



ACTION PLAN

*To implement the Recommendations of the
report of the
Motor Insurance Advisory Board (MIAB)*

*Report of the Implementation Group
August 2002*

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Chairperson's Introduction and Overview

The Report of the Motor Insurance Advisory Board (MIAB) was published on 17 April 2002. The Report was recognised as containing high-class analysis and sound conclusions based on those analyses. It was accepted that the 67 recommendations, if implemented in full, would contribute significantly to an improved quality of justice for innocent victims of motor accidents and more cost effective premium rates for motorists. All commentators on the Report broadly accepted the Board's recommendations and there were few, if any, dissenting voices.

The Government decision on the MIAB report provided for the establishment of an implementation group 'to immediately progress the Recommendations and report to Government, not later than three months, from the inaugural meeting of the Group'.

The Group comprised senior personnel from the responsible Government Departments and representatives of IBEC, the Consumer Association of Ireland and the Chairperson of the MIAB. Appendix 1 details the composition of the MIAB Implementation Group.

The Group examined each of the 67 recommendations. Government Departments submitted individual action plans, with related target timeframes that specified the measures needed to give effect to the recommendations. The Irish Insurance Federation (IIF) also established an Implementation Committee in respect of the recommendations addressed to insurers and provided an assessment of potential cost reductions from the proposed Government action. The IIF estimate that the cumulative impact on total claims costs of planned implementation of the MIAB recommendations at around 31% on average. The positive impact on compulsory motor insurance could be significantly higher and certain policyholders would gain more than others. The IIF estimates are based on a number of assumptions and the relevant IIF document is contained in Appendix 2.

I should emphasise the tentative nature of the IIF estimate and that cost reductions will be achieved over a number of years in an inter-dependant manner.

The current Action Plan is contained in the following pages and is based on the annotated version of the MIAB recommendations, which is available on the Department's web site at www.entemp.ie/cr/miab.pdf.

In addition to meetings with the IIF, during the period April to July 2002 I had bilateral discussions with the Minister for Justice, Equality and Law Reform, the Law Society, the Bar Council, the Courts Service, the Interim Board of IFSRA and the Competition Authority. The MIAB Chairperson and the representatives of IBEC and the Consumers Association of Ireland also attended some of these discussions.

Information was received, on request, from the Chairperson of the Equality Authority, in relation to that body's test case strategy regarding Insurance and this is set out in Appendix III. In relation to motor insurance, a range of case files have been opened by the Authority on issues including failure by insurers to quote in relation to older drivers, failure to quote in relation to younger drivers and excessive quotes in relation to younger drivers.

We are also recommending that the current mandate of the Motor Insurance Advisory Board should be extended until December 2003.

I would like to thank the MIAB Implementation Group for their work over the last three months, all those with whom we had discussions and, particularly, to thank our secretariat Ms. Adel Billane and Ms. Doreen Mullaney.

John Corcoran
Chairperson of the MIAB Implementation Group

**RECOMMENDATIONS RELATING TO THE DEPARTMENT OF
TRANSPORT**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
1.	Further road safety improvements.	That priority be assigned to achieving the objectives set in the Government's Strategy for Road Safety for a wide range of reasons, which extend far beyond the cost of insurance.	<p>The Programme for Government provides for a new 3-year Strategy. The 4th annual progress report of the High Level Group on the current Strategy is to be published in August with a new Road Safety Strategy due in early 2003.</p> <p>An independent expert review of the current Strategy is due in September 2002 and its conclusions will inform preparation of the new Strategy.</p>	Assuming reduction in <i>total</i> claim frequency of 10% over life of next Strategy, there should be an estimated reduction in total claims costs of 10%.
2.	Promotion of safety awareness.	That the current system of unsupervised driving by provisional licence holders be reviewed and consideration be given to the introduction of a road safety and driver education syllabus in schools.	<p>The Gardaí are being consulted about the practical aspects of implementing the supervision of a provisional licence holder. Following this consultation, proposals for change to the existing regulation will be submitted to the Minister for Transport with a view to early implementation.</p> <p>The National Council for Curriculum Assessment (NCCA) have commissioned a study on the introduction of a road safety and driver education syllabus in schools at the request of the Minister for Education and Science. The NCCA expect to have the study available by the end of August 2002 for consideration.</p>	The impact on total claims costs would be marginal.

Department of Transport cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
34.	<p>Achievement of the Single Market.</p> <p>Uninsured driving.</p> <p>Reduction in premium charges.</p> <p>Consumer protection.</p>	<p>That detailed consideration be given to amending the Road Traffic Acts to require insurance on the vehicle, as in mainland Europe, rather than allowing claims to be declined on the basis of the driver's use but with appropriate measures to address the rights of insurers where premiums have been underpaid.</p>	<p>It is uncertain if implementation would reduce premiums. Consideration is being given to undertaking a consultancy study.</p>	<p>There would be no impact on costs.</p>
35.	<p>Equal status as regards access to the Courts for Irish and other EU nationals.</p>	<p>That, when the Fourth EU Directive on Harmonisation of Motor Insurance is incorporated into national law in 2003, Irish citizens are extended rights equal to those of visiting EU citizens to sue the vehicle insurer direct for compensation entitlements arising from motor accidents occurring in Ireland.</p>	<p>Primary legislation is required, preparation for which has commenced.</p> <p>The European Commission's proposal for a Fifth Motor Insurance Directive includes a similar measure. Early adoption of the Directive would remove the need for primary legislation.</p>	<p>There would be no impact on costs.</p>

Department of Transport cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
36.	<p>Transparency in relation to the rights of accident victims.</p> <p>Compliance with EU law on harmonisation of motor insurance.</p>	<p>That the agreement between the Motor Insurers Bureau of Ireland and the Minister for the Environment & Local Government be amended to clearly ensure that victims of uninsured or defectively insured vehicles can pursue their claims on no less favourable terms than apply to insured cases as consistent with the jurisprudence of the European Court of Justice lest they be doubly disadvantaged by involvement in such occurrences.</p>	<p>Aspects of this Recommendation are being addressed at present in the context of implementing the Fourth Motor Insurance Directive in Ireland. The Insurance Industry and the MIBI have been consulted on the draft transposition Regulations and their responses have been requested by mid August 2002.</p> <p>Work is underway in consultation with the MIBI to identify whatever other specific steps would be necessary by reference to this Recommendation.</p>	<p>There would be no impact on costs.</p>
37.	<p>Procedural fairness for victims (linked to Recommendation No. 36).</p> <p>Clarity of communication to consumers.</p>	<p>That the Road Traffic Acts, and other relevant legislation, be amended to fully adopt the Articles of the various EU Directives on harmonisation of compulsory motor insurance so as to clearly uphold the rights of victims under European law in accidents involving uninsured, untraced, defectively uninsured or allegedly defectively insured vehicles or drivers and that the prescribed content of insurance certificates be reviewed for clarity of communication with the addition of wording highlighting that the rights of Third Parties are not affected by cover limitations in the policy</p>	<p>See Recommendation No.36</p> <p>The present format of the insurance certificate will be reviewed in September/October 2002 with a view to giving effect to the Recommendation by way of revision to existing Regulations.</p>	<p>There would be no impact on costs.</p>

