

A CONSUMERS' PERSPECTIVE TO FIXING ICBC

APRIL 2013

15 RECOMMENDATIONS TO PUT BRITISH
COLUMBIANS BACK IN THE DRIVER'S SEAT



Consumers' Association of Canada (British Columbia Branch)



Consumers' Association of Canada
Association des consommateurs du Canada
Founded in 1947

> TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
RECOMMENDATIONS	4
INTRODUCTION	6
CONSUMERS' ASSOCIATION OF CANADA (BC) AUTO INSURANCE ROLE	7
THE PERFECT INSURANCE WORLD & THE UNDERWRITING CYCLE	9
BC AUTO INSURANCE MARKET PROBLEMS, PRE-1972.....	11
BC SOCRD GOVERNMENT AUTO INSURANCE ACTIONS	12
NDP GOVERNMENT & 1972 AUTOPLAN TASK FORCE	14
ICBC VALUE PROPOSITION – CORE FOUNDING PRINCIPLES	16
LIBERAL EROSION OF ICBC CORE PRINCIPLES: 2001–2013.....	18
ICBC CURRENT FINANCIAL SITUATION	21
RATE DESIGN FACTORS THAT DEFINE ICBC	25
THE ORIGIN OF ICBC EXCESS CAPITAL REQUIREMENTS	26
THE LIBERAL CHARADE OF BCUC REGULATION	30
Liberal Cabinet Makes a Sham of Regulation by BCUC	
Liberals Caught by BCUC Subsidizing Optional Coverage	
ACTUARIAL METHODS WRONG ON PREDICTING ICBC COLLAPSE	34
Why the Actuarial Method Alone Fails: BCUC 2006 Rate Hearing Evidence	
ICBC – STEWARDS OF FIRST PARTY ACCIDENT BENEFITS	37
INEPT GOVERNANCE AND ACCOUNTABILITY 2001 TO 2013	38
Government Transparency and Accountability	39
LINGERING THREAT OF BILL 58 TO CONSUMERS	41
WHY PRIVATE INSURERS WANT ICBC IN BUSINESS	43
CONCLUSION	45

> EXECUTIVE SUMMARY

When the BC Liberals entered office in 2001 motorists were led to believe that they would get a smoother ride with automobile insurance despite the reality that ICBC was entering a sixth year with no rate increases on basic or optional insurance, and had just repaid BC motorists with a Road Safety Dividend of \$100 per policyholder. In reality, motorists were blindfolded, gagged and locked in the trunk of the Liberal vehicle – all the while paying more than they should for their ride.

The Liberal's appointment of Nick Geer, formerly of the Pattison Group, to head ICBC started the now steady erosion of the principles that steered ICBC since its inception in 1974. By placing Gary Collins, Minister of Finance in charge of ICBC, it was immediately clear that the Liberals would shift away from a Vision and Mission of "Helping British Columbian's take the risk out of road transportation" to profits for government and higher rates to help private optional insurers. This erosion has resulted in bad things for ICBC policyholders:

- 1** A revolving door of CEOs following Thom Thompson's retirement in 2001, after serving as CEO since 1995 and presiding over 6 years with no rate increases. ICBC has now had seven CEOs between 2001 and 2012, which signifies incompetence on the part of government who appoint CEOs and their appointed boards of directors. More importantly, this revolving door has created a complete lack of leadership and commitment to public auto insurance and ICBC. There is no real engagement.
- 2** Unnecessary excess capital levels on basic and optional insurance that require higher rates on both. These capital levels that are creating a profit on optional for transfer to the government harms consumers and makes BC a more expensive place to raise a family and a less competitive place to start a business. The only group that higher optional rates do help is competitive private insurers.
- 3** A 2012 Ministry of Finance ICBC Review focusing on the operations showed the results of failed government direction and poor ICBC leadership at the board and CEO levels. The review states that: "from 2007 to 2011 ICBC experienced a 32% increase in management positions across the organization while union positions declined by 1%. The total compensation cost for the management and confidential employees increased 50% during the last five years compared to a 9% increase for the bargaining unit for the same period. Bonuses paid to management have been generous with easily met criteria resulting in almost all staff receiving them." It is no wonder ICBC employee engagement scores are trending lower and lower.

A public insurer built on creating public value for the motoring public has turned into a cash cow for the Province. In effect, the Province of British Columbia has created another way to unfairly tax some sectors of the public and without any representation or voice. To arrive at today's unfair taxation, beginning in 2001, the BC Liberals imposed three key policy changes, including:

- 1** The highest premium tax in Canada, and paying into a protection system for insolvent insurers that ICBC need not do as government insurers cannot go insolvent like a private company.

- 2 Establishing private sector requirements for excess capital that produce unnecessarily high income through the use of rules that govern federally regulated insurers but that do not apply to provincial crown corporation insurers as excess capital levels are to prevent insolvency – again this is something that ICBC could not do without the Province becoming insolvent first.
- 3 Requiring profits on optional coverage, thereby easing the entry of private insurers to be able to compete in the market while creating a pool of profits to be transferred to the Province to finance its operations and improve its bottom line.

The BC Liberals have rigged the system so that the Province’s share of the benefits from public auto insurance comes at the expense of one group of its citizens – ICBC policyholders. It wasn’t always like this. ICBC as a Crown Corporation and as a public insurer was built on the premise of fair rates and service for all British Columbians, regardless of their socio-economic status or their geographic location. Today, ICBC, under the direction of the Province, makes adjustments intended solely to make consumers higher premiums than needed. At the same time, the windfall of these policies does not go towards reducing insurance rates or increasing road safety initiatives – the windfall is rolled into government general revenues. The result is de-facto taxation without representation.

➤ The CACBC believes that ICBC’s policy of diverting funds to the Province’s General Revenue Fund must stop immediately

The Consumers’ Association of Canada, BC Branch (CACBC) continues to be concerned about the relationship of ICBC to the Province and is concerned about ICBC’s ongoing gouging of consumers to provide windfall profits for the Province. Under the BC Liberals, the Province has eroded almost all that is positive about BC’s unique public system in favour of creating a revenue stream for government as they experience falling revenues from their other cash cow, BC Hydro. The result – the consumer pays and pays. The CACBC believes that ICBC’s policy of diverting funds to the Province’s General Revenue Fund must stop immediately. The CACBC maintains that ICBC should be in the business of serving its consumers – the motoring public and all of those that use our roads with an improved focus on safer drivers and roads – something that has taken a dramatic dive since the Liberals came to government.

Between 1996 – 2001, under the leadership of CEO Thom Thompson, ICBC froze rates for six years and spent unprecedented sums on road safety initiatives. The system was more financially stable and profitable than it had ever been since its’ inception – and they didn’t do it with rate increases but with safety and sound management. Between 1996 and 1999 collision fatalities fell 13% and injuries by 16% (Canadian Underwriter: ICBC President Thom Thompson to Retire Oct. 2001). These kinds of reductions in harm do not exist in the BC Liberal era, and it was these kinds of reductions in harm that led to ICBC paying a Road Safety Dividend of \$100 paid to policyholders for doing their part to reduce claims and contribute to safer roads for all road users.

The Vision and Mission in effect during the Thompson era was “Helping British Columbians take the risk out of road transportation.” This resulted from work on road safety that started with a small department under CEO Tom Holmes in the late 1980s and advanced further by interim CEO Robyn Allan and her successor Bill McCourt – who did even more on road safety and claims cost control while achieving stable rates and a well functioning corporation. While McCourt came from the private sector, he made it clear from the outset that ICBC’s key strategic priorities would include loss prevention/road safety and constant focus on claims

cost control, along with operating and service excellence. He strongly believed that this was the path to sound finances. Thom Thompson succeeded McCourt and immediately brought a BC Hydro mindset fuelled by PowerSmart and that initiative's success in reducing demand for power as a means to control the rising costs of claims. While there was a significant public policy debate around potential product change options including no-fault as a means to control rising claims and premiums costs, the government and ICBC's board – strongly supported by BC stakeholders including the CACBC – chose road safety and an unprecedented level of spending led to the 6 year rate freeze and the best financial performance since 1974. The decade since 2001 has become a decade of lost opportunity in road safety and loss prevention where there is no longer a sense coming out of ICBC that it is a leader in helping take the risk out of road transportation.

Until the appointment of Nick Geer as Chair, the CEOs and Chairs of ICBC had vastly different views of their role, and the role of ICBC. These previous leaders took a broad stakeholder view of ICBC and did not blindly embrace the current narrow and arrogant view that sees government as the “sole shareholder.” ICBC is no longer a mission-driven organization serving public interests by, “helping British Columbians take the risk out of road transportation.” Today, ICBC's mission and vision are firmly focussed on profits.

Since 2001, the model that was based on broad partnerships that included road users, communities and governments at all levels, has been replaced with a single focus “revenue driven” model. Government has turned ICBC and public automobile insurance into a cash cow for the BC Liberals. BC consumers all pay more while the BC Liberals erode the value of ICBC and the fundamental principles and benefits of public automobile insurance.

➤ Government has turned ICBC and public automobile insurance into a cash cow for the BC Liberals.

The Consumers' Association of Canada – BC Branch (CACBC) is proposing 15 recommendations that are designed to re-balance and restore British Columbia's automobile insurance system to ensure consumers are paying the lowest possible rates while benefiting from our innovative public insurance system. It is time to restore the core principles and values that existed when ICBC was established. It is time to put BC consumers back in the drivers seat!

> RECOMMENDATIONS

In 1974, the CACBC supported the establishment of Insurance Corporation of British Columbia (ICBC). While critically observing the Corporation for 40 years on behalf of consumers, the CACBC believes it is qualified to make recommendations to the Province of British Columbia that put the interests of BC consumers back into the forefront of the public insurance system. The CACBC recommends that ICBC and the Province of British Columbia:

- 1** Shift ICBC's mission and Service Plans to government from "revenue driven" to a broader consumer-focused vision embracing loss prevention and road safety, partnerships and engaging with all stakeholders as the key to reducing the risk of road transportation and insurance costs for British Columbians.
- 2** Mandate ICBC to engage in greater stakeholder consultation as part of a renewed vision and mission that includes loss prevention and road safety and partnerships with communities, road users and governments.
- 3** Commit to retaining inside ICBC any surplus for the benefit of consumers who pay the premiums, and, in future, stop profit transfers to the Province. To date, the BC Government has transferred \$677 million from ICBC, with the amount planned to reach \$1.2 billion by 2015.
- 4** The CACBC believes that the Province should allow ICBC to operate as an integrated entity allowing profits from optional coverage to lower rates for compulsory policyholders. The current Liberal Government policy, which precludes the use of optional profits to lower basic rates should be ended. The irony is that the Liberals call this a cross-subsidy but for the policy year 2012, they have allowed this in order to avoid an increase of basic rates of more than double the 11.2%.
- 5** Enable ICBC to recover its over \$100 million in costs of providing driver and vehicle licensing and registration services establishing service standards and performance agreements between ICBC and the government. These standards and agreements will spread these costs across both basic and optional insured motorists and assist in the renewing of facilities and infrastructure, which ICBC now intend to fund from policyholders. Private insurers do not bear any costs of these services but benefit from safe drivers and safe vehicles.
- 6** Instruct ICBC to review and report to government as stewards of statutory accident benefits on the adequacy of these benefits and ensure that no British Columbian has to exhaust their benefits and rely on other systems for assistance.
- 7** Reduce Canada's highest premium tax of 4.4% to pre-2004 levels or do what the Insurance Bureau of Canada suggests – eliminate this tax entirely.

- 8** Restore management and board of director responsibility at ICBC and stop setting ICBC rates by actuarial formulas only at the special direction of Cabinet. History proves that actuarial methods in 1996 that showed the collapse of ICBC by 2000 were dramatically wrong and ICBC evidence at British Columbia Utilities Commission (BCUC) hearings shows significant volatility even during the proceedings.
- 9** Eliminate BCUC as regulator of ICBC compulsory rates because Cabinet, through an Order-in Council (OIC) is simply using Special Directions (SD), to pre-determine the outcomes for rates and excess capital making the BCUC hearing and evidentiary process a sham and waste of taxpayers and ICBC policyholder money.
- 10** Establish a “made in BC” retained earnings and excess capital policy with targets that reflect the unique nature of ICBC as a monopoly provider of compulsory insurance and dominant in optional insurance as a result. The approach should also reflect the reality of the underlying power of the monopoly in the optional insurance market and not require higher rates and excess capital requirements to benefit private insurers and to create unwarranted profits off the backs of hard hit consumers.
- 11** Remove ICBC from the Property and Casualty Insurance Compensation Corporation (PACICC) as it is a waste of policyholders’ money. Obviously, ICBC cannot go insolvent and does not need to pay into a fund from which it can never access unless the Province were first to become insolvent. This is another way of raising rates unfairly.
- 12** Develop a Policyholders’ Statement of Principles that enshrines the core principles of public auto insurance being operated for the citizens of BC and not for government profits and shift away from the arrogant notion perpetuated by government that it is the “sole shareholder” and to use this to act against the interests of motorists.
- 13** Immediately revise the ICBC Board of Director structure to provide for the appointment of a broader representation of stakeholders that includes two consumer representatives so consumer perspectives are permanently entrenched in the current and future direction of the Corporation.
- 14** In light of a revolving door of CEOs (7 CEOs since 2001), commit to publishing the selection criteria for CEOs and Directors and implement an evaluation process for the Board as clearly it is not working now.
- 15** Stop tinkering with the basic rate design system until its impacts on policyholders and full details and costs of transitioning and implementing the system are clear. The most recent proposed ICBC changes in 2012 are just too complicated and absent of sufficient details that consumers require to make an informed decision.

