is a monopoly provider, so it does not face competitive pressure to be more efficient and effective. The government should therefore consider reintroducing competition in the provision of accident insurance.

1.7 In summary, we submit:

(a) The government should reintroduce competition in the provision of accident insurance.
(b) ACC should work to contain the rising cost of claims.
(c) ACC should seek to maximise risk-adjusted returns from its investments.
(d) ACC should ensure that its accounts are fully funded.
(e) ACC should cease the smoothing of levies and the capping of levy rate increases.
(f) ACC should reduce cross-subsidisation within its accounts.
(g) The concurrent review into Work Health and Safety should consider the role of ACC in the health and safety system.

2. THE NEED FOR COMPETITIVE PROVISION

2.1 New Zealand's ACC system is internationally unique. After 50 years no other country has adopted anything similar.

2.2 ACC arose from a 1967 Royal Commission to report on workers' compensation. The Commission created the Woodhouse Report, named after its chairman Sir Owen Woodhouse. Its recommendations would form the foundation of ACC.

2.3 The Woodhouse Report recommended a 'no-fault' accident compensation scheme, removing the right to sue for any type of injury. After legislation under a National government in 1972 and a Labour government in 1973, ACC was established in 1974.

2.4 Within five years there were concerns that the scheme was becoming too expensive, with changes made by a National government in 1979 and 1982 to cut costs. Later in the 1980s, there was a push under a Labour government to broaden it to include sickness, which did not proceed after National returned to government in 1990. ACC had become a political football and was caught between those who thought accident compensation should be an insurance matter and those who thought it should be a welfare matter.

2.5 In 1987 a Business Roundtable study concluded that the Woodhouse conception was a mistake and should be abandoned in favour of choice and competition. A ministerial working party reached the same conclusion in 1991 and confirmed that accident compensation should be an insurance matter.

2.6 In 1999 what is now ACC's Work Account was opened to competition. In 2000 the Employers' Federation's submission on the Accident Insurance (Transitional Provisions) Bill stated that around three-quarters of companies reported lower costs of accident insurance under a competitive model, with some companies of fewer than 10 employees reporting savings of more than 40% on their accident insurance premiums. [1] The Business Roundtable also observed that the average premium per $100 of wages fell from $1.70 to $1.20 by 2000. Cross-subsidies were reduced, accident rates fell, rehabilitation rates improved, and private insurers were able to operate profitably, with claims of 'loss leading' unfounded.[2]

2.7 ACC found it could cut costs and improve its performance in the face of competition, but after a change in government its monopoly status was restored in 2000. The result over the following years was a cycle of cost blow-outs, politically motivated expansions of the scheme, levy increases and unfunded liabilities.[3] Meanwhile, New Zealand's fatality and injury statistics remain poor by international standards despite putting in place stronger health and safety regulations[4].

2.8 ACC's statutory monopoly has nevertheless survived the past 24 years. There has been little political appetite for reform, with its financial situation helped by generally strong returns from its investment fund. But when ACC's assets fall in value and investment

[1] Submission by BusinessNZ to the Department of Labour on *Increasing Choice in Workplace Accident Compensation* Discussion Document, July 2001.

[2] *ACC Monopoly an Idea Whose Time has Passed*, Roger Kerr, NZ Business Roundtable, published in Dominion Post, 2 November 2009.

[3] Ibid.

[4] A WorkSafe NZ report *Work Health and Safety and Overview of Work-Related Harm and Risk in Aotearoa New Zealand* (June 2024) stated "In the five years to 2021, New Zealand's average rate of 2.4 fatalities per 100,000 workers employed was 68% higher than Australia's rate of 1.4 fatalities per 100,000 workers. If the distribution of New Zealand's economic activities were the same as Australia's, our fatality rate would be 2.0 per 100,000 workers, 42% higher than Australia's rate".

returns are hit by bearish international financial markets, such as in 2008/09 and 2021/22, the scheme can be put under pressure to raise levies or cut costs.