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Department of Transport cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
61.	Equity of insurance rating.	That following introduction of the penalty points system, and subject to the provisions of data protection legislation, insurers be permitted access to relevant information on the national driver file under provisions similar to Section 28 of the Road Traffic Act, 1994.	<p>There is a concern not to compromise the penalty points system, which is foreseen to be introduced in a limited way in October 2002. Legal advice available to the Department of Transport would suggest that implementation of the Recommendation could be contrary to the Data Protection Act.</p> <p>The Department of Justice, Equality and Law Reform has indicated that the Data Protection Commissioner would be inclined to agree with such legal advice, particularly in circumstances where, as indicated in the Report, implementation of this recommendation would have no impact on insurance costs. However, if it were the case that such transfers of personal data (subject to safeguards) would have a significant impact on insurance costs, then it might be possible for such transfers to be justified on grounds of public policy or legitimate interest. The Commissioner's Office would be available for any future discussions with relevant parties in this regard.</p>	Non-implementation would have no impact on costs.

**RECOMMENDATIONS RELATING TO THE DEPARTMENT OF
TRANSPORT
AND THE DEPARTMENT OF JUSTICE, EQUALITY AND LAW
REFORM**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
3.	<p>Deterrent to uninsured driving.</p> <p>Reduction in cost burden on law-abiding motorists.</p>	<p>That the sanctions for flagrant breach of compulsory insurance obligations should be fines at a level more consistent with premium charges and should provide for vehicle confiscation, as applies to non-payment of road tax, with proceeds being assigned to the Motor Insurers Bureau of Ireland who are responsible for claims from victims of uninsured accidents.</p>	<p>Under the Road Traffic Act 2002, provision has been made for an increase in the maximum penalty to a €2,500 fine and/or 3 months in jail. This is considered to be sufficient, especially if the practical application is carried through in the courts once the Act has been brought into operation. Primary legislation would be necessary to provide for a further increase in the penalty, and an amount in excess of €3,000 would require trial by jury.</p> <p>Attention is drawn to the statutory authority to detain vehicles for insurance under Section 41 of the Road Traffic Act 1994.</p> <p>Earmarking of fines for MIBI use will be explored in consultation with the Department of Finance and the Department of Justice, Equality and Law Reform. A decision is expected by 31 December 2002.</p> <p>Incorporation of the Fourth Motor Insurance Directive into Irish law has entailed nomination of the MIBI as the compensation body responsible for providing compensation to injured parties in the cases specified in the Directive.</p>	<p>A 5% reduction in total claims costs is foreseen.</p>

**RECOMMENDATIONS RELATING TO THE DEPARTMENT OF
JUSTICE, EQUALITY AND LAW REFORM**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
38.	Constitutional balance between rights of defendants and genuine injured parties.	That Court procedures for personal injury litigation be radically reviewed in the interests of both genuine injured parties and premium paying policyholders, the majority of whom have not been involved in any culpable motor accident.	Department of Justice, Equality and Law Reform is considering how court procedures might be improved and, in that connection, will give urgent consideration to the paper on <u>Legal Process and Inefficiencies</u> from the IIF. Among the ideas under active consideration in the Department are requiring plaintiffs to furnish a book of evidence to the defendant containing statements of evidence to be given by witnesses, similar to that in a criminal trial. (See Recommendations Nos. 47 and 55)	There should be a 2% reduction in total claims costs, and up to 30% saving in legal costs.
40.	Improved access to justice. Independent mechanism for assessing disputes on legal costs. Transparency. Promotion of competition.	That the current Court based system for assessing legal fees be reviewed as to its cost effectiveness in satisfactorily resolving disputes on litigation costs and that consideration be given to a framework which the public might regard as more independent of the legal establishment and from which more transparent information might be available to litigants on the allowable levels of fees.	The system of taxation of costs will be reviewed by the Department of Justice, Equality and Law Reform after the report of the Competition Authority on legal professional services becomes available at end 2002, taking into account any recommendations made by the Authority.	See Recommendation No. 38.

Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
42.	Abuse of legal loophole. Cost of legal fees.	That the legislation on accrual of 8% interest on legal costs from date of trial should be revised in a manner consistent with the Prompt Payments of Accounts Act 1997 with a significantly reduced rate of interest and a reasonable period allowed from the date of bill presentation for payment or the resolution of legitimate queries.	The Minister for Justice, Equality and Law Reform is opposed to the current practice and is committed in principle to changing the provision that interest on legal costs accrues from the date of judgement. He hopes to address this matter in a Courts (Miscellaneous Provisions) Bill, the General Scheme of which he will submit to Government before the end of 2002.	The impact on total claims would be marginal.
46.	Public interest. Constitutional balance. Macro-economic consequences.	That consideration be given to the concept of "amicus curiae" for representations from the Office of the Attorney General and/or IFSRA if an issue before the Courts has radical implications for the cost of insurance with consequent effects on the Irish economy particularly where the effect is retrospective.	The Minister for Justice, Equality and Law Reform will consult the Attorney General as to whether there should be provision for the Attorney, representing the public interest, to be heard by the Court in the circumstances referred to in this Recommendation. He will consider whether this is a matter for Rules of Court or primary legislation and will pursue the matter accordingly.	The impact on total claims costs would be marginal.

Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
47.	<p>Public policy.</p> <p>Claims costs reduction.</p> <p>Consumer protection.</p>	<p>That stringent measures be introduced to tackle fraudulent and exaggerated claims with loss of all compensation entitlements and appropriate criminal sanctions.</p>	<p>The Agreed Programme for Government says that measures will be introduced to provide that certain forms of actions will require the support of sworn affidavits so as to create liability in perjury for fraudulent claims. It furthermore says that measures will be introduced to punish the presentation and making of false and exaggerated claims in personal injury cases and, as part of this, there will be a power for the courts to deduct from damages costs relating to exaggerated claims.</p> <p>The question of requiring claims to be supported by a sworn affidavit including whether this might be imposed by Rules of Court or primary legislation is under active consideration in the Department.</p> <p>Consideration is also being given to introducing a provision that, if any element of a claim before a court is made in bad faith, the whole claim will, subject to appropriate safeguards, fail. Such a provision would require primary legislation and this will be prepared as a priority no later than 2003.</p> <p>The Criminal Justice (Theft and Fraud</p>	<p>A reduction of up to 1.75% in total claims costs is foreseen.</p>