> INTRODUCTION

The Consumers' Association of Canada – BC Branch (CACBC) contributed to the public support needed to establish the Insurance Corporation of British Columbia (ICBC) in 1973 when it opened its doors with its then General Insurance Division offering a range of non-automobile insurance products with automobile insurance policies commencing in 1974. While General Insurance was sold off by the Social Credit government in 1983, the history of that division would show that it too played a vital role in providing insurance services across the Province much like ICBC has done in auto. The CACBC has critically observed the Corporation on behalf of consumers for 40 years and during this time has participated in a range of public service activities including:

- > Consumer advocacy on policy issues.
- > Serving on the President's Advisory Committee established in 1996 along with a broad range of stakeholders representing brokers, auto repair industry representatives, bicyclists, legal and other health care providers and seniors and youth.
- > Independent cross Canada rate surveys comparing public and private insurers with ICBC rates.
- > BC Utility Commission Hearings on ICBC.

The CACBC believes it is not only qualified to make recommendations to the Province of British Columbia and ICBC but that is essential to speak out now as the evidence suggests that ICBC is no longer operating in the public interest but in the interests of the government whose representatives make it clear that the government considers itself the “sole shareholder.” It is evident that the Province and ICBC no longer recognize or accept the broader stakeholder interests that should be part of public auto insurance and that were developed and respected prior to the Liberals assuming control in 2001.

> Evidence suggests that ICBC is no longer operating in the public interest.

Consumers are concerned about the Province of British Columbia's plan to continue to inflate insurance rates and siphon excess ICBC profits to improve the Province's books. ICBC as a public auto insurance company is intended to ensure that citizens have broad access to reasonable and affordable insurance services. These services were not intended to be provided in the name of shareholder and investor profits. The system should be managed to minimize risk and ensure sustainability. Over the last ten years, the Province's adjustments to the insurance system have radically shifted BC's public auto insurance system from one that maximizes public good, to one which maximizes profitability. These profits are now shifting unfairly to Provincial coffers. Meanwhile British Columbians, the consumers of the public auto system, lose the benefits of the public system and pay increasingly higher rates unnecessarily. The CACBC and other stakeholder groups believe that this must stop!

The CACBC asserts that the system is now unbalanced. Inflated insurance rates, brought into affect under three successive BC Liberal administrations, benefit private insurance interests and government coffers. All that consumers see are higher insurance costs. Before this period of artificially high rates, ICBC charged rates needed to provide services and pay claims while retaining sufficient capital to not put the business or policyholders at risk of major rate increases. While tax revenues and increasingly higher user fees for services have been the traditional sources of added government revenues, the redirection of ICBC policyholder money means a large number of BC taxpayers bear an added burden – a de facto additional tax – that is both unfair and without representation or voice.

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> CONSUMERS' ASSOCIATION OF CANADA (BC) AUTO INSURANCE ROLE

If there is a single product that few consumers ever speak glowingly about it is auto insurance. It is a product and service that is used only when something bad takes place. This includes events where the policyholder is not at fault – a rock chip ruins a windshield or someone breaks into or steals or vandalizes your vehicle – all costs that must be paid for by the insurance pool. In addition, insurance must be paid for in advance of need and many drivers go years without claims of any kind or none where they are at fault. Insurance is more difficult for consumers to compare or assess as unlike shopping for a car where astute consumers can easily compare prices, features and benefits across makes and models, auto insurance systems, coverage and legal frameworks are significantly different across every province and territory in Canada and only experts in insurance fully understand the coverage and legal frameworks which lead to different cost results for policyholders and claimants.

Rate comparisons between jurisdictions are complicated not only by differences in legal frameworks and insurance coverage but due to how rate comparisons have been made. The private sector insurance lobby has historically used average premiums paid, irrespective of the differences in insurance systems across Canada.

To provide BC consumers with the best information available the Consumers' Association of Canada-BC Branch (CACBC) undertook national studies of insurance rates across Canada in 1999, 2001, 2003 and 2005. The CACBC based their findings on actual quotes for actual driver profiles and vehicles offered by private insurers in their rate filings with provincial and territorial insurance bodies. These actual quotes were then compared to what ICBC would actually charge its customers with that exact same driver and vehicle profile. The results provided a much clearer understanding of how BC compared to other provinces.

While averages rates charged provide a simple comparison at one level for consumers, they don't tell the whole story. In an attempt to inject more realism, CACBC used a range of different driver and vehicle profiles – driver's age, sex, years of driving experience, marital status, number of driving offences, claims histories, and then compared ICBC rates with the median quotes from private insurers. CACBC took the median rates as the highest and lowest rates would have far less of a take up rate. The lowest rates would be offered to only a select few and the highest rates would be offered to dissuade drivers perceived to be high risk from buying a company's product.

Although ICBC does not use age, sex or marital status in its ratings private insurers do use social criteria to choose who they will insure as underwriters seek to identify the best risks for their company. The results of these studies indicated that BC's public auto insurance with its non-discriminatory rating and lack of social variables provided lower rates for drivers overall. The findings also showed that some more experienced drivers were disadvantaged with ICBC, however the rates were shown to be particularly good for young people and families with children of driving age. In addition, when one considers the complete life cycle of buying automobile insurance throughout a lifetime, all things being equal, rates are considerably more affordable and much less volatile.

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Following the CACBC studies ICBC did implement some changes including the annual declaration of principal operator discussed later in the paper, with the objective of redistributing premiums to higher risk drivers in an attempt to lower rates for longer term crash free drivers. No recent rate studies have been made since the BC Liberals implemented measures resulting in inflated insurance rates due to the difficulties that the CACBC had in gaining access to private insurers' rates. An updated independent rate study would be highly informative for consumers but it would need the endorsement of the private insurance lobby to get their members cooperating.

In 2012 ICBC undertook a public relations campaign suggesting changes to the current basic rate structure making it more “driver based” and putting an increased emphasis on driving experience and crashes. The CACBC doesn't not support the proposed changes to “tinker” with the rating system as ICBC has not yet made it fully clear what problems its is trying to address nor does its range of options provide consumers with sufficient assurance that this is not just another way to gouge consumers with rate increases. In addition, ICBC's submissions to the BCUC make it clear that the changes to IT systems will be significant – yet they have provided no detail as to costs. ICBC attempted a major re-write of their insurance systems in the mid 1990s and that turned out to be a write off of \$55 million in capitalized costs. Furthermore, the CACBC believes the government and ICBC should be dealing with the much more significant issues outlined in this paper that are inflating BC consumers' insurance rates – and a return to the core values and principles would serve overburdened consumers far better in the short and longer term.

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> THE PERFECT INSURANCE WORLD & THE UNDERWRITING CYCLE

Understanding auto insurance is a more complex than most public utilities including electricity, gas, water, sewage or even garbage collection. The insurance industry and consumers groups while doing their best to make things simple for consumers can't completely simplify things to every consumer's satisfaction. This is due to the complexity of rules, insurance policy clauses in legal terms that remain unchanged as they have been tested in courts, case laws, precedents and the various regulatory regimes and differing schemes of insurance across Canada and the globe.

In the simplest terms, to a single auto insurer, their brokers and their policyholders a perfect insurance system would ensure that:

- > An insurer wants to get the lowest possible risk group of policyholders with low claim rates and low severities when claims do occur.
- > These same best risk drivers all would live in crime and crash free communities, make limited use of their vehicles especially during bad weather, and after dark keep the car parked in a safe, secure garage.
- > Brokers benefit too as insurers pay better for claims free business so presenting high risk business to an insurer is bad business for brokers too.
- > Motorists also want to be in the best risk pool where no one makes claims – or when they do- they are minor at most.
- > At the same time motorists and other road users (pedestrians, bicyclists) want to be protected from uninsured, underinsured and unidentified (hit and run) drivers in the event they are victims.
- > Motorists want to make sure their insurance fully covers their unforeseen at-fault crashes and claims and do not put their personal assets at risk.

There is just one problem. When it comes to Property and Casualty Insurance and auto insurance, the perfect world doesn't exist in the real world.

Among the 1981 Discussion Papers of the Casualty Actuarial Society is a paper on *Underwriting Cycles in the Property-Casualty Insurance Industry* (by Kaye D. James and reviewed by David Oakden) that brought to light what insurers now call the underwriting cycle. It is code for a pattern in the insurance industry of three or so profitable years during which insurers engage in competitive practices while chasing new business only to suffer three subsequent years of losses – and as the James paper shows – this cycle starts repeats itself.

This pattern hasn't changed since 1979 as noted in the opening quote of the James paper: "The president of a major insurance brokerage firm recently observed that: 'During the past 25 years, with one minor variation, three years of underwriting gains have been followed precisely by three years of underwriting losses.'" The author describes the underwriting cycle as follows:

"When profits are high, insurance companies decide to expand their activity by seeking new business. This new business is of two general types: 1) customers currently doing business with other firms, and 2) business that was previously judged to be of greater risk. Attempts to coax away competitors' customers usually entail reducing the price charged for insurance coverage presently offered; offering better coverage for the same price; or increasing sales costs. Pursuing the riskier business raises the probability that the firm will experience higher claims costs.

As other firms also engage in this activity, underwriting profits shrink and some firms begin experiencing losses on their underwriting activity. The firms begin to tighten their underwriting standards and turn to the regulatory authorities for relief from this cutthroat competition."

James notes that, "Each firm seems to decide to expand its premium writings based on expected profitability without taking into consideration that other firms are observing the same signals and drawing the same conclusions."

Fast forward to more recent times and you will continue to see references by insurers and the Insurance Bureau of Canada (IBC) to this cycle. In a 2006 publication "**Explaining the Canadian property and casualty insurance industry's profits and premiums in relation to the industry cycle,**" three factors that cause the cyclical swings in the P&C industry are highlighted. These are:

- > a lag in measuring the cost of insurance, and the lag's impact on pricing;
- > changing investment returns, which subsidize underwriting results; and
- > the economics of competition.

A layperson's view of the "lag" can be explained this way. In an industry where demand for manufactured goods exceeds supply and they cannot quickly increase production capacity, prices typically will rise as does company profits. Similarly, a shortage of rental units will lead to price increases or demand for new homes outstrips supply.

P&C insurers, on the other hand, have no problem increasing supply in good market conditions subject to meeting regulatory requirements. The insurer just needs an application form. However, the problem for insurers is that unlike a goods manufacturer they won't know if they right priced the product until the claims costs for all their policies sold in that policy year are known or are at least, more predictable. It is even more complex for insurers as they are handling claims from more than one policy year and also reporting year end results where policy years overlap. The IBC mentions investment income that offsets underwriting losses and that too is a factor. In a public insurance system like ICBC the investment income was intended to benefit their policyholders whereas in a private insurer that will help ensure a profit and fair return on investment to their shareholders.

> BC AUTO INSURANCE MARKET PROBLEMS, PRE-1972

To understand the role of a public automobile insurance system is to first understand the key problems and issues facing motorists and insurers alike that led to the BC provincial government determining that the private sector was not going to address long standing problems identified by consumers and a Royal Commission. British Columbia is a vast province with many small towns and communities with environmental challenges that are an auto insurer's worst nightmare- towns and communities too small to have any police presence and weather and road conditions that lead to differing mixes of claims depending on the season. Where the cities have better traffic conditions but lots of minor rear end collisions and auto thefts other regions have windshield claims, higher speed crashes, weather related single vehicle crashes and animal hits. Policing presence also affects speed and drinking driver rates – all issues in a large geographic region with sparse populations and roads that can be challenging.

While there were some 175 insurance companies in BC by the 1960s insuring homes, businesses and motorists through independent insurance brokers it did not translate into motorists outside the cities getting coverage as the costs of servicing brokers and resulting claims were very high and auto insurance was not a profitable line that could pay for itself if they didn't charge high rates. Equally important was a widespread discriminatory rating criteria based on age, sex, marital status, area of residence and other social rating criteria including occupation groups and those they deemed to have high risk lifestyles. Every auto insurer had their own favourites to exclude just because of their occupation or who they lived with. By the 1960s auto insurance became the number one consumer complaint and for good reason.