2.10 In the short-term ACC should strive to reduce the cost of claims and it should ensure its funding policy is responsible and sends the right signals to levy payers. The best long-term solution, however, would be a competitive insurance market.

2.11 Recommendation: The government should reintroduce competition in the provision of accident insurance.

3. ACC'S PROPOSED LEVY INCREASES

3.1 ACC is proposing levy increases for each of its three main accounts over each of the next three years:

Account	2024/25 (current)	2025/26	2026/27	2027/28
Motor Vehicle Account (per vehicle)	$113.94	$122.84	$131.94	$141.69
		+7.8%	+7.4%	+7.4%
Work Account ($ per $100 liable earnings)	$0.63	$0.66	$0.69	$0.72
		+4.8%	+4.5%	+4.3%
Earners' Account ($ per $100 liable earnings)	$1.39	$1.45	$1.52	$1.59
		+4.3%	+4.8%	+4.6%

3.2 ACC's consultation paper states that "levy rates need to keep pace with rising costs and at the same time ensure that the amount of money held by ACC is sufficient to pay for the future costs of claims". Over recent years the number of claims and the costs of claims have increased, and they are expected to increase over the next three years.

3.3 The proposed increases in levies are unwelcome. They will add further pressure on businesses, workers, and motor vehicle owners during challenging economic times and cost-of-living pressures. The government is responding by seeking to restrain core Crown operating spending and it has called on local government to focus on 'doing the basics brilliantly'. ACC should do likewise.

3.4 ACC should ensure its administration costs are lean. It should improve its systems for considering, accepting and monitoring claims. And it should ensure injured people receive prompt and effective treatment and rehabilitation so they can return to work quickly. It should use co-payments to help manage costs of claims and it should be prepared to use its clout in the health system to reduce costs.

3.5 Recommendation: ACC should work to contain the rising cost of claims.

3.6 The performance of ACC's investments has been important for ensuring that assets remain ahead of liabilities and to help meet the cost of claims. This has kept levies lower than they otherwise would be. Its investments have performed generally well, outperforming market benchmarks for 28 out of the past 31 years. However, according to its last two annual reports its relative performance was not so good in 2021/22 and 2022/23.

3.7 ACC makes much of its investment fund being ethical and sustainable, incorporating ESG (environmental, social and governance) issues into investment decision-making and ownership practices.

3.8 ACC should seek to maximise its investment returns. If ESG investing enables this then that would be good, but if applying an ESG lens means opportunities to maximise returns are missed then ACC should revisit its approach.

3.9 McLean et al (2022) help us to better understand ESG investing. An ESG fund should not be able to provide a better overall return than an unconstrained fund. If it could, it would have just been the fund in the first place, with good fund managers avoiding investing in particular industries not because of ethics, but because they had worse expected performance. So how can ESG funds claim to provide higher returns than funds that are not prohibited against certain types of investment? McLean et al demonstrate that ESG funds often engage in greenwashing to attract retail investors; their portfolio carbon intensities are not much different from regular funds. We note that in 2023 the paper won the Institute of Finance Professionals New Zealand (INFINZ) award for Research Report of the Year.[5]

3.10 Recommendation: ACC should seek to maximise risk-adjusted returns from its investments.

3.11 In the absence of a competitive market for accident insurance, ACC should ensure its funding polices meet best actuarial practice. Accounts should be fully funded, and levies should be set to send the right signals to levy payers. Unfortunately, there are significant problems with some of its policies.

3.12 While the Motor Vehicle and Work accounts are both fully funded, the Earners' Account is only 90% funded. This ratio is forecast to reduce to 77% by 2027/28 (despite the proposed levy increases) and could be down to 67% within a decade[6]. This likely deterioration is unacceptable.

3.13 ACC must work harder to contain the cost of claims within the Earners' Account. But it is also impeded by its current funding policy, which seeks to smooth levy changes and cap aggregate levy increases at 5%. This policy should cease. Doing so would send a more accurate signal to levy payers about the true cost of accidents. And although it would drive large levy increases for the Earners' Account, this is necessary to reverse the steady deterioration of the account.