			Offences) Act 2001 consolidated and modernised the criminal law relating to dishonesty, and was based in part on recommendations of the Report of the Law Reform Commission (1992) and of the Government Advisory Committee on Fraud (1993).	
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Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
47.			<p>The Act includes a measure under Section 6 making it a criminal offence to make a gain or cause a loss by deception:</p> <p>“6(1) A person who dishonestly, with the intention of making a gain for himself or herself or another or of causing loss to another by any deception induces another to do or refrain from doing an act is guilty of an offence.</p> <p>6(2) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.”</p> <p>By virtue of Statutory Instrument No. 252 of 2002, this section came into operation with effect from 1 August 2002. The question of whether this section and the law already in operation are adequate for dealing with fraudulent claims will be considered further in consultation with the Gardaí. Should it appear, following consideration of a range of factors, that further legislative change may be warranted, the matter will be submitted to Government for decision in the usual way.</p>	

Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
48.	<p>Public policy.</p> <p>Promotion of enhanced quality of justice.</p> <p>Claims costs reduction.</p>	<p>That all claims which include allegations of earnings losses be supported by proof of declared earnings history from the Revenue Commissioners and records of benefits sought under social insurance with any earnings from "the black economy" to be excluded from claim assessments or negotiations.</p>	<p>The Department of Social and Family Affairs and the Revenue Commissioners have been consulted and they support this Recommendation. They will provide the relevant material upon request to their customers. Therefore, claims including loss of earnings will be supported by proof of declared earnings history from the Revenue Commissioners and / or records of social insurance benefits. Realising this change in practice will of course need changes in both Court Rules and Revenue and Social Welfare administrative procedures.</p> <p>Any change in the approach taken by the courts to earnings from the black economy in assessing damages could only be brought about by primary legislation and the Minister for Justice, Equality and Law Reform will prepare proposals in this regard as a priority no later than 2003.</p>	<p>An estimated reduction in claims costs of 1.5%.</p>

Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
49.	Restoration of constitutional balance when wrongly sued people have been vindicated.	That awards on costs to defendants are made automatic upon successful defences either on liability or on the extent of loss, to restore equity between litigants while acknowledging that methods of payment enforcement will always be a matter for judicial discretion under Examination Orders.	The Minister for Justice, Equality and Law Reform will shortly ask the Court Rules Committee to consider changing the Rules in the light of the arguments advanced in the MIAB Report.	See Recommendation No. 47.
50.	Enhancement of justice and protection for victims. Avoidance of need for victims to rely on the state.	That the system of lump sum compensation payments be reviewed on the basis that the long term needs of the seriously injured may be better served by guaranteed annual payments.	The Minister for Justice, Equality and Law Reform will consider the Recommendations of the Law Reform Commission in their report on periodic payments and structured settlements (including the possibility that the damages would revert to the defendant if the plaintiff should die shortly after the award is made). He wishes, however, to discuss the matter with the IIF before making any decision on possible reform. Any legislation that might be brought forward would be prepared as a priority no later than 2003.	There would be no impact on costs.

Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
51.	Improved compensation delivery for victims.	That a system be introduced to facilitate pre-trial interim payments to the seriously injured in cases where liability is not a substantial issue but there is a financial need to replace lost earnings or seek medical treatment.	See Recommendation No. 50.	The impact on total claims costs would be marginal.
52.	Promotion of enhanced quality of justice.	That a system be introduced to facilitate the award of provisional damages where there is a substantial risk that the injured party's medical condition may deteriorate in the future.	See Recommendation No. 50.	There would be a marginal increase in administration costs.

Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
54.	<p>Promotion of enhanced quality of justice.</p> <p>Better consistency between judgements.</p> <p>Speedier disposal of non-complex cases.</p> <p>Reduction in legal costs.</p>	<p>A system of case management be adopted by the Courts, with a panel of judges specialising in injury claims, to secure early hearings of non-complex cases which could be disposed of by a short trial and that the Small Claims Court system be extended to deal with property claims up to £5,000 arising from motor accidents.</p>	<p>With effect from October 2002, the President of the High Court is re-organising the High Court into 'divisions'. Each division will have a minimum of three judges who will work in that area for a period. Non-jury cases, including personal injuries cases, will be dealt with by one such division. There will be flexibility in that, if judges are not fully occupied on their list, they can take cases from another list where that is needed.</p> <p>The Minister for Justice, Equality and Law Reform will ask the District Court Rules Committee to consider providing a fast track procedure for property claims arising from motor accidents, which are within that Court's jurisdiction.</p>	<p>The impact on total claims costs would be marginal.</p>
55.	<p>Promotion of enhanced quality of justice.</p> <p>Facilitation of earlier settlement.</p> <p>Reduction in legal costs.</p>	<p>That claimants be obliged to state their minimum settlement terms in litigation, supplementary to the current procedure which permits a defendant to tender their maximum offer whereby they secure protection from liability for further litigation costs.</p>	<p>Consideration will be given to whether it is appropriate for implementation by Rules of Court, in which case the Rules Committee will be asked to consider it, or by primary legislation.</p>	<p>The impact on claims costs would be marginal.</p>

Department of Justice, Equality and Law Reform cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
56.	<p>Promotion of enhanced quality of justice.</p> <p>Better consistency between judgements.</p> <p>Reduction in legal costs.</p> <p>Transparency.</p>	<p>That information on Irish compensation levels for various injuries be collated, such as a book of quantum or guidelines as produced by the Judicial Studies Board in England, and that this data be published to assist earlier settlements between defendants and plaintiffs.</p>	<p>In anticipation of and in preparation for the establishment of the Personal Injuries Assessment Board (PIAB), the Courts Service has put arrangements in place to compile a database of damages awards and of settlements ruled by the courts in personal injuries cases, with effect from October next.</p>	<p>A reduction of 1% in total claims costs is foreseen.</p>
57.	<p>Prevention of further increases in claims costs and in legal fees.</p>	<p>That the Court Bill 2001, entering the second stage in the Dáil, be amended so as NOT to increase current financial limits of the Courts beyond expressing the existing figures in convenient Euro amounts.</p>	<p>The Minister for Justice, Equality and Law Reform will not commence the relevant provision of the Courts and Court Officers Act 2002 until PIAB has been in operation for a period and experience is available on the extent of its effect on the caseload of the courts.</p> <p>The Government have the option of using Section 16 of the Courts Act 1991, if they see fit, to change the jurisdiction limits by order to reflect changes in the value of money generally.</p>	<p>There would be no impact on costs.</p>