The auto insurance problems during the 1960s led the CACBC and other stakeholders to advocate for the creation of a public insurance system offering compulsory and optional insurance. These calls were in response to consumer complaints that many motorists especially those outside of the urban regions were not able to secure auto insurance or that the rates being quoted were not affordable and definitely not competitively priced. In addition auto insurance was not compulsory and police and insurers estimated that some 30% of the vehicles on BC roads were operated by unlicensed and/or uninsured drivers. With no requirement of having the right class of driver licence to obtain insurance, many of the public did not bother to take driver training and licensing exams as they were not able to get auto insurance anyways. This led to many complaints from innocent crash victims and families who were often devastated financially.

> The auto insurance problems during the 1960s led the CACBC and other stakeholders to advocate for the creation of a public insurance system offering compulsory and optional insurance.

> BC SOCRED GOVERNMENT AUTO INSURANCE ACTIONS

This crisis in auto insurance led to Premier WAC Bennett taking three actions in the auto insurance industry:

- 1 In 1961 the Province established the Traffic Victims Indemnity Fund to compensate victims of uninsured and hit and run drivers.
- 2 In the same year an Assigned Risk Plan (see box) was established that continued to be unaffordable and unfair for many consumers.
 - **Assigned Risk:** Type of auto insurance plan that gives the ability to obtain insurance from a pool of insurers to individuals that have previously been denied insurance coverage based on risk factors. All licensed insurers must participate in this type of plan and are allowed to determine their own rates. Individuals cannot be denied for this type of plan and the fees are usually much higher than regular auto insurance plans. (www.investorwords.com)

Neither of these measures came close to solving the problems in BC so the government was forced to act again. What the Premier did was establish a Royal Commission into all aspects of auto insurance.

- 3 In 1966 the Socreds appointed Justice RAB Wootton to undertake a study of the practices of the 175 companies operating in BC.

The Wootton Report Findings condemned private insurers and “the absence of effective competition” because “the price at which auto insurance was sold was standardized over almost 80 percent of the market.”

Other key findings in the 1968 report noted:

- > “Uniformity in price appeared very much more pronounced than was the case prior to the formation of the Insurance Bureau of Canada, as many companies which formerly appeared to exercise some independent judgment on rates ceased to do so.”
- > Despite some “nominal deviation in rates” between members of several other private insurance groups this was not to be taken as “a desirable level of competition.”
- > There was “no guarantee of compensation to passengers in a motor vehicle, bicyclists, and pedestrians.”
- > No compulsory insurance causing innocent victims to be devastated financially.
- > Policies could be cancelled.
- > No requirement that to get insurance you had to be both qualified and authorized to drive with an appropriate classed drivers licence.

British Columbia had a significant problem as not all towns and rural regions were areas where insurers were willing to take on risks. There was widespread discrimination based on age, sex, marital status, area of residence and other social rating criteria including occupation groups. Many claim free drivers who were deemed high risk as a result were forced into the insurance industry’s Assigned Risk Plan (also known in other provinces as the “facility”) for perceived and actual high risk drivers where the rates were high and at times deliberately

not affordable as it appeared to Justice Wootton. The surplus in that pool came from excessive rates and the inclusion of many claim free drivers. This problem of the facility continues to exist across Canada as during tough markets insurers force too many consumers into the facility (see note below) making auto insurance a high consumer complaint product.

In the 1972 provincial election the Dave Barrett led NDP had as one of this party's many major campaign promises postage stamp auto insurance at \$25 a year. Despite the strident attacks by WAC Bennett that the "Socialists hordes are at the gate" the NDP swept into government opening ICBC for business in 1973.

The public were not opposed to public insurance in the early 1970s and even the Social Credit membership called for government life insurance in BC. The Liberals who came to power in Saskatchewan did not undo the Tommy Douglas establishment of government's public auto and a general and life insurance company there. One of the reasons Premier Douglas and also the Province of Manitoba set up their own insurance programs was for the investment funds they needed to build hospitals and schools post World War 2 and which were not available from other sources for small provinces as those two.

In BC consumers did not perceive that non-BC based auto insurers had their interests at heart and investment income did not benefit British Columbians. Public insurers with their investment portfolios could return as much as 90 cents of every premium dollar into claim payments while private insurers were running about 70 cents being paid in claims. The public insurers can use the investment returns to lower premiums while private insurers have to satisfy their investors with an adequate return on their investment. It also helped that the public had negative views of private insurers due to a lethal combination of high premiums, long claim settlement times, discriminatory rating practices and a host of uninsured drivers – all noted by Justice Wootton and the drivers.

➤ The public insurers can use the investment returns to lower premiums while private insurers have to satisfy their investors with an adequate return on their investment.

: Facility Association – www.facilityassociation.com

: "The Facility Association is an entity established by the automobile insurance industry to ensure that automobile insurance is available to all owners and licensed drivers of motor vehicles where such owners or drivers are unable to obtain automobile insurance through the voluntary insurance market.

: The Facility Association is an unincorporated non-profit organization of all automobile insurers serving the following provinces and territories: Alberta, New Brunswick, Newfoundland & Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Yukon

: Every insurer licensed to write automobile liability insurance in any jurisdiction Facility Association serves is required to become a member and remain a member of the Association."

> NDP GOVERNMENT & 1972 AUTOPLAN TASK FORCE

The 1972 ICBC Autoplan Task Force was set up at the direction of the NDP Government with broad stakeholder representation in the Task Force and a strong mandate and General and Specific objectives as to how ICBC as stewards of the public automobile insurance system were to operate in the interests of its “publics.” Two things were made abundantly clear.

- 1 The Task Force preceding ICBC writing its first auto insurance policies was to ensure that the problems plaguing BC auto insurance consumers were to be fully addressed: **“In its widest context, the message to be communicated is that ICBC has been created by public demand and for the public’s benefit to provide motorists with more equitable coverage, streamlined claim services and efficient administration, all at the lowest possible cost.”**
- 2 ICBC are stewards of the public interest as the administrators of Autoplan and were to be guided by the stated principles and objectives.

The guiding principles and core values of ICBC Autoplan were not to become what the harshest critics from the private insurers and the Insurance Bureau of Canada were calling Autoplan if it was run by ICBC under the direction of the provincial government.

The most vociferous condemnations prior to ICBC writing its first auto policy included insurance industry managers such as: Manly Price, manager of the Zurich Insurance Company, calling the government insurance plan “a licence to steal” because it would not be subject to regulation like private insurers. “They [the government] are obviously going to operate it [the insurance corporation] by order in council which means decisions will be made for which the people do not know the reasons. The bill gives the corporation the broadest powers to operate without public participation. It will be bureaucratic, autocratic and monolithic. It may operate according to politicians’ desires and needs and not to the people’s.” (Source: Nuket Kardam, *Interest Group Power and Government Regulation: The Cases of the Mining and Insurance Industries During the Period of New Democratic Party Government*, BC Studies, no.60, Winter 1983-84)

What the critics in 1972 didn’t know was that they would have to wait until the Liberals took office in 2001 to set in place a fast track trajectory to making these predictions come true.

In response to ICBC being proposed as the sole provider of Autoplan the private insurers tried public ads to get the government to allow private insurers to sell this scheme. All efforts to stop ICBC failed right up to the Supreme Court. When they were aware that they were to lose they refused to publish the consolidated “Green Book” accident statistics from the 180 or so companies leaving the new government insurer to use non-aggregated data to set rates to start. The private insurers also tried to force ICBC to take on servicing the policies they had underwritten and for which they were still responsible. (Source: Nuket Kardam, *Interest Group Power and Government Regulation: The Cases of the Mining and Insurance Industries During the Period of New Democratic Party Government*, BC Studies, no.60, Winter 1983-84)

Knowing that it would take time to get rating right and the efficiencies and economies of scale the Task Force mandate included preparing consumers to be patient and understanding of the challenges of such a complex start up. This proved to be true as the rates were set initially without the benefit of data that could be factored easily by the actuaries and they got the rates wrong to start. This led to a government infusion of \$138 million in capital into ICBC in 1976 and significant rate increases to get ICBC to a break even proposition with sufficient excess capital above claims reserves to prevent further rate shock. We are noting this as this is typically what private insurers look back to as ineptness but the reality was simply that ICBC was undercapitalized as they didn't have the full information including that held by angry private insurers. It also took time to merge differing insurance company operating cultures and claims philosophies from private insurance managers and claims adjusters – a struggle that goes on even today at ICBC.

With executives, managers and experts from both public and private insurance backgrounds ICBC did not fully end discriminatory rating practices until Premier WR Bennett in 1978 at a Cabinet meeting with ICBC officials complained that rates for drivers under 25 were too high as many were claim and crash free. ICBC executives were told by the Premier to return with a fairer, non-discriminatory rating plan. This instruction followed on the heels of the President of ICBC and Minister responsible, the Hon. Pat McGeer saying at the time of the \$176 million capital infusion by government and high rate increases that if crash rates continued to be low that drivers could get rebates. By 1980 ICBC brought in its non-discriminatory rating scheme (FAIR) as a means to satisfy both Premier Bennett and his Cabinet and to add another core operating principle to distinguish ICBC from private insurers. It helped that Premier Bennett like his father before him represented an interior region of the province which had all of the major challenges of non-urban regions when it came to auto insurance.

➤ By 1980 ICBC brought in its non-discriminatory rating scheme (FAIR) as a means to satisfy both Premier Bennett and his Cabinet and to add another core operating principle to distinguish ICBC from private insurers.

➤ ICBC VALUE PROPOSITION – CORE FOUNDING PRINCIPLES

In representing consumers, the Consumers' Association of Canada British Columbia (CACBC) has supported ICBC's core principles that have led to fairer distribution of premiums and non-discrimination in rating. We believe that the system that the Province initially envisioned has led to an overall positive outcome for British Columbians. The CACBC also understands that the strength of the BC system is based on its founding core principles. To erode these core principles is to chip away at the common good which this system provides.

The British Columbia public automobile insurance established by the NDP government in 1973 took a stakeholder view when it established the Autoplan Task Force.

The core principles of public automobile insurance that led to ICBC's establishment included:

- 1** Accessible and affordable auto insurance with stable premiums for all British Columbians that eliminate the problems of unlicensed and uninsured motorists estimated to be 30% of vehicles on the roads.
- 2** Provide claims services that are fair, timely and accessible across the province.
- 3** Commitment to the existing network of independent brokers for product delivery.
- 4** Work in partnership to develop a network of auto repairers, health care providers and other services related to auto insurance claims that work for claimants
- 5** Allow fair competition in optional insurance*.
* The government shortly after ICBC began to write auto insurance what is considered to be optional insurance was made mandatory so vehicles had to have own damage coverage for their at-fault crashes. This was short lived as it forced motorists to buy own damage for cars that had limited value if a total loss. By 1977 the government allowed private insurers to sell optional.
- 6** Not for profit but to operate as an integrated business in compulsory basic and optional insurance. To ensure that returns on the ICBC investment portfolio provide a benefit to policyholders by way of contributing to pay claims costs and keep rates low and stable.

These core principles and values evolved over time with both a subsequent Socred and later NDP governments adding to ICBC's value proposition to the public. What is clear is the Liberals since 2001 have done more harm than good.

In 1978 Premier W.R.Bennett expressed alarm that young drivers who were often claim free were still faced with higher insurance premiums due to ICBC using industry rating variables such as age, sex and marital status to determine risk. This led to ICBC ending this policy and later introducing penalties and discounts for crash free drivers. ICBC since 1980 has operated with this added core value:

- 7** FAIR, non-discriminatory insurance rates where drivers earn discounts and get assessed penalties for at-fault crashes.

The NDP governments of Premiers Mike Harcourt and Glen Clark were aware that ICBC faced rising claim costs that based on independent consulting and actuarial studies showed that Autoplan by the year 2000 was on a trajectory to ruin unless dramatic changes were made to the coverages and benefits payable or claims trends reversed downward. The direction from government to ICBC and its Board of Directors based on core principles was to engage stakeholders in broad consultations. This process ultimately led to ICBC and its stakeholders to implement road safety and loss prevention initiatives that saved lives and reduced claims costs.

- 8 Stakeholder partnerships that lead to safer roads, vehicles and drivers and stakeholder engagement including a President's Advisory Committee of stakeholders.

This was accompanied by a rate freeze that effectively was in place for the six years from 1996 to 2001.

It is has been a different story with BC Liberals in power since 2001.

➤ LIBERAL EROSION OF ICBC CORE PRINCIPLES: 2001–2013

The CACBC believes that the strength of the BC public automobile insurance system is underpinned by its founding core principles and subsequent addition of principles that benefit stakeholders. Since 2001 when the Gordon Campbell led Liberals took office there has been a steady erosion of ICBC's core principles.