3.14 Recommendation: ACC should ensure that its accounts are fully funded.

3.15 Recommendation: ACC should cease the smoothing of levies and the capping of levy rate increases.

3.16 ACC levies should reflect risk. Cross-subsidisation should be minimised to provide accurate signals to levy payers. The most egregious case of cross-subsidisation is in the motor vehicle account, where motorcyclists contribute only 28% of the cost of motorcycle injuries. This means other motor vehicle owners heavily subsidise them.

[5] *In Holdings We Trust: Uncovering the ESG Fund Lemons*, L McLean, I Diaz-Rainey, S Gehricke, R Zhang, 2022.
[6] BusinessNZ submission on 2024 ACC Levy Consultation, October 2024.

The proposed levy increases for motorcyclists will increase their contribution to 37%. This is a step in the right direction but there is still a long way to go.

3.17 The Initiative has no comment on proposed changes to Work Account classification units and levy risk groups, except to note that we support levy rates reflecting the risks of different industries and occupations. This will reduce cross-subsidisation.

3.18 Recommendation: ACC should reduce cross-subsidisation within its accounts.

4. ACCREDITED EMPLOYER PROGRAMME

4.1 The Initiative notes ACC's proposals for reduced discounts for the AEP's Partnership Discount Plan and proposed changes to various levy factors (some up and some down). Our strong preference is for competitive provision that would enable businesses currently in the AEP to make their own arrangements with insurance providers.

5. NO CLAIMS DISCOUNTS AND EXPERIENCE RATING

5.1 The Initiative notes that ACC is proposing to remove the No Claims Discount (NCD) for small businesses and to change the Experience Rating programme (ERP) for larger businesses. ACC considers they have not resulted in fewer injuries or less cost and that neither programme pays for itself, requiring other businesses to cross-subsidise them.

5.2 It is disappointing that the NCD, which was intended to reward good outcomes and penalise bad outcomes, will be ceased. It is positive that there are signs of improvement for ERP after recent refinements but there is still cross-subsidisation from those outside the programme. Cross-subsidisation should be minimised, so changes to reduce it would be welcome. However, our strong preference is for competitive provision that would enable businesses (large and small) to make their own arrangements with insurance providers, which would include premiums that reflect claims experience.

6. ACC'S RELATIONSHIP WITH HEALTH AND SAFETY REGULATION

6.1 The Government is consulting on a review into work health and safety.

6.2 The Initiative agrees that the current health and safety system is performing poorly. We also agree with the statement that "Workers, organisations, and businesses spend a lot of time and money trying to comply with health and safety rules and regulations, yet New Zealand's workplace fatality rate is far too high compared with countries like Australia and the United Kingdom."[7]

6.3 Any review of health and safety must consider the role of ACC and the signals it sends. We believe ACC levies should send sharp pricing signals on risk and safety experience to encourage safer practices. This would reduce the reliance on the use of regulations that many consider to be neither clear, sensible, proportionate, or effective.

[7] Minister's Foreword, *Have Your Say on Work Health and Safety* consultation document, Ministry of Business, Innovation and Employment, June 2024.

6.4 Fundamentally, the review should consider from first principles whether ACC's no-fault system and statutory monopoly helps or hinders health and safety.

6.5 Recommendation: The concurrent review into Work Health and Safety should consider the role of ACC in the health and safety system.

7. CONCLUSION

7.1 The New Zealand Initiative considers it overdue to reconsider New Zealand's unique approach to accident insurance. ACC's statutory monopoly imposes a significant cost to businesses, workers and motor vehicle owners while fatalities and injuries remain too high. We believe the government should reintroduce competition in the provision of accident insurance.

7.2 In the meantime, ACC must strive to be more efficient and effective. It should work to contain the rising costs of claims; maximise returns from its investments; ensure its accounts are fully funded; and minimise cross-subsidisation within its accounts. Above all it should perform the role of an insurance scheme rather than a welfare agency.

7.3 The concurrent review into work health and safety should also consider the role of ACC in the system.

ENDS.