**RECOMMENDATIONS RELATING TO THE DEPARTMENT OF
JUSTICE, EQUALITY AND LAW REFORM AND THE
INCORPORATED LAW SOCIETY OF IRELAND**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
43.	<p>Consumer protection.</p> <p>Legal costs.</p> <p>Promotion of competition among the legal profession.</p>	<p>That the draft 1998 legislation on advertising by Solicitors be progressed, with the additional requirement that all advertisements quote a revised rule by the Law Society summarising Section 68 of the Solicitors (Amendment) Act 1994 which prevents a percentage being deducted by lawyers from the compensation awarded to claimants. If an entitlement to advertise for personal injury claims is secured under competition law, that sufficient information be displayed to enable consumers to make price comparisons between professionals.</p>	<p>The Minister for Justice, Equality and Law Reform intends that the provisions on advertising by solicitors in the Solicitors (Amendment) Act 2002 will be commenced in time for them to be fully operational by 1 January 2003. He will explore with the Law Society the possibility of requiring solicitors to quote a summary of Section 68 of the Solicitors (Amendment) Act 1994 in their advertisements.</p>	<p>The impact on total claims costs would be marginal.</p>
44.	<p>Consumer protection.</p> <p>Linked to Recommendation No. 43 concerning advertising by solicitors.</p>	<p>That, aside from legislation, the Incorporated Law Society of Ireland as a service to the public should require all advertisements by their members to state that a lawyer is not permitted to seek a percentage of a claimant's compensation and that such action is regarded as misconduct under Section 68 of the Solicitors (Amendment) Act 1994.</p>	<p>See Recommendation No. 43.</p>	<p>The impact on total claims costs would be marginal.</p>

**RECOMMENDATIONS RELATING TO THE DEPARTMENT OF
ENTERPRISE, TRADE AND EMPLOYMENT**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
13.	Promotion of competition. Consumer protection.	That a regulation be introduced requiring a minimum period of notice, of not less than 15 working days, to policyholders of the terms upon which renewal is offered to allow sufficient time for consumers to “shop around”.	Recommendation Nos. 13 and 14 were implemented together in the one set of Regulations which were signed into law by An Tánaiste on 25 July 2002.	There will be one-off system and administration costs.
14.	Linked to Recommendation No. 13.	That a regulation be introduced to prescribe the issuing of “No Claims Bonus” documents with renewal notices to enable clients to market their business elsewhere for comparative quotes.	See Recommendation No 13.	There will be one-off system and administration costs.
29.	Transparency. Public Information. Informing Policy.	That the format and content, as published in the “Blue Book”, of insurers’ annual Statutory Returns be amended to show clearly the accrual for the current accident year separately from movements in prior years’ reserves.	A Consultative Committee to examine implementation will be set up by April 2003. Target implementation of outcome in Annual Report (“Blue Book”) for year ending 2003, due to be published in mid-2004.	There would be no impact on costs.
30.	Linked to Recommendation No. 29.	That all relevant information in Statutory Returns be shown separately for private car, commercial motor, motorcycles and other main classes of motor business by coverage types.	See Recommendation No 29.	There would be a one-off increase in systems costs.
31.	Linked to Recommendation No. 29.	That the format and content of Statutory Returns be reviewed in line with practice elsewhere in Europe to improve the quality and quantity of public information.	See Recommendation No. 29.	There would be no impact on costs.

Department of Enterprise, Trade and Employment cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
32.	<p>Transparency.</p> <p>Enhanced prudential supervision.</p> <p>Comparison of data between insurance companies.</p> <p>Informing policy.</p>	<p>That the new insurance regulator issue revised guidelines to insurers to ensure more consistent completion of existing Statutory Returns in a manner which facilitates consistent comparisons and eliminates the current variations in practice between companies.</p>	<p>See Recommendation No. 29.</p>	<p>There would be no impact on costs.</p>
33.	<p>Transparency.</p> <p>Provision of clear record of the cost of uninsured driving.</p> <p>Public information.</p> <p>Informing policy.</p>	<p>That the preparation and publication of Statutory Returns be amended to clearly reflect the cost of uninsured driving recording numbers of cases, amounts of payments and provisions for outstanding claims with other relevant information as deemed appropriate.</p>	<p>See Recommendation No. 29.</p>	<p>There would be no impact on costs.</p>

Department of Enterprise, Trade and Employment cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
39.	<p>Promotion of enhanced quality of justice.</p> <p>Cost-effective, speedy redress.</p> <p>Claims costs reduction.</p>	<p>That an alternative to adversarial litigation be made available to parties where liability for a motor accident is not disputed but independent assessment of compensation is required. The MIAB endorses the model of the Personal Injuries Assessment Board proposed for employer's liability claims which might be extended to motor claims at an early opportunity.</p>	<p>The report of the Implementation Group on the PIAB is due to be published in Autumn 2002, following its presentation to Government by An Tánaiste. An Interim Board for the PIAB will then be established, so that the substantial work load handed over from the Implementation Group can be concluded without delay. Preparation of the legislation required to put the PIAB on a statutory footing will begin as soon as possible, in parallel, and will be given priority status.</p>	<p>A reduction of 7.6% in total claims costs is foreseen.</p>
59.	<p>Achievement of the Single Market.</p> <p>Balance between supervision and consumer interests.</p>	<p>That a Motor Policyholders Protection Fund be established to pay claimants in the event of the insolvency of an insurer regulated in Ireland.</p>	<p>The Insurance Compensation Fund comprising €24.13m of the PMPA levy is available for use in the event of an Irish Insurance Company failing, subject to the approval of the High Court. In view of the Single Market dimension, the possibility of an EU-wide arrangement will be pursued during 2002/2003.</p>	<p>There would be no impact on costs.</p>

Department of Enterprise, Trade and Employment cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
60.	Linked to Recommendation No. 59.	That a Policyholders Protection Fund be allocated an opening balance, estimated at £19m, from the motor insurance levy collected up to 1993 from which sufficient allocation has been made to satisfy administration of the liabilities of the old PMPA.	See Recommendation No. 59.	There would be no impact on costs.
62.	Promotion of coherent and cohesive policy formulation and implementation .	That a forum be established drawn from the various Government Agencies whose actions affect the cost of compulsory motor insurance so that the full financial consequences of proposed legislation or administrative action are understood and factored into decisions.	An Tánaiste will ensure that the forum is established during 2002.	There would be no impact on costs.
64.	Promotion of competition.	That, in the context of the Competition Bill 2001, consideration be given to incorporating the principle of "acting against the public interest".	Appropriate action was taken in the Competition Act 2002.	There would be no impact on costs.