What the Liberals have done is to rig the system against policyholders and ICBC policyholders have been targeted with unfair actions including the following:

- 1** Auto insurance reform legislation that could in future by Cabinet direction end ICBC in some or all of its two lines of business and provides for what is not working in other provinces – a high cost “facility” where any risk deemed too high by insurers get placed and across Canada the complaints are that many who are forced there are claim free. The private insurance lobby could not have written a better legislative package.
- 2** Shifted ICBC's stated Vision and Mission of “Helping British Columbians take the risk out of road transportation” to a series of changing statements that at its core – and to use ICBC words – are: “revenue driven.” Between 1996 and 2001, ICBC interpreted risk to be safer roads for all users (vehicles, bicyclists, pedestrians) and the risk of high costs of insurance to consumers and businesses who must compete across North America and need a fair playing field. ICBC Service Plans to Government show that “ICBC has a unique business model relative to other insurers in the P&C industry. BC's auto insurance business model is set to achieve and maintain our capital target rather than to maximize our return on capital.”
- 3** Eliminated the core principle of not for profit but profits for the government as their own Ministry of Finance Review of ICBC in 2012 shows:
“Basic premiums are only intended to cover costs while Optional premiums are meant to be competitive and generate a profit. Optional insurance has generated profits each year, which were retained to build ICBC's equity, from \$314M in 2002 to \$3.8B in 2010, at which point dividends were paid to the Province of British Columbia.”
- 4** Use of Federal regulatory (OSFI) rules for excess capital calculations despite the fact that this body was established to regulate private sector financial institutions to ensure public confidence and prevent insolvencies. OSFI has no jurisdiction over ICBC and despite the Province of British Columbia's own reports acknowledging that ICBC does not have the same risk profile of insurers who can and do go broke – ICBC must use these inappropriate measures. This requires higher excess capitals levels (MCT) on both the basic compulsory and optional insurance and the overall company.
- 5** Used the higher excess capital levels on optional to achieve what the Liberals called “a level playing field” with private insurers which means higher rates for ICBC policyholders.

- 6** Ensured that optional insurance windfalls in good years could no longer lead to reduced optional rates or be used to mitigate rates charged on basic compulsory insurance by calling that a cross subsidy and arranging for these profits to transfer to government. This only changed for the year 2012 when ICBC faced a massive rate increase on basic insurance. In 2012, they altered this rule temporarily: “For the year 2012, government has instructed ICBC to transfer Optional capital to the Basic insurance line of business in order to rebuild Basic capital.” Then it’s back to normal post the 2013 election: “The 2013–2015 forecasts assume a resumption of transfers of excess Optional capital to the Government of British Columbia.”
- 7** Increased the auto insurance premium tax to 4.4% (the highest in Canada).
- 8** Getting the Property and Casualty Insurance Compensation Corporation (PACICC) to change their by-laws to allow crown insurers to join and contribute policyholder money towards a fund that will pay out claims when private insurers across Canada go insolvent – something that ICBC cannot do by statute.
- 9** As part of the shift to “revenue driven” the Liberals have brought in CEOs and Chairs of their board with a private sector profit mentality that have failed so miserably that it has led to 7 CEOs since 2001 with the current Chair at ICBC one of the Liberals recycled short term CEOs. From its inception in 1973 when Norman Bortnick was the head ICBC executive using the then common industry title of General Manager, ICBC had just 6 Presidents/CEOs/General Managers in 28 years up until Thom Thompson’s retirement in 2001. This excludes the first Presidents of ICBC who by legislation were Cabinet Ministers. This changed following the sudden death of GM Norm Bortnick while on a business trip to the UK.
- 10** Failed to appoint CEOs and Chairs and directors who can provide adequate guidance and policy advice to either the company or the government. We need look no further than the revolving door of CEOs since the Liberals took office for evidence. A government audit of its appointees showed in August 2012 that under their watch that there was a 32% increase in management jobs and 1% reduction in jobs in the ICBC bargaining unit. At the same time there has been an increase of 50% in management compensation with their bargaining unit gaining just 9% over the prior 5 year period.
- 11** Under the pretence of an ‘independent’ regulator, BCUC uses its Cabinet powers to manipulate the outcomes by its Special Directions, Directives and Service Plans.
- 12** A failure to maintain and promote ICBC as a leader of integrated road safety and loss prevention programs that reduce crash rates, claim severities and costs of premiums making the years after the Six Point Road Safety Plan of 1996 ran its course by 2000 leading to a lost decade of opportunity to save more lives and reduce policyholder premiums.

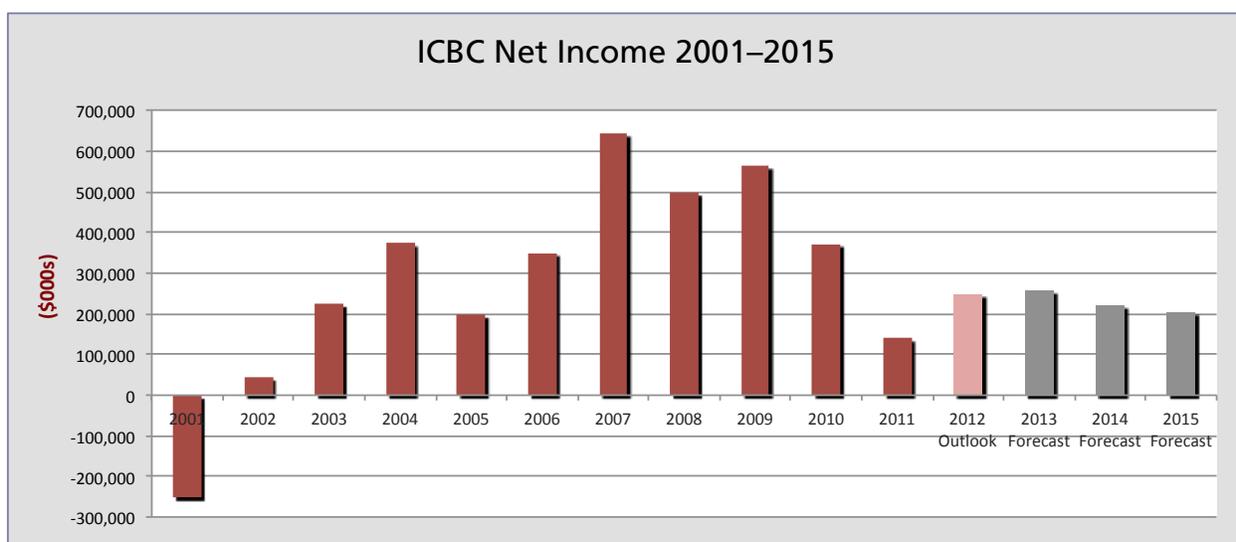
- 13 Ignored revenue generators built into the ICBC Rate Design Changes put in place in 2001 that dramatically improved ICBC's total revenue performance including the declaration of a vehicle's Principal Driver and the doubling of time to earn a maximum claim free discount from 4 to 8 years – combined with changes to the Claim Rated Scale that led to dramatically higher penalties for at-fault claims.
- 14 Forced road safety costs onto compulsory insurance only even though all optional insurers in BC benefit from safer roads and loss prevention measures.
- 15 Continue to force ICBC to remit all driver and vehicle licensing revenues to government while forcing all costs of operating these functions plus replacement of aging infrastructure onto basic compulsory insurance policyholders. What is troubling is the August 2012 Ministry Review notes that added costs are coming for basic insureds:
 “Many of the driver licensing systems are nearing the end of their useful life and lack the flexibility to accommodate new business requirements. While no timelines have been established for the replacement of these legacy systems, this should be a priority given their importance to many stakeholders.”
- 16 Ignore first party statutory accident benefits which are set by Regulation and have been relatively unchanged since 1990 despite evidence that these benefits have been exhausted by numerous people and other systems such as health care then have to bear these costs or the injured are left on their own.
- 17 Shifted from NDP government mandated stakeholder partnerships and consultation to produce safer roads to the present situation where ICBC tried public consultation recently and failed so ineptly their initiatives to move to more driver based insurance are in the trash can.
- 18 The BC Liberals 4.4% premium tax is the highest in Canada. You could argue that the government is already taking a dividend on ICBC given its tax on some \$3 billion dollars in premiums. The Government Bulletin announcing this new rate that came in January 1, 2004 stated simply that:
 “Effective January 1, 2004, the tax rate for premiums on property and automobile insurance is increased from 4% to 4.4%. This increase will support the provincial fire suppression program.” This bizarre linkage of policies is troublesome. The tax rate for life, accident and sickness policies and loss of wages or wage insurance is 2%. All other contracts of insurance are taxed by the province of BC at 4%. Once again an unfair burden is placed on motorists.
- 19 ICBC Service plans indicate employee engagement scores are tanking and predicted to be worse in 2013. What was evident during the 1996–2001 years of no rate increases at ICBC was that its employees across the province were engaged with its stakeholders. What is interesting is that it has been the employees' union that has made public the transfer of funds to government and who have consistently raised the alarm bells at ICBC during the Liberals' time running ICBC.

In summary, the Liberals have taken the concept that they are the “sole shareholder” of ICBC to what a stakeholder means to them – a private Property & Casualty insurer.

➤ ICBC CURRENT FINANCIAL SITUATION

ICBC has been very profitable over the last number of years (see *ICBC Net Income 2001–2015* below) . It should be profitable as it has the underlying value of its monopoly in compulsory auto insurance to win a massive share of optional coverage as well as an extensive network of brokers and auto repairers to ensure that their customers and claimants have access to needed services and their distribution costs can be kept reasonable. Consumers across BC have the ability to go into town for shopping and other services and get their insurance issues settled along with their driver and vehicle licensing needs. No single insurer could compete with this.

Despite rising claims costs the financial results were good, even during the Province’s six year rate freeze from 1996 to 2001.

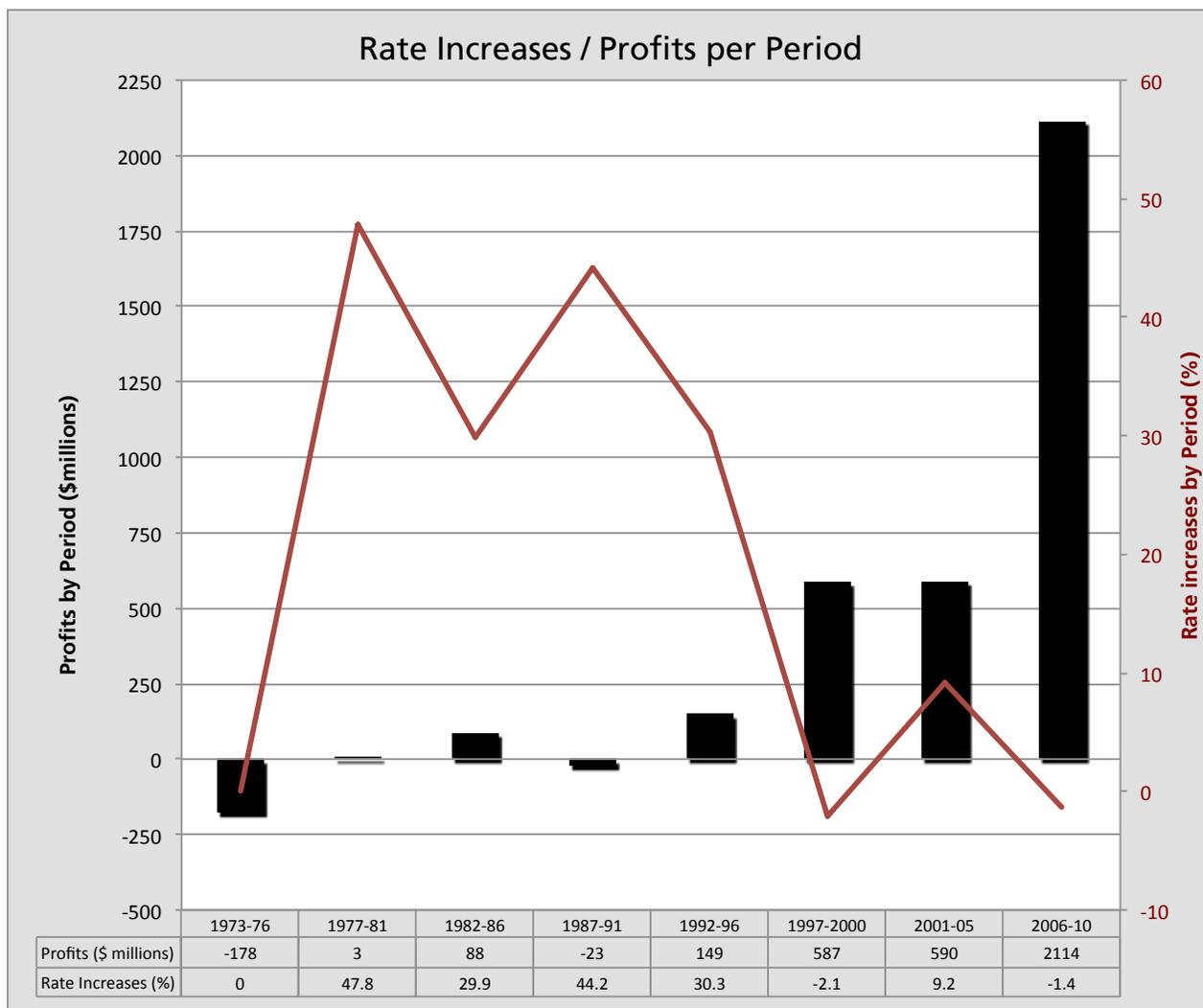


Source: ICBC Annual Reports and Service Plans

The 2001 loss of \$251 million following a net income of \$139 million in 2000 was due to a combination of factors including a \$219 million Road Safety Dividend of \$100 paid to eligible policyholders paid in 2001 to recognize safe driving and 6 years without a rate increase. A sizeable amount of this loss was due to a write down of the Surrey Central investment with another \$40 million due to restructuring costs as ICBC reduced its staff by almost 1,000. If not for these factors 2001 would have been a net income of \$357 million.

In fact the years of the rate freeze were ICBC’s most profitable years ever, up until the Province’s dramatic shift in 2001 to make ICBC “revenue-driven.” In the next chart titled *Rate Increases/Profits Per Period* it shows the rate increases and the profits/loss for each 5 year period from ICBC’s inception until the year 2000. The early years showed how ICBC was undercapitalized and rates were not yet right priced for the risks. The most profitable period was during the 6 year rate freeze beginning in 1996 where ICBC was focused on claims cost control initiatives and road safety/loss prevention programs as a means to keep rates down. You will see the absence of an excess capital policy led to lower net income than at present when the Liberals put in place new capital requirements (post 2001). The 1996 success in claims cost control and road safety were pioneered in

1982 and put in stronger focus from Interim CEO Robyn Allan to Bill McCourt to Thom Thompson. It did not all happen quickly. The introduction of photo radar and red light cameras as well as the integrated road safety program with the 4 Es of Education, Enforcement, Engineering and Environment as well as working with stakeholders all helped out.



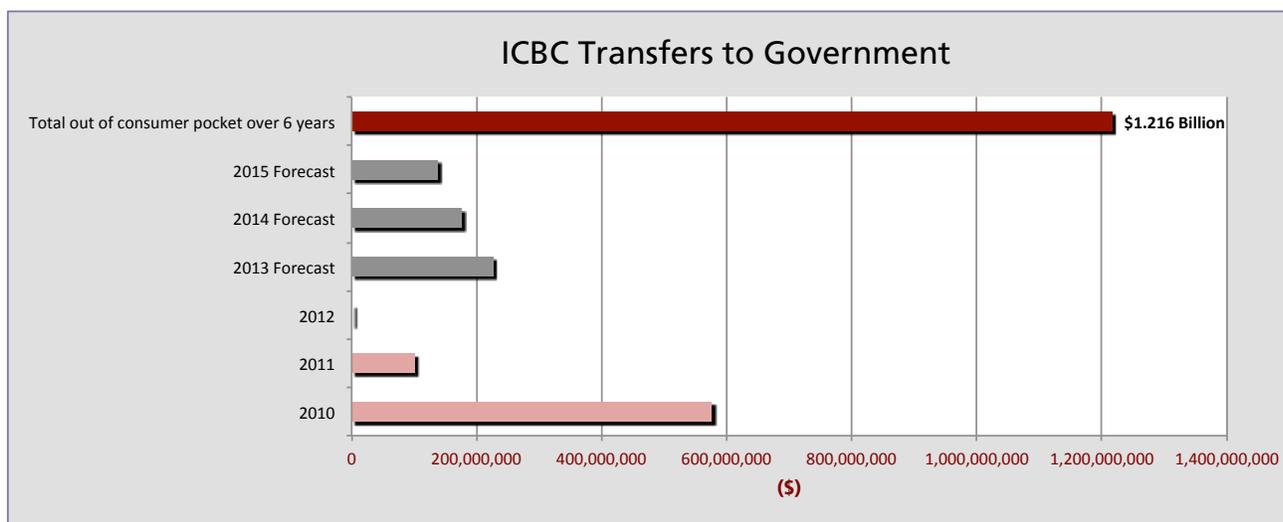
Source: ICBC Annual Reports and Service Plans

Today ICBC's profitability is borne on the backs of its policyholders who are paying significantly higher premiums than necessary as result of government measures to benefit their coffers, and private insurers, as they require both added excess capital and a profit on optional insurance. This makes it more lucrative for private insurers to compete in the market where most are niche insurers going for just low risk drivers.

As government documents show during 2003 when it came up with new excess capital requirements for ICBC that are driving up rates needlessly, excess capital comes from net income and the only source of that income are the premiums paid by the policyholders. What is clear is that in the last 10 years or so, under the BC Liberals, is this: consumers are paying far more than required for the benefits and the service they receive.

Do these ICBC financial results from 1996 to 2001 reflect a dire financial condition such that the Province of British Columbia, under the BC Liberals, needed higher rates on both compulsory and optional insurance? In reviewing ICBC financial statements a clear advantage of the public insurance system is illuminated. Historically the financial statements showed how a sizeable return from its large investment portfolio that directly lowered each person's premium.

A private insurer needs to provide a reasonable return to investors which is typically generated from its investment portfolio whereas as a public insurer can use this income to pay claims and lower rates for its policyholders or to add to surplus capital to prevent future rate shock. That was true at ICBC until in 2003 the BC Liberals decided to take a profit from ICBC. Before 2001, ICBC always had sufficient funds to pay claims – the issue has simply been what surplus capital in excess of what was required to not put the company and its ratepayers at risk due to some unforeseen major rise in claims or costs. Now, the profits generated by excess capital requirements are stripped away by government and during a time when the ICBC investment portfolio is experiencing lower gains due to conditions in the equity and bond markets. Thus, policyholders pay more than they should.



Source: ICBC Annual Reports and Service Plans

Basic compulsory insureds received an 11.2% premium increase in 2012, which was only mitigated by the government changing the rules for 2012 only regarding the government getting the excess Optional capital. “For the year 2012, government has instructed ICBC to transfer Optional capital to the Basic insurance line of business in order to rebuild Basic capital.” “The 2013–2015 forecasts assume a resumption of transfers of excess Optional capital to the Government of British Columbia.”

While we can only speculate, if the government had not revised the Directives to ICBC the rate increase would likely have been double 11.2% at minimum!

While the government decries this cross subsidy of compulsory and has prevented this from happening as it was intended with ICBC as an integrated company, it seems this principle was not that sacrosanct until just months prior to the upcoming fixed date provincial election. The sanctimonious stance of government of ICBC having to have the same burden of excess Optional capital was expendable and we concur – but for all times, not just election years!

The government in other years will resume taking profits off the optional insurance as it is forcing ICBC by Cabinet order to charge higher rates and not use profits from optional to lower rates for compulsory policyholders as they call this a cross subsidy. While the CACBC believes that compulsory insurance should never cross subsidize optional insurance for obvious reasons, the opposite should not be government policy. There is no business reason or rational public policy argument that excess profits (unplanned) could not be used to keep compulsory insurance rates down as it was to be an integrated company from the outset. If they can use optional excess capital in an election year to mitigate the 11.2% rate increase in 2012 then it should be this way as it was in the years prior to the Liberals.

> RATE DESIGN FACTORS THAT DEFINE ICBC

CACBC believes it is important that consumers understand the public auto insurance system in BC and further, that they understand how ICBC's cost structures put in place after 2001 have generated massive revenues. The rise in ICBC premium income continues to significantly outpace the number of additional insured vehicles. Costs per vehicle insured rise, but the only one smiling is BC's Finance Minister, who counts on this revenue to improve the government's bottom line. You should note that a number of these changes have resulted in generation of significantly more premium income especially changes since 2001 with declaration of Principal driver, and doubling the time to get a full discount combined with more severe sanctions for at fault claims. These changes have dramatically increased premium levels as well as redistributed who pays what on a more equitable basis.

- > 1974: ICBC as BC's sole provider of auto insurance starts a Driver Penalty Point Premium system which rewards good driving and penalizes bad drivers. Optional, competitive insurance was mandatory for vehicles from 1974 to 1976.
- > 1976: Senior rate class at a 25% discount is introduced under the leadership of President and Minister Responsible, the Hon. Pat McGeer.
- > 1977: 25% disability discount and Safe Driver Vehicle Discounts
- > 1980–81: Non-discriminatory – Fundamental Automobile Insurance Rating Program (FAIR) is introduced by Premier WR Bennett and Minister responsible for ICBC, the Hon. Grace McCarthy. FAIR eliminates rating based on age, sex and marital status.
- > 1982: Claims-Rated Scale (CRS) commences with discounts rising to 40% after 4 years with no at fault crashes. CRS adds increases in insurance rates for at-fault crashes.
- > 1991: BC divided into 14 territories and an Out of Province Territory to better reflect each areas risk profile and claim type. For example, some parts of the province with sanded winter roads experience higher numbers of windshield claims and animal hit claims while urban areas experience more rear end collisions and intersection crashes. Rural areas have higher speed highway crashes.
- > 2001: Significant changes to CRS are introduced along with the addition of a Multiple Crash Premium. The new CRS increased the number of years to earn a full 40% discount from 4 to 8 years and added significant greater penalties for crashes. This full impact of these major changes has resulted in millions of dollars in additional revenues.
- > 2003: Annual declaration of Principal Operator and BCUC as regulator for Basic Auto Insurance. Again this was a major revenue producer. Families can no longer insure a car and let a new driver be principal driver without an added premium.
- > 2003: Established a government committee to determine a policy on excess capital levels prior to ICBC's first appearance before the new regulator where the process would be subject to evidence and transparency as is the case in Manitoba, which uses a hearing process to regulate MPIC – a crown insurer.

Increasingly the use of Special Directions is impacting the core principles of a sound public automobile insurance system.

➤ THE ORIGIN OF ICBC EXCESS CAPITAL REQUIREMENTS

An ICBC Capital Committee of senior Finance ministry staff with several from ICBC was established in 2003 by Finance Minister Gary Collins and was described in a March 17, 2004 document as:

“established to recommend the appropriate allocation of current capital between ICBC’s basic and optional insurance businesses, the minimal capital requirements for the optional insurance business and the corporation overall, and the time period for transition.”

The highly secretive Report was obtained by the CACBC through a lengthy FOI process with government officials starting off denying the existence of such a document or committee until the CACBC threatened them with a complaint to the FOI Commissioner and it was produced in a few days. An added insult was the addition of a Copyright prohibiting the CACBC from distributing copies to its directors.

The formation of this Committee followed the ICBC financial loss of 2001 which was in part caused by the NDP government authorizing ICBC to provide a \$100 road safety dividend for 6 years without a rate increase. The other factor was that the road safety programs and other claims cost control initiatives were bringing diminishing returns and renewal was needed but not yet happening nor has it since. While the NDP government in place in 2000 and ICBC’s Board wanted to reward BC motorists for 6 good years of crash and claim cost statistics the road safety dividend actually set up an enforced outside ICBC policy on excess capital that places the government and Cabinet fully back in the game as the regulator and decision maker – and not BCUC – as this is being managed by ICBC consultations with government and then Cabinet orders via amended Special Directions.

The 2004 report believed these stringent capital requirements for ICBC were needed as the government must ultimately guarantee ICBC solvency which the Report acknowledges was never an issue especially when over half its income is from its monopoly insurance! The second reason was seemingly a function of BC Liberal Party interests in support of the private insurance lobby who supported their election as well as eyeing up more government revenues. The excess capital requirements on ICBC would require higher ICBC premiums and put them as Minister Gary Collins said on a level field with private insurers as well as create profits for government. The Liberals chose to ignore the fact that private optional insurers are focused only on the best risk drivers in the safe areas of cities, or what is known in the P&C industry as “creaming.” Theoretically if ICBC lost all the best risk customers in optional rates would rise for those remaining in the pool.

The ICBC Capital Committee Report had one item that is easy to understand if you pay insurance premiums to ICBC: “ICBC’s only option is to raise net capital through net income” and as noted in the report – the only source of income is from policyholders.

➤ ICBC’s only option is to raise net capital through net income” and as noted in the report – the only source of income is from policyholders.