**RECOMMENDATION RELATING TO THE DEPARTMENT OF
FINANCE**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
58.	<p>Level of premium charges.</p> <p>Adequate funding for enforcement issues.</p>	<p>That the stamp duty (formerly levy) on motor insurance, if not abolished as repeatedly recommended by the Board, should be ring fenced for related matters which include road safety initiatives, such as funding of the National Safety Council and the maintenance of a Policyholders Protection Fund to safeguard claimants' interests in the event of an insolvency of an insurer regulated in Ireland.</p>	<p>The Minister for Finance will consider this Recommendation at the next budget.</p>	<p>If the stamp duty is abolished, there should be a 2% reduction in total claims costs. Alternatively, if the levy is diverted to road safety promotion, there should be a 10% reduction.</p>

**RECOMMENDATIONS RELATING TO THE DEPARTMENT OF
FINANCE IN RELATION TO IFSRA LEGISLATION**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
4.	Balance between prudential supervision and consumer protection.	That the unique position of compulsory motor insurance should be adequately reflected in the responsibilities of the new Irish Financial Services Regulatory Authority (IFSRA) as the Board are of the view that there is currently no effective regulatory mechanism to balance the legitimate concerns of consumers with requirements for effective solvency supervision.	Under published legislative proposals (available at http://www.gov.ie/finance/news/apr02/mcc1020.htm), IFSRA will have the legislative mandate it needs to promote the best interests of consumers in a way that is consistent with appropriate prudential supervision and will be examining closely the relevant regulatory policies to ensure this goal is achieved.	There would be no impact on costs.
27.	Enforcement/redress. Consumer satisfaction. Level of premium charges.	That a Statutory Office of Insurance Ombudsman be established with an extended brief including issues of quotation refusals and denials of policy indemnity for compulsory cover (IIF dissent) and allowing provision for moderate compensation to successful complainants.	IFSRA believes that all legitimate customer complaints should be dealt with promptly and transparently. The proposed legislation (available at http://www.gov.ie/finance/publications/legi/cbfsaiindex.htm) provides the framework for this to happen. IFSRA will ensure that the Consumer Director of IFSRA and the statutory Financial Services Ombudsman between them provide a comprehensive complaints handling service covering both contractual and market practice issues. IFSRA is determined that this service shall operate immediately from the point in time when these statutory officers take up their duties.	There could be a potentially significant increase in costs.

RECOMMENDATIONS RELATING TO IFSRA

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
5.	<p>Transparency.</p> <p>Accountability.</p> <p>Consumer protection.</p> <p>Gathering a consistent set of data over an adequate period of time to assess equitable charging.</p>	<p>That central gathering of statistics on motor insurance premium and claims costs by driver profile be formalised by IFSRA, including monitoring by the new insurance regulator of data quality, to ensure that reliable information is available to inform public policy in future years and to improve market intelligence as provided for in EU Regulation No. 3932/92.</p>	<p>IFSRA will publish a full range of statistics and other material of a high quality to inform public debate in this area. IFSRA will ask the existing regulators to begin planning now for collection with a view to initiating compilation of data within three months of its establishment and further developing the service after consultation with relevant interests.</p>	<p>There would be no impact on costs.</p>
6.	<p>Discriminatory action.</p> <p>Linked to Recommendation No. 5.</p>	<p>That IFSRA supply regular marketwide statistics on motor premium differentials to the Equality Authority to assist in assessing insurers' compliance with the Equal Status Act 2000 and subsequently its proposed extension.</p>	<p>See Recommendation No. 5.</p>	<p>There would be no impact on costs.</p>
7.	<p>Public information.</p> <p>Promotion of competition.</p>	<p>That IFSRA publish regular surveys of motor insurance quotations to engender price competition and to educate the public on premium variances within the market and that IFSRA liaise with the Central Statistics Office on assessment of motor insurance inflation.</p>	<p>See Recommendation No. 5.</p>	<p>There would be no impact on costs.</p>

IFSRA cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
8.	Public information. Promotion of competition. e-Government.	That IFSRA pursue the concept of a "one stop website" to provide consumers with across market information on the motor premiums available for specific risks - the placing of an obligation on insurers to notify their rates does not appear to offend EU law on freedom of services.	See Recommendation No. 5	There would be no impact on costs.
21.	Transparency. Independent monitoring of insurance industry behaviour.	That the Declined Cases Committee, currently consisting solely of insurer representatives, should include external representatives to report to IFSRA on the operation of the scheme.	IFSRA will actively monitor the work of this Committee and, when formally established, will set up appropriate mechanisms to do so. In the meantime the IIF has invited a nomination from the existing Insurance Ombudsman to sit on the Committee with observer status. The Implementation Group are in agreement that a representative of the Consumers' Association of Ireland should be added to the Committee.	There would be no impact on costs.
22.	Independent standard – setting for insurance industry behaviour. Consumer protection.	That IFSRA agree standards of business practice with insurers governing dealings with private consumers and small businesses.	IFSRA will set out a general Code of Practice for insurers in their dealings with private consumers and small business customers. It shall monitor compliance and seek further directive and enforcement powers, if required. A text of this Code will be available within six months of the formal establishment of IFSRA.	There would be a potential increase in administration costs.

IFSRA cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
23.	Consumer protection. Level of premium charges.	That IFSRA set rules for insurers to implement in concrete terms the duty of utmost good faith as it applies to insurers, as a corollary to the consumer's duty of utmost good faith, to redress the imbalance in bargaining power between insured and insurer. The objectives of these rules should include ensuring that direct clients do not pay for unnecessary or inappropriate cover offered by insurers and to require an appropriate duty of consultation with policyholders before liability payments are made on their behalf.	IFSRA believes insurers need to act honestly and fairly, with due skill and make adequate disclosures of information to customers. Its Code of Practice will deal with this matter (see also response to Recommendation No. 22)	There would be no impact on costs.
24.	Consumer protection. Enforcement of Insurance Act 2000.	That regulation by IFSRA of insurance intermediaries should encompass the principle of "good faith dealing" to achieve the objectives as set out in Recommendation no. 23 (on rules – setting for insurers).	See Recommendation No. 22.	There would be no impact on costs.

IFSRA cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
25.	Public information. Level of insurance costs. Law enforcement.	That IFSRA issue clarification of the Consumer Credit Act 1995, or if necessary introduce alternate legislation, to control premium instalment plans.	IFSRA will make a report to the Minister for Finance on premium instalment plans as soon as practical within its first year of formal establishment.	The impact is unpredictable.
63.	Public information. Consumer protection.	That IFSRA should be pro-active in responding to media statements by insurers on trends in premium charges and related matters.	IFSRA will actively monitor the provision of financial services and will operate a programme of consumer education, which will deal with issues arising from the way in which products are portrayed to consumers.	There would be no impact on costs.
66.	Promotion of: Consumer protection Competition Social inclusion.	That the proposed Consumer Director in IFSRA would have a duty to highlight at EU level the unacceptable consequences for [segments of] the Irish market of further mergers in the interests of social inclusion, given our island location at the far west of the EU with a small, although rapidly growing, market which may be unattractive to many players.	IFSRA is strongly supportive of policies seeking to improve obstacles to effective competition in the sector. IFRSA will enter into a Memorandum of Understanding with the Competition Authority – which has statutory responsibility in this area – and will provide appropriate support to that Authority in identifying and analysing competition issues in the sector as they effect consumers.	There would be no impact on costs.

**RECOMMENDATION RELATING TO THE DEPARTMENT OF
HEALTH AND CHILDREN**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
45.	<p>Claims costs reduction.</p> <p>Equal status as regards Irish and other EU nationals.</p>	<p>That the Health (Amendment) Act 1986 be reviewed to the extent that it represents a discriminatory charge levied only on those involved in motor accidents at multiples of the rate charged to providers of health insurance and inconsistent with rates charged to visiting EU nationals in a manner that may offend the Equal Status Act 2000 given that victims of motor accidents represent less than 1% of users of hospital services.</p>	<p>The Department of Health and Children is not minded to give effect to this Recommendation, essentially on the grounds of cost to the Exchequer.</p> <p>There would have to be a corresponding increase in the existing subsidy from the general body of taxpayers, including the non-motoring public.</p> <p>The Department of Justice, Equality and Law Reform has suggested that the Equality Authority should be consulted on the question of whether the conduct referred to is prohibited under the Equal Status Act.</p>	<p>A reduction of 1% in total claims cost is foreseen.</p>

**RECOMMENDATIONS RELATING TO THE IRISH INSURANCE
FEDERATION**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
9.	Discriminatory action. Accountability. Transparency. Consumer protection. Promotion of competition.	That a regulation be introduced to require insurers who refuse to quote for any particular risk to state their reasons in writing upon request, acknowledging the fact that insurers cannot be required under EU law to provide cover for any particular risk but equally subject to the anti-discrimination provisions of the Equal Status Act 2000.	Implementation of this Recommendation, as well as of Nos. 15, 16 and 19 will be on an administrative basis via incorporation into the Code of Practice under preparation by the IIF for a September 2002 launch. Should it subsequently prove desirable, in the light of practical experience of operation of the Code, to put implementation of the Recommendations on a statutory footing, the future IFSRA Consumer Director will be able to take the necessary action as a priority.	There would be a small increase in administration costs.
10.	Enforcement of Equal Status Act. Promotion of competition.	That insurers undertake to comply with the provisions of the Equal Status Act 2000 in respect of drivers aged 65 and over including advising them of their rights to freedom of contract and to improve procedures for retirees who have a record on employers' fleet policies but are now seeking private motor insurance.	For drivers over 65, provision of a no claims discount to retirees with a record on employer's fleet policies came into effect on 1 August 2002.	Significant premium savings are foreseen.

Irish Insurance Federation cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
11.	Public policy. Discriminatory action.	That insurers undertake to desist from applying policy terms, limitations or loadings that may be encountered by policyholders with disability issues relating to drivers or passengers unless there is evidence of additional risk.	Cover restrictions or premium loadings to policyholders with disabilities will not apply from 1 August 2002.	Some premium savings are foreseen.
12.	Achievement of the Single Market. Discriminatory action.	That insurers operating in Ireland undertake to recognise EU driving experience and "No Claims Bonus" certification presented by other European citizens.	EU driving experience will be recognised by providing credit for certified no claims discount earned in other EU Member States with effect from 1 September 2002.	Significant premium savings are foreseen.
15.	Transparency (cost unbundling) Promotion of competition. Consumer protection.	That a regulation be introduced to standardise renewal notices - detailing the calculation of premium from compulsory cover to the full coverage offered with elective elements clearly indicated and showing any loadings or discounts applied in both monetary and percentage terms.	See Recommendation No. 9.	There would be one-off system and administration costs.

Irish Insurance Federation cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
16.	<p>Transparency.</p> <p>Consumer protection.</p> <p>Promotion of competition.</p>	<p>That a regulation be introduced to tackle potential ‘confusion of illusion of choice’ by requiring insurers who offer motor quotations under a number of business names and product images or through any direct outlets to state the identity of the insurance group of which they are part and that equally brokers should be obliged to provide each client with a list of the motor insurers for which they hold an appointment consistent with the provisions of the Investment Intermediaries Act 1995.</p>	<p>See Recommendation No. 9.</p> <p>Introduction of a replacement Code of Practice by IFSRA, when established, could be foreseen.</p>	<p>There would be no impact on costs.</p>
17.	<p>Age-related discriminatory action.</p> <p>Promotion of competition.</p>	<p>That insurers adopt rating practices that allow sufficient credit for accident free driving experience rather than filtering out risks solely on the basis of age.</p>	<p>Implementation of the necessary measures is expected by September 2002 at the latest.</p>	<p>There would be no impact on costs.</p>
18.	<p>Promotion of competition.</p>	<p>That insurers desist from any practice of requiring collateral business to be placed with the company before a motor quotation is supplied and that this practice be reviewed by the Competition Authority should it persist.</p>	<p>Collateral business as a precondition for motor quotes will not be required as from 1 August 2002.</p>	<p>There would be no impact on costs.</p>
19.	<p>Transparency.</p> <p>Consumer information.</p> <p>Promotion of Competition.</p>	<p>That the existing Declined Cases Agreement between the Minister and insurers operating in Ireland, under which a quotation cannot be refused on the</p>	<p>See Recommendation No 9.</p>	<p>There would be no impact on costs.</p>

		grounds of age alone, should be formalised by legislation.		
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Irish Insurance Federation cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATIONS	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
20.	Linked to Recommendation No. 19	That the number of refusals required under the existing Declined Cases Agreement be reduced from 5 to 3 in light of the market consolidation resulting from mergers	The Declined Cases Committee has agreed the proposed change from 5 to 3 refusals for triggering the declined cases mechanism, with effect from end July 2002.	There would be no impact on costs.
28.	Promotion of competition.	That IIF agree a code of conduct with its member companies on anti-competitive behaviour subject to any more formalised measures, which may ultimately be required by IFSRA under competition law.	Implementation of the necessary measures is expected by September 2002 at the latest.	There would be no impact on costs.

Irish Insurance Federation cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATIONS	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
53.	Prioritisation of genuine victims.	That insurers pursue a policy of seeking to assist in the rehabilitation of injured parties where such action is appropriate.	<p>Although the Recommendation is addressed to insurers, in the view of the IIF, implementation will require additional action <i>via</i> the rules governing the PIAB and review of court litigation procedures. At present there are insufficient legal and medical infrastructures in place to allow rehabilitation programmes to be put into practice by motor insurers on a wide scale.</p> <p>When these defects are remedied motor insurers will support suitable programmes in appropriate cases. However the IIF considers that this will only work on a widespread basis if the use of rehabilitation programmes is approached voluntarily in a positive way by claimants and their legal and medical advisers or acceptance of appropriate rehabilitation programmes becomes a legal requirement. The IIF believes that the PIAB and the Courts should be required to reduce awards for unreasonable failure to engage in appropriate rehabilitation programmes. The IIF feels that the Department of Justice, Equality and Law Reform needs to address this Recommendation as part of the proposed review of the Court Rules in civil</p>	A reduction of 3% in total claims costs is foreseen.

			litigation, and it should also be taken into account in finalising arrangements for establishment of the PIAB. The IIF is prepared to initiate the discussions with relevant legal and medical organisations in the interim, with a view to furthering the use of rehabilitation programmes.	
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**RECOMMENDATION RELATING THE IRISH INSURANCE
FEDERATION
AND IBEC**

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
26.	Unwarranted nuisance value settlements. Claims costs reduction. Constitutional balance.	That IIF agree with IBEC and other business associations on a set of guidelines for the handling of Third Party claims incorporating appropriate referral to commercial policyholders before compensation payments are made on their behalf.	The IIF is at an advanced stage of negotiations with IBEC in relation to claims settlement guidelines. The IIF and IBEC are both consulting members on a provisionally agreed draft text, in anticipation that agreement can be reached and the guidelines put in place for a September 2002 launch.	There would be no impact on costs.