There are a number of statements in this Report that acknowledge the reality that the capital requirements on ICBC have little to do with the actual risk of ICBC insolvency. The Report is very clear that ICBC was never in danger of not having financial reserves to play its claim liabilities as “Capital is different from reserves. Reserves are liabilities for expected claims costs and other insurance costs that will be incurred in future years as a result of insurance sold in the current or past years. These liabilities are

supported by assets which are held to ensure that liabilities can be paid when the amounts become due. ICBC maintains reserves consistent with standard actuarial standards.” The report also was clear that “ICBC has not traditionally been subject to a formal capital requirement, although ICBC has always maintained capital.”

The Committee did its work despite the reality that ICBC would find it hard to go insolvent given its mandate, structure and its backing by statute by the Province as the Province would have to go insolvent first before ICBC could.

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The Report clarifies that “capital means the excess of assets over liabilities” and how “Private insurers have regulatory capital requirements imposed on them to ensure that there is a cushion that will protect the insurer and its customers from insolvency....”

The conclusions on capital requirements were based solely on two private actuarial firms who do work for ICBC and private insurers. The expert actuarial advisors, Eckler Partners, with their Report reviewed by Tillinghast-Towers Perrin pretty much concluded that “the type of capital test should be the Minimum Capital Test (MCT) currently applied by the federal insurance regulator (OSFI) and recommended similar thresholds of capital. Of course, they would make these conclusions actuaries aren’t comfortable without wearing both a belt and a pair of suspenders.

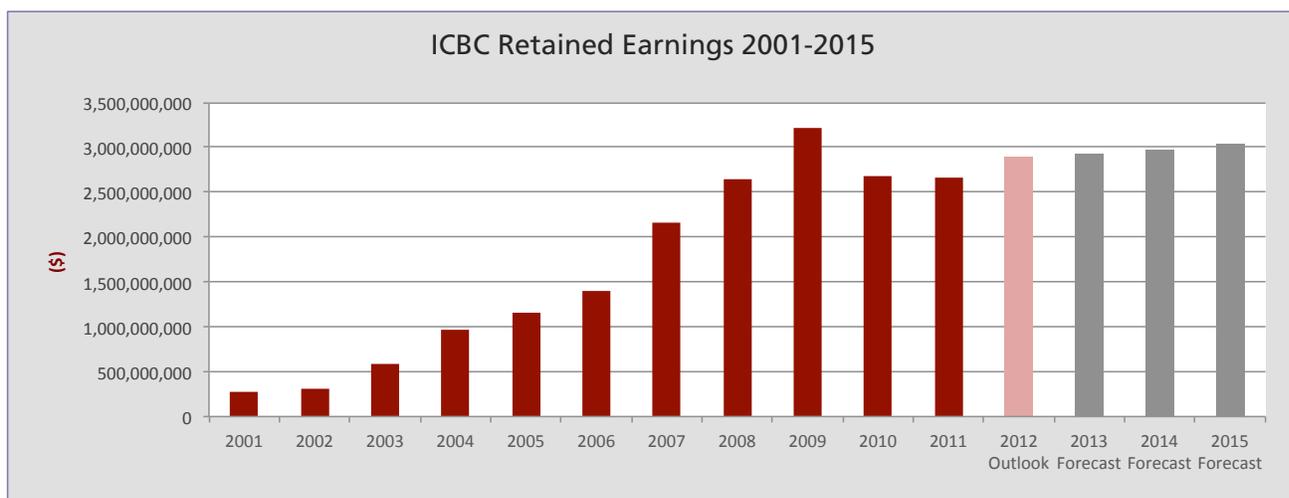
The MCT works by requiring the calculation of a minimum level of capital (the “MCT level”) with reference to the size of the corporation and riskiness of the portfolio of assets held....” The regulator sets an “MCT ratio based on the overall riskiness of the insurer, which requires that capital be a percentage of the MCT level” which the report notes is “more than 150% of MCT”.

The ICBC Capital Committee Report says that the excess capital requirement will be “Regardless of the risk related to ICBC’s optional insurance business” which is absurd and in defiance of the basis on which OSFI judges private insurers who can go insolvent. This is also an admission that private insurers cannot compete with ICBC other than for just ICBC’s best customers without rates inflated by the Liberal’s requirements. In the very next paragraph, the report makes it this even more explicit when it again refers to “ICBC’s actual riskiness” when it states “regardless of whether ICBC’s optional insurance business is more or less risky than private insurers, the capital test should be set so that ICBC is subject to the same regulatory burden as its competitors.” In a further defiance of the reality that ICBC runs an integrated business with a monopoly on basic they went on to state that “However, just because an insurer meets the statutory minimum level does not prevent the regulator from taking regulatory action to ensure its capital is in excess of the 150% minimum.

The ICBC-Government capital committee recommendations that were adopted by Cabinet in 2004 recommended that ICBC MCT ratios be set by Special Direction at minimums of:

- > ICBC company-wide at 110% of MCT. At the time of committee’s work this would require \$935 million based on the then size of ICBC and its current asset portfolio. External actuaries estimated that the company was at \$850 million at that time.
- > On the optional business, a minimum of 150% of MCT was recommended with a target level of 170% of MCT “despite the statutory minimum of 150%” for private insurers who can go insolvent and the fact that ICBC is not subject to these rules. At 150% the capital need would be \$420 million and at 170% it would be \$475 million.

As you can see in the ICBC retained earnings chart below ICBC has been amassing huge sums of excess capital, which means higher than required premiums for consumers.



Source: ICBC Annual Reports and Service Plans

Why the Province would need to protect itself by gouging its motorists on the basic insurance when it has a monopoly defies common sense unless you wanted it to lose public support. The extra “burden” on ICBC is unfairly on consumers.

> ICBC has been amassing huge sums of excess capital, which means higher than required premiums for consumers.

It was not hard to see where this was heading and the CACBC, as a registered Intervenor during the 2006 BCUC compulsory premium rate hearings in its Final Argument noted that, “The use of regulatory tools that are not designed for a monopoly insurance business are a financial drag on motorists that according to ICBC evidence would require policyholders to pay an additional premium totalling \$31 million if the 1.7% capital maintenance portion of the 6.5% rate increase is approved. If the capital build provision of 0.6% of the rate increase is approved, this will require ratepayers to pay an additional \$9.4 million. When taken together the rules for private insurers who can go insolvent will require a 2.3% rate increase if approved and \$40.4 million in additional premiums that would be better left in the pockets of a rate paying public that is already bearing the cost burden of some \$100 million annually in non-insurance costs through its basic insurance premiums.”

The BCUC approved the rate increase and the capital requirements as the Liberals bound the BCUC's hands and in addition via Special Direction required rates set by the actuarial method alone and forced the capital requirements on the regulator. The BCUC was given power to make the capital requirements even higher.

Below is a chart from the August 2012 Review of ICBC that indicates BC has had reasonable automobile rate increases over the last 10 years (the rate for 2012 was approved just after this chart was produced). What the chart doesn't tell consumers though is that if one reviews ICBC's significant retained earnings (\$2.65 billion in 2011), and the transfers to government of \$1.2 billion in profits, clearly automobile insurance rates are still far higher than they need to be, or should be.

ICBC RATE CHANGES FOR ALL VEHICLES 2001 – 2012

YEAR	BASIC	OPTIONAL	OVERALL
2001	0.0%	0.0%	0.0%
2002	6.6%	8.7%	7.4%
2003	2.0%	8.9%	4.8%
2004	0.4%	0.4%	0.4%
2005	0.0%	-7.6%	-3.4%
2006	6.5%	0.0%	3.7%
2007	3.3%	-3.8%	0.2%
2008	0.0%	-3.0%	-1.2%
2009	0.0%	-3.3%	-1.4%
2010	-2.4%	-3.0%	-2.7%
2011	0.0%	0.0%	0.0%
10 yr average	1.6%	-0.3%	0.8%
2012*	11.20%	-6.00%	3.60%

Source: ICBC Annual Reports and Service Plans

> THE LIBERAL CHARADE OF BCUC REGULATION

The Liberal government established BC Utilities Commission (BCUC) as the ‘independent’ regulator of ICBC’s basic compulsory insurance while retaining the ability to issue Special Directions or Directives to ICBC that bind the regulator and ICBC. While no government would turn over to a regulator the power to alter public policy for a crown corporation the way the Liberals use Special Directions determines the outcome of the BCUC hearing process on compulsory rates before the process begins. There are sound public policy reasons for Special Directions such as ensuring the regulator cannot change the core values of ICBC or tinker with ICBC’s disability and seniors’ discounts or alter non-discriminatory rating practices to mirror those of private insurers. However the way the Liberal government has issued Special Directions has been to pre-determine the outcome of the BCUC process before it begins. It makes a charade of regulation despite the mandate of the BCUC to set rates on basic.

> The way the Liberal government has issued Special Directions has been to pre-determine the outcome of the BCUC process before it begins. It makes a charade of regulation despite the mandate of the BCUC to set rates on basic.

Concurrent with setting up BCUC as the regulator the Cabinet issues in 2004 the first edition of Special Direction IC2 to the BCUC. It was amended several times to focus solely on basic insurance. However what it did was to bind BCUC as follows:

- > ICBC to use excess capital measures used by the federal regulator to prevent insolvency of private insurers on the basic compulsory insurance and ICBC overall versus allowing ICBC to propose in an open evidentiary process a made in BC excess capital policy that reflects the low risk of ICBC insolvency. The reality is that the government of BC would have to go insolvent before ICBC could be insolvent and not able to pay claims.
- > Rates are to set by the actuarial method only and while this is a critically important factor this is not what a P&C insurer does in isolation of business and economic climate data.
- > Requires road safety expenses to be charged to compulsory.
- > Requires ICBC to remit fees for vehicle and driver license services to government and not recoup their costs of in excess of \$100 million annually.
- > Requires ICBC compulsory insurance to pay any other road safety enforcement costs dictated by government.
- > The original division of ICBC capital had BCUC ruling that the division of excess capital was a subsidy to optional of over \$500 million. This is discussed separately.

The above suggests that ICBC no longer needs to employ an executive team but simply have their internal and external actuaries make the final decision despite the reality that the best estimates of where ICBC will end up financially each year have come from their Finance department basing the projections on the best actuarial, business and economic data – much like insurers in the private sector!

Liberal Cabinet Makes a Sham of Regulation by BCUC

NDP MLA Guy Gentner who was cautioned for his parliamentary language on March 9, 2010 sums up his view on the BCUC and the Liberals planned \$778 million cash grab this way:

“The whole clawing makes a mockery of BCUC. Instead of a well-deserved rebate for consumers, a means of really stimulating the economy, they steal. I mean, it’s really a matter of who you want to stimulate, hon. Speaker.”

While ICBC claims in its service plans to government and its filings to the BCUC that it will and does “operate its insurance business at arms-length from government” it does not and cannot given the legal framework it operates in and the policies of the BC Liberals. The Insurance Corporation Act provides for the regulation of ICBC by the BCUC and in ICBC’s own words “The IC2 provides for policy directions though special directions and government directives.”

Subsequent amendments to Special Directions occur routinely now as the actuarial figures and the test for excess capital are subject to volatility as we note in the report and as ICBC’s own evidence at BCUC has shown. Following are recent examples of these Special Directions from government:

- > 2007 – The BC government issued an Order-in-Council for basic insurance rate design which shifts “rate structures to being more driver-based” and includes convictions and road side suspensions. BCUC held hearings. The ICBC consultation tool kit suggests these changes will see some drivers with higher risk profiles pay more and revenues will accrue to basic. The details now need impacts on premium clarity.
- > 2010 – A legislative change now transfers excess Optional capital to the government on a yearly basis. In May 2010 the government issues a Directive (written by ICBC and signed by Minister Michael de Jong) that amends Special Direction IC2. This directive purports to establish a framework for rate stability while minimizing the need for Basic rate increases by amending the rules for calculation of the excess capital requirement on basic compulsory insurance. The May 18, 2010 “Directive” letter from government signed by Minister Michael de Jong to ICBC board chair Nancy McKinstry which binds the ‘independent’ BCUC and ICBC required the Basic excess capital to be used to keep the rate increase down and amended the capital release conditions “when the MCT level for universal compulsory automobile insurance determined at the end of the previous year exceeds MCT target” premium.
- > 2011 – As claims trends deteriorated over the year and ICBC was faced with a massive rate increase which we surmise was likely to be more than double the 11.2% rate increase in 2012, the government had to make several more revisions to its Special Directions that govern BCUC decisions and issued a new Directive on November 25. One change was to base the MCT on just the last quarter of the prior year as over the year in 2011 “Basic Capital levels have eroded due to lower investment income and higher BI rates.” The second part of the change was to go against the silly Liberal cross subsidy principle and transfer excess Optional capital they intended to take in part to Basic insurance to keep the rates down.

To prevent rate shock from a rate increase very likely in excess of 20% as they headed into an election year the government had to change the rules they had just revised a year earlier. The government simply took the results of the 4th quarter counter to their own rules and excess capital committee and actuarial advice that set this all up. This November 2011 letter directing ICBC also says there is to be no capital build provision (just maintenance) until Jan. 31, 2015 as that too would increase rates.

What the government Directives and Cabinet orders exposes is that ICBC will be manipulated by Directives every year in order to bind the ‘independent’ regulator – BCUC.

In arguing for the 2012 interim rate increase, ICBC suggests that they will not be allowed to provide compulsory basic insurance if they fall below the capital requirement of MCT. They are pretending that the federal regulator can somehow stop them from writing further business. There is just one problem here – the federal regulator has no jurisdiction over ICBC! This is the fantasy world that the Liberals and ICBC have concocted. What could happen is that the government of BC would have to inject capital into its business as technically it is the sole shareholder but that has only occurred once in ICBCs early start up years.

➤ What the government Directives and Cabinet orders exposes is that ICBC will be manipulated by Directives every year in order to bind the ‘independent’ regulator – BCUC.

“One of the key requirements of Special Direction IC2 (section 3(1)(b)) is that the Commission set rates at a level that allows ICBC to maintain 100% MCT. Based on the Q3 forecast, the proposed 11.2% increase leaves very little margin above the regulatory minimum MCT level. ICBC has forecast that the MCT with the proposed increase will be 102% at the end of 2012. The MCT would drop below 100% MCT during 2012 if rates were increased by less than 10%. Adequate capitalization is important to permit ICBC to continue to provide Basic insurance into the future.”

Where this fantasy becomes laughable is that this is the same government that has no trouble taking a profit from ICBC despite the concern on ICBC’s part in its’ BCUC rate filing that it might have to stop writing Basic compulsory insurance given its’ excess capital levels.

This brings to mind the private insurance manager, Manly Price, who suggested back in 1972 that the government insurance plan was “a licence to steal” because it would not be subject to regulation like private insurers. While it hasn’t played out as predicted as it is in part masked by the pretence of independent regulation- it’s arrived now.

“They [the government] are obviously going to operate it [the insurance corporation] by order in council which means decisions will be made for which the people do not know the reasons. The bill gives the corporation the broadest powers to operate without public participation. It will be bureaucratic, autocratic and monolithic. It may operate according to politicians’ desires and needs and not to the people’s.” (Source: Nuket Kardam: Interest Group Power and Government Regulation)

Liberals Caught by BCUC Subsidizing Optional Coverage

Prior to ICBC’s first rate hearing with the British Columbia Utilities Commission (BCUC), the government established the policy whereby ICBC would hold excess capital requirements similar to those that would be required of a financially prudent private insurer. These requirements were applied to the whole of ICBC, as well as for each line of business – basic compulsory and optional. This allowed a ballooning allocation which the crafty Liberals then sought to move to optional coverage. The BCUC intervenors recognized this sneaky move by the BC Liberals and stated that such a move of funds would be a subsidy by compulsory policyholders to optional coverage. ICBC had retained earnings of \$536 million which the Liberals moved entirely to optional by Special Direction. However their own legislation to prevent optional money going to help basic compulsory got the Liberals caught out by the BCUC and intervenors at the 2006 rate hearing.

The CACBC Final Argument at the 2006 rate hearing noted that “Special Direction IC2 that requires the movement of \$530 million in capital from the optional insurance business to the basic stands in stark contrast to the actions of Cabinet in the prior proceedings involving ICBC and the Utilities Commission. In the previous proceedings, an allocation of \$509 million out of a total of \$536 million was moved to the optional insurance business. The BCUC Commission Panel ruled it an indefinite subsidy in its January 19, 2005 Decision as the evidence was that basic insurance accounted for some 58.5% of the premium income. What is clear now is that the half billion dollars in capital allocations is evidence of a policy that is ill-conceived for a monopoly insurer.”

While the government played a shell game with the then unrestricted retained earnings of \$536 million, ICBC continued to swim in increased earnings. Ironically, all this was going on at the same time that the BC Liberals were pleading that ICBC basic was in danger of going bankrupt.

> ACTUARIAL METHODS WRONG ON PREDICTING ICBC COLLAPSE

At the 33rd Annual General Insurance Research Organization 2008 Convention in Vienna, one actuarial presentation slide read: “It has been said that an actuary drives down the road by looking in the rear view mirror. This working party aims to confirm that preconception.” Joking aside, actuaries are vital to improve financial decision making using their accepted methods and models to evaluate uncertain future events such as the number and severity (costs) of the mix of insurance claims that will happen in the future. It is by no means an exact science as it based so much on what has happened in the past and extrapolating into the future. What is occurring with ICBC and the BC Liberals is that there is far too heavy a reliance on rate setting by actuarial formulas alone. Recent ICBC history has proven that this very conservative approach gouges consumers.

The 2006 BCUC rate hearing produced filings from CACBC and private insurance intervenors (CDI’s legal counsel, Mr. Elwick) that showed that actuarial projections can get things entirely wrong. Documents submitted in evidence showed that the Automobile Insurance Review for 1997 produced figures developed by very good external actuaries and insurance consultants that suggested that ICBC was on the verge of collapsing with actuarial projections showing losses for ICBC of \$385 million in ‘97, \$384 million in ‘98, \$676 million ‘99 and \$971 million in the year 2000. ICBC confirmed that none of this took place during cross examination of ICBC Vice President of Finance, Anwar Chaudhry and Bill Weiland of Eckler Partners by the CACBC at the 2006 rate hearing. Mr. Weiland was one of the actuaries that were a part of the 1997 studies and also one of the actuaries consulted on excess capital needs.

EXCERPT FROM “AUTOMOBILE INSURANCE REVIEW”, MARCH 1997, MARKED AS EXHIBIT C11-11)

MR. BASHAM

Q: I guess I would direct the panel to Appendix 7, which was not included in Mr. Elwick’s version. I guess both of us are just putting in excerpts. And if you notice, for 1997 it showed without changes in Mr. Allen’s report to the government, the Automobile Insurance Review, that ICBC would have lost 385 million in ‘97, 384 million in ‘98, 676 million ‘99 and 971 million in the year 2000. Would ICBC confirm that this didn’t occur?

MR. CHAUDRY

A: Yes, it did not occur.

MR. BASHAM

Q: And Mr. Weiland, are you familiar with the report At the Cross Roads, Volume II? Options and Choices?

MR. WEILAND

A: Indeed I am.

Where these consultants and actuaries made a positive contribution was in modeling the effects of product changes including variations of no-fault and thresholds on bodily injury that were in place in other jurisdictions in North America. The conclusion by the NDP government and the ICBC board was that any product change to the bodily injury side of the business that would reduce payouts would be short lived in keeping rates down for consumers. You only need to look across Canada today to see auto insurance problems in several other jurisdictions to determine that product changes by themselves are short-term fixes at best.

Why the Actuarial Method Alone Fails: BCUC 2006 Rate Hearing Evidence

The actuarial method is hardly an exact science as ICBC rate indications in its filings for 2006 rates filed in August of 2005 fluctuated widely. In addition the 6.5% rate increase for '06 included a 2.8% rate deficiency for 2005 despite that year being profitable – the highest insurance rate increase in a decade where inflation was more like 2%. CACBC in its Final Argument at the 2006 BCUC rate hearing had this to say using ICBC's own evidence:

“ICBC rate indications in its successive filings commencing in August 2005 have jumped from zero to -0.4% to 6.5% in less six months. This is indicative that the actuarial methodologies are important but not the only assessment tool in determining rates for basic insurance. To focus on only one measure is not dissimilar to the driver who focuses only on the speedometer while navigating the roads and highways.”

CACBC also noted in the Final Argument submission that “If the actuarial rate indication methodologies are guilty of producing volatile swings in the numbers, the same applies to the capital maintenance provisions.” It was also noted that the inappropriateness of the capital measures on a single line of ICBC business simply will not produce rates that are stable. What is predictable is that the drain on consumer's pocketbooks will be stable and consistent taking extra premium as ICBC builds its levels of unnecessary wealth. CACBC argued that the BCUC Commission Panel should direct ICBC to work with the government to improve capital management methods that are more appropriate to the statutory and market framework in which ICBC works presently. Of course the Commission could not make such a direction so this was little more than posturing and getting this on the public record in anticipation of the day when this excess capital was amassed and ready to move to government. That day is now.

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The Actuarial Standard of Practice No. 13 in place at that time regarding Trending Procedures in Property/Casualty Insurance Rate Making in “5.8 Informed Actuarial Judgment” states that “Any trending procedure requires the actuary to exercise informed judgment, using information on historical insurance data and the impact of relevant economic and social factors, as well as statistical validation and testing procedures.” Thus it is logical that there can be more than interpretation and management decision based on actuarial information.

The facts are that there are volatile swings in these actuarial projections. The CACBC believes that there is an important lesson that can be drawn from this history. That is, actuarial projections alone should not be the sole justification for management decisions or what are insurance executives and boards for?

The Ministry of Finance Review of August 2012 noted that ICBC has for the past 10 years been able to predict within 5% of the year results – a result they term as “reasonable” but we’d term as clear evidence that overly conservative capital levels are not required.

> ICBC – STEWARDS OF FIRST PARTY ACCIDENT BENEFITS

While statutory first party accident benefits are provided by legislation in each province and territory and form part of a compulsory insurance product the CACBC believe – unlike ICBC – that as responsible stewards, if these benefits fall short of the need, they should be improved. The intent of the legislatures is to ensure that victims of car crashes including non-driving road users and passengers have recourse to rehabilitation and recovery benefits and that the costs of crashes and rehabilitation are not fully borne by the taxpayers and the health care or social welfare systems. They are available to both vehicle passengers and victims of crashes regardless of fault. While comparisons of benefits across Canada are even more challenging than comparing premiums due to the significant differences in tort and no-fault systems ICBC is now falling behind in our view. The CACBC believe that these excess profits should be used to enhance these coverages to ensure that motorists pay their fair share of the costs of the roads and not other systems for which no premium is paid.

ICBC has not improved these benefits in any significant way since the early 1990s and has not apparently advised the Province that this is an issue. ICBC statistics show the number of claimants who exceeded the benefit levels was: 32 in 2003; 27 in 2004; 37 in 2005; and 39 in 2006 – the latest years for which data is available. Of course these numbers would not include those who were close to the threshold but ceased with their claims as they had to go to other government support systems for relief, so the real number at risk or exceeding the threshold may be much higher. This is a canary in the coal mine issue and shows that ICBC has lost its sight of its core values and mission.

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When questioned by the CACBC during BCUC hearings, ICBC agrees that Accident Benefits are “provided as part of Basic insurance coverage” but is quick to point out that the BC Utilities Commission is without jurisdiction in rendering decisions on these matters as they claim it is up to the government all the while ignoring the reality that the government can only act if ICBC informs them of the issue. The other irony is that the BCUC does not have the mandate to require ICBC to remedy the coverage issues they do ensure the premiums charged are sufficient to cover their costs. Clearly government leadership is required to direct a long overdue review to ensure British Columbians are adequately covered when it comes to accident benefits and costs are not unfairly borne by other social safety net systems.

> INEPT GOVERNANCE AND ACCOUNTABILITY 2001 TO 2013

Since the Liberals assumed government governance at ICBC from the appointment of Chairs and CEOs has taken on the appearance of rank amateurs with 7 CEOs and revolving board members since 2001. This included CEO Kevin Benson who stayed just a few months and then resigned inexplicably. The list also includes Paul Taylor who according to media reports abruptly resigned with one month's notice and apparently just before an ICBC board of directors meeting with the Minister to discuss the details of an internal scandal that occurred during his time as CEO. Now Mr. Taylor has been brought back in 2012 and this time as Chair. Despite the free service of Mr. Taylor, this is just one more example of ineptness in governance that tracks back to Ministers responsible and the Cabinet.

The CACBC is troubled by a number of the findings of the August 2012 ICBC Review conducted by Chris D. Brown, CA Assistant Deputy Minister of the Internal Audit & Advisory Services Ministry of Finance. While the Report puts the focus of blame on ICBC these are governance failures of the Liberal government as it they who appoint CEOs, Chairs and Boards – none of whom were in their positions during the NDP years of government following the retirement of CEO Thom Thompson. Either the Liberals knew or ought to have known the following as all of this occurred fully during the Liberal years:

- > “There is a large senior management team comprised of the President, 10 Senior Vice Presidents and 13 Vice Presidents (or equivalents).”
- > “From 2007 to 2011 ICBC experienced a 32% increase in management positions across the organization, while union positions declined by 1%.”
- > “The total compensation cost for the management and confidential employees increased 50% during the last five years, compared to a 9% increase for the bargaining unit for the same period.”
- > “Bonuses paid to management have been generous with easily met criteria resulting in almost all staff receiving them.”