RECOMMENDATIONS RELATING TO THE COMPETITION
AUTHORITY

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
41.	Promotion of competition. Consumer protection.	That the Competition Authority's investigations of the professions should assign priority to the fees which impact on the cost of motor insurance given its compulsory nature and the recent high inflation rate recorded for insurance and that, on completion of those investigations, their findings be taken into account in a review of the effectiveness of self-regulation by the legal profession.	The Competition Authority has agreed to take into account the evidence of practices in the legal profession referred to by the MIAB, in the review of this profession. The Authority will pursue any issues arising as part of the review. The Authority's response to the outcome of the review is anticipated for December 2002.	A reduction of 1.5% in total claims costs is foreseen.
65.	Promotion of competition.	That the Competition Authority would have a duty to review all further insurance mergers in the interests of the Irish economy with appropriate reference to IFSRA and that the process of consultation seek to protect the interests of specific policyholder groups since the effects of mergers may warrant consideration below issues of the market as a whole.	With regard to mergers falling to be dealt with at national level, Part 3 of the Competition Act 2002 transferred to the Competition Authority the merger review function previously carried out within the Department of Enterprise, Trade and Employment. Part 3 of the Act will apply from 1 January 2003 and will apply equally to insurance sector mergers (See Recommendation no. 66).	There would be no impact on costs.

Competition Authority cont'd.

NO.	ISSUES ADDRESSED	RECOMMENDATION	ACTION TO BE TAKEN & TARGET TIMEFRAME	IIF ESTIMATE ON POTENTIAL IMPACT ON CLAIMS, AWARDS, PREMIUMS
67.	Promotion of competition.	That when the Competition Authority assumes the new roles proposed under the Competition Bill 2001 it should review the area of compulsory motor insurance.	The Competition Authority and the Department of Enterprise, Trade and Employment are planning to sponsor a consultancy study over the period 2002 – 2003 on the competitive situation in the insurance market.	Any investigation would increase insurers' management costs.

APPENDIX I

MEMBERSHIP OF THE MIAB IMPLEMENTATION GROUP

Chairperson

Mr. John Corcoran, Assistant Secretary, Department of Enterprise, Trade and Employment

Members

Mr. Des Coppins, Principal Officer, Department of Environment and Local Government

Ms. Dorothea Dowling, Chairperson, Motor Insurance Advisory Board

Mr. Billy Hawkes, Principal Officer, Department of Finance

Mr. John Hurley, Principal Officer, Department of Justice, Equality and Law Reform

Mr. Dermott Jewell, Consumer Association of Ireland

Mr. Tom Noonan, IBEC

Ms. Rady Redmond, Principal Officer, Department of Enterprise, Trade and Employment

Mr. Mike Sullivan, Principal Officer, Department of Social and Family Affairs

Secretariat

Ms. Adel Billane, Department of Enterprise, Trade and Employment

Ms. Doreen Mullaney, Department of Enterprise, Trade and Employment

APPENDIX II

Irish Insurance Federation Submission on The Estimated Cost Impact of Implementation of MIAB Recommendations.

Ref: MK/CW

1 August 2002

Mr John Corcoran,
Chairperson, MIAB Implementation Group
Department of Enterprise, Trade and Employment,
Earlsfort Centre,
Lower Hatch Street,
Dublin 2.

Dear John,

ESTIMATED COST IMPACT OF IMPLEMENTATION OF MIAB RECOMMENDATIONS

Following on from our meeting on Monday, I attach updated versions of our table and spreadsheet estimating the potential impact on claims and premium costs of implementing the recommendations of the MIAB report.

As you will see, we have revised some entries in the light of the discussion on Monday, and we have also included new entries for recommendations where implementation action was not detailed in the previous draft but is now included in the fourth draft of the Implementation Group's report. Revisions to the proposed implementation action and/or timeframe in the fourth draft are also included in our table, together with summaries of implementation action on the 'industry' recommendations. These latter comments are, we suggest, more appropriate than the detailed commentary included in the fourth draft itself.

We have also revised and reordered our Preliminary Comments. The most important issues are covered in items 1 to 4 (**boldface** text). Please include our preliminary comments in any published version of our table, and incorporate them in your report to the Tánaiste. Please also ensure that the heading on the column estimating the potential impact of implementation on claims and other costs appears as presented in the attached table.

We found the discussion at the meeting on Monday to be very useful in helping us to develop our thinking on a number of issues. I hope that all previously outstanding points have been adequately covered in the attached, revised documentation. As before, however, if you require clarification of any issue, please contact me.

Yours sincerely,

MICHAEL KEMP
CHIEF EXECUTIVE

**ESTIMATED IMPACT ON INSURANCE COSTS OF
IMPLEMENTATION OF RECOMMENDATIONS OF MIAB
REPORT (APRIL 2002)**

**SUBMISSION TO THE GOVERNMENT'S MIAB
IMPLEMENTATION GROUP
BY THE IRISH INSURANCE FEDERATION (IIF)
1st AUGUST 2002**

Preliminary Comments

1. The financial performance of the Irish motor insurance market in 2001 and previous years indicates that pricing of motor insurance fell well short of the levels required to provide an adequate return on capital employed. In normal circumstances, a 5% reduction in claims costs indicates approximately a 4% reduction in premiums (as other costs will remain broadly the same). The combined net claims ratio for IIF member companies in 2001 was, however, abnormally high at 97.4%. Price correction has since occurred, and it is to be hoped that the market's claims ratio for the current year will improve considerably on 2001's out-turn. Nevertheless, the outlook remains uncertain.

2.
 - a. Our estimates of the effects of implementing the MIAB recommendations have been established on a standalone basis for each individual recommendation, except where expressly stated otherwise. In addition to taking into account these preliminary and general comments, individual estimates are based on specific assumptions, as stated in each case.

- b. The impact on claims costs of implementing each recommendation is estimated individually, on a standalone basis. The combined effect of implementing a number of recommendations cannot be assessed simply by adding the individual results – the estimates are multiplicative, not additive. (See the summary spreadsheet accompanying this submission).
 - c. Our analysis highlights the importance of reducing the cost of delivery of compensation, improving anti-fraud measures, streamlining the litigation system, and promoting rehabilitation. The current adversarial system provides limited opportunities for use of rehabilitation programmes. A streamlined system addressing all of these issues could produce additional cost savings and health benefits for claimants through synergies created by a fast cost-effective system and wider use of appropriate rehabilitation programmes.
 - d. In our review, we have linked groups of recommendations (e.g., to do with PIAB and reform of the rules of Court). These recommendations should be jointly addressed, as partial implementation is unlikely to produce proportionate benefits.
3. Premiums in the future – as in the past - will be determined by a combination of underlying claims experience (which will vary by insurer and by market segment) AND competitive conditions, both domestic and international.
4. Only 5 recommendations (nos. 45, 46, 47, 48 & 53) have the potential to affect the level of compensation paid in personal injury cases. In other countries in Europe, victims of road traffic accidents receive more financial support from the public health and social welfare systems. Also, general damages are substantially higher in Ireland than in other European countries. The recommendations will not fundamentally alter these facts, which drive differences in motor insurance premiums between Ireland and other countries to a greater extent than any other factor.

5. All estimated cost impacts are just that – estimates. There is no guarantee, even if the underlying assumptions are correct, that the measures proposed will deliver the estimated results. In all cases our estimate of the effect of implementation assumes that all other cost conditions remain unchanged. Of course, this equilibrium *never* occurs in practice in a dynamic marketplace where a large number of elements influence claims frequency and severity, compensation costs, legal costs AND administration expenses.
6. Each cost impact figure represents the estimated final effect of implementing a recommendation. However, many of the cost savings will not be immediate but will build up over a number of years, so the total estimated savings will not be realised in the first year after implementation.
7. All cost estimates in this document must be interpreted taking into account the foregoing comments (items 1-7 above).

Note: The following table is based on the Government Implementation Group's Report (4th Draft –July 2002) and discussion at the Implementation Group's meeting of 29th July.

ESTIMATED IMPACT OF MIAB IMPLEMENTATION ON MOTOR INSURANCE CLAIMS & OTHER COSTS

		IMPACT ON TOTAL CLAIMS COSTS	
<u>A) COST REDUCERS</u>	REC. #	per Rec %	Cumulative %
Road Safety promotion	1, 58*	-10%	-10%
PIAB	39	-7.6%	16.8%
Reduction in uninsured driving	3	-5%	21%
Promotion of rehabilitation	53	-3%	23.4%
Abolition of stamp duty	58*	-2%	+ 24.9%
Reform of Court procedures and taxation of costs	38, 40	-2%	26.4%
Anti-fraud measures	47, 49	-1.75%	~ 27.7%
Exclusion of "black" earnings	48	-1.5%	~ 28.8%
Reduced plaintiff solicitors' fees	41	-1.5%	29.8%
Book of quantum	56	-1%	30.5%
Repeal of discriminatory elements of Health (Amendment) Act 1986	45	-1%	31.2%
Provisional licenceholders' rules & enforcement	2	) M) A	
Case Management	54, 55	) R	
Retirees' NCDs	10	) G	
Disabled drivers	11	) I	
EU NCDs	12	) N	
Reform of legal costs interest rules	42	) A) L	

		) M
		) A
Interim payments	51	) R
Reform of solicitors' advertising rules	43, 44	) G
"Amicus Curiae"	46	) I
		) N
		) A
		) L

- * alternatives in Rec. # 58 - abolition **or** diversion of 2% stamp duty
- + -2% of **premiums** if abolished
- ~ average of a range quoted in accompanying table

B) COST INCREASERS

**IMPACT ON COSTS
CLAIMS ADMINISTRATION**

	REC. #	
Provisional Damages	52	marginal
Written reasons for declinatures	9	small increase
Renewal Notices/NCD Proofs	13, 14, 15	system & admin. costs
Separation of sub-class data in Statutory Returns	30	system costs
Ombudsman awards	27	potentially significant
IFSRA "business practice" code	22	potential increase
Competition Authority investigation of motor Insurers	67	extra management cost

C) NIL IMPACT RECOMMENDATIONS

(In order of appearance in Implementation Group' s Report [4th Draft])

Dept. of Transport:	Recs. # 34, 35, 36 & 37
Dept. of Transport:	Rec. # 61 (non-implementation)
Dept. of Justice, Equality & Law Reform:	Recs. # 50 & 57
IIF:	Recs. # 17, 18, 20 & 28
IIF & IBEC:	Rec. # 26
DETE:	Recs. # 16, 19, 31, 32, 33, 59, 60 & 64
DETE/IFSRA:	Rec. # 29
Dept. of Finance (re: IFSRA):	Recs. # 4 & 62
IFSRA:	Recs. # 5, 6, 7, 8, 21, 23, 24, 63 & 66
Competition Authority:	Rec. # 65

D) UNPREDICTABLE

Recommendation # 25.

APPENDIX III

Contribution From The Equality Authority

Several of the recommendations in the MIAB relate to equal status, whether in the general context of compliance with the provisions of the Equal Status Act 2000, as in the case of recommendations nos. 6 and 9; or in more specifically targeted sense, in terms of the prohibition on discriminatory action in relation to age (recommendations nos. 10 and 17), disability (recommendation no. 11) and nationality (recommendation nos. 12 and 45). The bodies with primary responsibility for taking action to implement these recommendations are identified in the Action Plan.

Part of the core function of the Equality Authority is the elimination of prohibited discrimination in the areas covered by Equal Status Act 2000. The Equality Authority has a strategic legal enforcement function supporting cases which would have a precedent value. In relation to motor insurance a range of case files have been opened on issues including failure by insurers to quote in relation to older drivers, failure to quote in relation to younger drivers and excessive quotes in relation to younger drivers. The complaints are being processed by the Equality Authority, with a view to their referral to the Office of the Director of Equality Investigations, during 2002 – 2003. It is expected that further issues will arise.

The strategy being adopted by the Equality Authority will secure clarification on the extent to which protection is provided under the Equal Status Act where the treatment of persons for insurance purposes is concerned. The Act contains a general prohibition on discrimination in the provisions of a service. However, a specific exemption is provided for under Section 2(5)d, in that the prohibition on discrimination does not apply to:

‘Differences in the treatment of persons in relation to annuities, pensions, insurance policies or any other matter related to the assessment of risk where the treatment

(ii) is affected by reference to

- actuarial or statistical data obtained from a source on which it is reasonable to rely or
- other relevant underwriting or commercial factors

and

(iii) is reasonable having regard to the data or other relevant factors.”

The scope of the interpretation capable of being given to section 5(2)d should be brought to light as the cases are heard. Amendment to the legislation so as to remove the potential for adverse effect may be required on foot of these cases.