These findings led to some 8 VPs leaving the organization and some 250 employees – many of whom were talented, loyal, dedicated, and long serving people. The difficult part to swallow is that many of those who were accountable and oversaw these follies, and who had to have approved this growth and these actions, are still in place. This governance failure has resulted in a further drop in employee morale and, according to ICBC's Service Plan for 2013–2015, cost policyholders “\$25 million in restructuring costs related to staff reductions.”

In part this stems from picking Chairs and CEOs without public auto insurance values but solely a private sector profit mentality that prevails now. It is interesting that the non-executive managers and the union members who lost their jobs had nothing to do with the failings but the Liberals directed that a pound of flesh had to be taken from even the union ranks. It suggests that there is a continuing theme and thread of non-accountability at ICBC that runs from the Executive Office through the Board of Directors to the changing ministers responsible to Cabinet itself. The downsizing of 250 employees smacks of someone at ICBC looking to ingratiate themselves to government as how did this list of who should pay for the transgressions of the senior executive, the board and the government surface so quickly? Someone there should be doing some explaining if these were in unneeded positions. The loss of experience in key management positions where they are guiding and developing those in positions that can affect claims costs is never a good thing.

Two other issues of note that suggest that ICBC has lost its way were included in this report and this suggests that ICBC has not been managed well during this decade of Liberal governance:

- > Legal representation rates have risen from 31% to 40% since 2000
- > Average cost of bodily injury claims was said to rise by 6% (well beyond inflation) and claims frequencies are trending upward.

These factors suggest several areas of concern that should be explored in greater depth:

- > ICBC's commitment to manager and staff training.
- > Loss prevention and road safety programs no longer being fully integrated and employing best practices with measurable objectives and reports on outcomes of capital invested. As the August 2012 Review states: "These increasing costs are the main challenge for ICBC and they need to develop and implement an overarching strategy to manage bodily injury claims."
- > Failure to maintain a constant focus on claims cost and operational controls.

The next thing we will be told is that the loss of experienced management in this downsizing over a bloated executive and major compensation increases is hurting cost control.

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Government Transparency and Accountability

Provincial legislation now requires ICBC to present a three-year Service Plan and respond to the Shareholder's Letter of Expectation. This combined with the use of Cabinet directives has ICBC as a commercial crown corporation in a position where it is important for the government's bottom line. In today's parlance, the Province considers itself the sole "shareholder" and there is no longer reference to the true shareholder and stakeholders, the rate payers, service providers, citizens and road users including pedestrians and bicyclists.

There is tension between the Budget Transparency and Accountability Act and the Liberal's Balanced Budget and Ministerial Accountability Act – and both of these Acts pose risks to ICBC consumers. The intent of the legislation is to ensure that the full state of the province's finances are understood, however this now means that a government determined to make its books better will want a better bottom line at ICBC. It is a major issue for ICBC when advising the Ministry of Finance officials where the next year will end up for ICBC as the higher the profit the better it is for the government. Policyholders are a cash cow.

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The government has become addicted to transfers from BC Hydro and now ICBC. To return to the core principles the province needs to enter a rehabilitation program to end this addiction as these transfers violate the basic principles that the founders had in mind. In the BC Hydro case it was a capitalist Premier WAC Bennett who nationalized BC Electric and a socialist Premier Dave Barrett who addressed the auto insurance problem by addressing the issues of the Royal Commission put in place by Premier WAC Bennett but not acted upon.

A further concern that affects stakeholders is with Freedom of Information Requests. ICBC must now inform the Liberals of any Freedom of Information requests thus allowing the government to monitor the actions of its citizens who request information under the law. This is both intimidating and wrong-headed.

> LINGERING THREAT OF BILL 58 TO CONSUMERS

Bill 58 – Insurance Corporation Amendment Act 2003 is all the legislation a future government needs to destroy ICBC at a time and in a manner to be chosen only by the Provincial Cabinet. In what can only be described as a “Trojan horse” designed to release its attack in carefully staged measures, the legislation contains provisions that could end ICBC’s participation in the optional insurance market or in the basic compulsory insurance market. If the sitting government wants this to happen, it can make it happen without debate in the Legislature. The legislation could deem all compulsory auto insurance as competitive and open the market fully to all comers. The legislation also provides for a “facility” or insurer of last resort. This is where private insurers force out drivers who they don’t want for the myriad of reasons that forced ICBC into existence. If there is full open competition in insurance the private sector companies still need a facility or ICBC to take the drivers they don’t want. The private insurers go after the cream to ensure their policyholders don’t have claims against their policies. While ICBC insures all vehicle owners they currently can maintain reasonable rates with their size and scale.

The beauty of complex legislation is that it warrants little attention either by the media or MLAs or an unsuspecting public who don’t like paying insurance premiums for a product they might never get to use and if they do use it, it can be unpleasant as all vehicle, pedestrian or cyclist crashes are unpleasant as is the loss of a vehicle to theft or vandalism.

As a backdrop to the BC Liberal’s agenda ICBC rates had not increased from 1996 onward – a rate freeze for effectively six years. It incensed the Liberals that in 2000 the ICBC Board of Directors provided a \$100 road safety dividend as a rebate to policyholders as it came just before the 2001 election and looked political. As a consequence and as a reward to their friends in private insurance the legislative and other measures taken were intended to force ICBC costs and premiums higher so that private industry insurers would start writing greater volumes of vehicle insurance in the province they virtually abandoned in the 1960s and early 1970s. These changes also created the conditions described in this paper, that have allowed the BC Liberals to treat ICBC profits as their piggy bank.

Some of the legislative provisions not yet in force have the potential to harm ICBC and increase policyholder costs even more. The regulation of competition rules, when brought into force, provide for complaints from competitors about ICBC and empowers the BCUC to make orders to ICBC concerning practices that restrict competition. The Liberals by executive order can further direct the BCUC as to what factors it will consider when determining if ICBC is acting anti-competitively.

The legislation contains an “Exemption” or on/off legislative switch which the BCUC can ask the Cabinet to trigger if the BCUC holds a hearing and subsequently “determines that the conditions in the optional automobile insurance market are such that it is no longer necessary for the commission to exercise any or all of its powers” in the competitive market. This allows Cabinet to be notified and a decision made by Regulation as to which or any parts of the Act governing competition are to be in force in the future. Minister Gary Collins was very clear that the switch could also be turned back on by the Cabinet if it deemed that ICBC or the competitive market was problematic.

What is even more troubling if you believe in public auto insurance is that a future Cabinet might find it appropriate to move components of basic compulsory insurance to the competitive market and at that point, a government could end ICBC's participation in the insurance market as a primary provider of insurance. Potentially, ICBC could be left to be the insurer of last resort, a facility with the remaining vehicle and driver services and road safety responsibilities or none at all and simply closed down.

Key considerations in Bill 58 with implications for public auto insurance and consumer pocketbooks include:

- > Establishment of the BC Utilities Commission (BCUC) as the regulator for the ICBC basic compulsory insurance product's rates and service levels.
- > Enabling BCUC is to set basic rates that are adequate, efficient, just and reasonable for all classes of customers and to ensure no cross subsidy other than if ICBC were required to charge optional for the use of the brand or a mark up for services. This precludes basic insurance rates being used to subsidize the optional insurance.
- > The retention of total control of ICBC through regulation making provisions now in force that allow it to issue Special Directions to the Commission to govern rate setting and capital levels.
- > The establishment of a legislative framework with considerable flexibility to either remove ICBC from the optional market, or both or to move – as then Minister suggested could happen – move compulsory coverages to the competitive market.
- > The establishment of a regulatory provision for ICBC in the competitive market (not yet in force) while recognizing that other competitors will not be subject to regulation. This is designed to reduce market share of ICBC and allow greater market share to go to private insurers.
- > The creation of very high standards with respect to ICBC actions in impeding or reducing competition. In fact these are higher than the federal Competition Act.
- > The establishment requirements for unprecedented levels of capital requirements (retained earnings) on the compulsory insurance business.
- > A provision through which the BCUC can require higher levels of reserves than government or ICBC require or request.
- > The requirement of separate reporting for basic and optional business to ensure that there is no cross subsidy. There should be no impediment to competitive insurance being used to lower compulsory rates.
- > ICBC optional is to provide a profit similar to that required by private sector companies who require a return to their shareholders. The result is high and inflated insurance rates for British Columbians.

> WHY PRIVATE INSURERS WANT ICBC IN BUSINESS

What the private insurance insurers and their lobby are really after is full competition including on compulsory insurance where they can “cream” the best risks from the first dollar of premium paid on up rather than their efforts to just pursue creaming in the optional market as at present.

The BC Liberal Auto Insurance Reform Legislation of 2003 could not have been written better by the private insurance lobby legal counsel. It was a dream come true and a lobbyist’s success wish. The Liberal legislation now forces higher rates on both optional and compulsory basic. It forces a profit and excess capital requirement similar to what a private insurer must have to avoid being broke even though ICBC cannot go broke. The legislation provides for a competition control “on/off switch” only on ICBC at higher standards than the federal competition laws ever imagined. If brought into force, private insurers could complain about everything and tie up ICBC in endless hearings at BCUC.

Although the legislation provides for that unseemly “facility” which exists in other jurisdictions for private insurers to share the risks they won’t take in their own companies at very high prices the private insurance lobby now sees a role for ICBC in this new Liberal auto insurance dream land. The private insurers realize that they can have their cake and all of the cream and ICBC can remain providing insurance in the cities, towns and communities that the private insurers don’t want and ICBC can insure all the higher risk drivers.

In this scenario the private insurance lobby realizes that as ICBC loses more of its best risk customers to the private sector the infrastructure and economies of scale they now have would erode and rates would have to rise commensurately to cover their costs and claims. As a Crown Corporation, no sitting government would let ICBC desert the small towns and communities or the high auto crime areas or the interior where windshield claims can be high due to winter roads and gravel on the roads. It is far better to keep ICBC in place and let it take the heat as no one likes a government run business anyway.

If this scenario were played out in health care it would go like this. A provincial government decides to have true health insurance and charge rates commensurate with claims experience and keep it open to full competition to its own insurance company and makes health services like auto insurance both competitive and experience rated. If you use the system you pay higher premiums. The private insurers would fall all over the best risk age groups and develop selection criteria that avoided people in high risk occupations or those engaged in recreational sports and outdoor activities. It would be the reverse of auto insurance where older drivers are better risks. Now they’d want the young and the healthy especially those who don’t engage in high risk activities. They would even determine which parts of the province or an urban area they did and didn’t want leaving the government plan to fail with all the top users. The rates to break even would have to rise thus making the government insurer the high cost provider and constantly proving that government cannot run health care as effectively as they skim taxpayers out of their hard earned dollars.

The first casualties in that system would be anyone approaching 50 or those with prior medical conditions or histories as they would be hard pressed to find health insurance at reasonable prices. They like drivers under 25 years of age would be deemed “high risk” even if they never had a claim. In this system, the public insurer would

end up with the sick, the “high risk” and anyone else private insurers decided might be harmful to their loss ratios. If the government plan didn’t exist in this type of regimen and employers weren’t filling the gap, you’d have many people with no health insurance.

None of this is to suggest that the private insurers are callous and not caring. If it is a business and it requires capital to start up and keep it operational and financially healthy or the regulator will step in and possibly shut it down. Also it is only fair that investors and owners get a fair return on capital employed in the business or they could put their money into Canada Savings Bonds or invest off shore. In the ICBC world under the BC Liberals the only entities to profit are the government and of course the private insurance companies.

> CONCLUSION

ICBC has entered its 40th year of serving British Columbians and rather than being a time for celebration it is a time for serious renewal with respect to governance and operational priorities. The Liberals commenced its direction at ICBC in 2001 with restructuring and staff reduction costs of \$40 million and more recently in 2012 incurred a further \$25 million in further restructuring and staff reductions for a total cost of \$65 million. This approach to ICBC has failed and it's time to fix the system and ICBC.

The Consumers' Association of Canada's report and recommendations are intended to combat the systematic efforts of the BC Liberal Government to poach profits from ICBC while simultaneously undermining the core values and principles of public automobile insurance. The CACBC believes it is time to restore the core principles, end government profit taking, and restore the involvement of all stakeholders in improving the public automobile insurance entrusted to ICBC to administer and operate.

It is alarming that this change in not for profit status and moving profits to government comes at a time when real incomes have not risen in Canada for some three decades now and household debt is at record highs. Higher vehicle insurance rates affect consumers and businesses alike as well as eliminate a key strategic provincial advantage that British Columbia has in its public automobile insurance system.

Our report is intended to remind all stakeholders, government policy makers and ICBC as stewards of public automobile insurance, of the core values and principles that were emblematic of ICBC and have been eroded since 2001. It is time for stakeholders to push government to act in the interests of all stakeholders and to end government profit taking and gouging with inappropriate policies.