



“When You Talk - We Listen!”



MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE CORPORATION (MPI)

2020/2021 GENERAL RATE APPLICATION

HEARING

Before Board Panel:

Irene Hamilton, QC - Board Chairperson

Robert Gabor, QC - Board Chair

Carol Hainsworth - Board Member

HELD AT:

Public Utilities Board

400, 330 Portage Avenue

Winnipeg, Manitoba

October 25, 2019

Pages 2843 to 2988

1 APPEARANCES

2

3 Kathleen McCandless ) Board Counsel

4 Robert Watchman )

5 Roger Cathcart ) Consultant

6 Brian Pelly (np) ) Advisor

7 Blair Manktelow (np) ) Advisor

8

9 Steven Scarfone ) Manitoba Public

10 Michael Triggs ) Insurance

11 Anthony Guerra )

12 Jeff Crozier )

13 Ted Meira )

14

15 Byron Williams (np) ) CAC (Manitoba)

16 Katrine Dilay )

17 Chris Klassen (np) )

18 Christine Williams (np) )

19 (Articling student)

20 Chim Undi (np) )

21 (Articling student) )

22

23 Charlotte Meek (np) ) CMMG

24 James Wood )

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APPEARANCES (CONT'D)

Christian Monnin )Bike Winnipeg  
Charles Feaver )  
Curtis Unfried )IBAM  
Jennifer Sokal )  
(Articling student)  
Denis Guenette )Attorney General  
Tamara Edkins (np) )of Manitoba  
(Articling Student)

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1 --- Upon commencing at 9:00 a.m.

2

3 THE CHAIRPERSON: Good morning,  
4 everyone. Ms. McCandless, do have some remarks with  
5 regard to the order this morning?

6 MS. KATHLEEN MCCANDLESS: Good  
7 morning, Madam Chair. So we are continuing with the  
8 closing submissions of CAC, and Ms. Dilay does have  
9 some CSI closing as well. That will happen after the  
10 remainder of the closing submissions. So we'll hear  
11 from Ms. Dilay, then from Mr. Wood for CMMG, Mr.  
12 Monnin for Bike Winnipeg, and Mr. Unfried for IBAM.  
13 Then we will go in camera and hear from Ms. Dilay, as  
14 the last. Thank you. Thank you.

15 THE CHAIRPERSON: Thank you very much.  
16 Ms. Dilay, please proceed.

17

18 CONTINUED FINAL ARGUMENT BY CAC (MANITOBA):

19 MS. KATRINE DILAY: Good morning.  
20 Thank you very much, Madam Chair, and Board members.

21 And so you'll recall that yesterday, we  
22 left off at slide 107 of Exhibit CAC-22, I believe.  
23 And -- and so I'll be touching upon CAC (Manitoba)'s  
24 argument with respect to the reserves regulation, both  
25 the argument about its validity, and whether it is

1 binding on the PUB.

2                   So while we left off at slide 107, I  
3 will propose to start actually at slide 108, and I'll  
4 come back to slide 107 at the end.

5                   And before starting, I should note we  
6 did file one (1) additional exhibit yesterday, which  
7 is the reply from the Attorney General of Canada, that  
8 they intended not to participate at this stage of the  
9 proceeding, but that they had been served with the  
10 notice of constitut -- constitutional question. So we  
11 would ask that that be marked as CAC-24.

12

13 --- EXHIBIT NO. CAC-24:       Reply from the Attorney  
14                                   General of Canada

15

16                   MS. KATRINE DILAY:    So I'll be walking  
17 through our argument with respect to the reserves  
18 regulation. On slide 108, we are -- we have some  
19 recommended findings, specifically four (4)  
20 recommended findings that I will walk through in more  
21 detail.

22                   First of all, the PUB has been granted  
23 independent rate approval authority over the rates for  
24 services of Basic insurance by the Manitoba  
25 legislature.

1                   Secondly, the -- the Public Utilities  
2 Board has made the rate stabilization reserve an  
3 integral element of its rate approval function.

4                   Thirdly, the reserves regulation  
5 frustrates the legislative framework underlying the  
6 independent rate approval process by usurping the  
7 jurisdiction of the Public Utilities Board to  
8 determine an appropriate Basic insurance RSR level for  
9 rate setting, as well as to approve an appropriate  
10 methodology for the determination of the RSR.

11                   And fourthly, by directly interfering  
12 in the independent rate approval process with direct  
13 impacts on vehicle insurance rates, the cabinet is  
14 seeking to exercise a power that was expressly removed  
15 from it in the 2018 legislative amendments to Section  
16 33 of the Manitoba Public Insurance Corporation Act.

17                   So in terms of an overview of arguments  
18 that I'll be presenting this morning, I'll essentially  
19 have seven (7) parts that I'll be going through, some  
20 of them quite brief.

21                   First of all, I'd like to touch upon  
22 the Public Utilities Board jurisdiction over questions  
23 of law, then touch upon regulations as subordinate  
24 legislation, and then I'll go through a brief  
25 discussion of principles of statutory interpretation.



1                   And the last few bullets will talk  
2 about the PUB jurisdiction over MPI's Basic insurance,  
3 the fact that the Public Utilities Board has made the  
4 rate stabilization reserve an integral element of its  
5 rate approval function, that the reserves regulation  
6 conflicts with the legislative framework underlying  
7 the independent rate approval process, and finally, go  
8 through the remedy that we are seeking in this  
9 process.

10                   So on slide 110, we discussed the  
11 jurisdiction of the Public Utilities Board to  
12 determine the validity of regulations. And in order  
13 to do that, we have to look at whether tribunals are  
14 empowered to -- to determine questions of law.

15                   Tribunals who are empowered to  
16 determine questions of law are also empowered to  
17 decide whether subordinate legislation is valid. And  
18 I will note that we've included references on these  
19 slide, which you will find in our book of authorities.

20                   I don't propose to bring you to all  
21 these references this morning. We do have a very  
22 detailed brief that was also submitted that has  
23 references to -- to these sources, but we have  
24 included in our book of authorities a number of case  
25 law legislation, both current as well as passed, and

1 excerpts from Hansard as well.

2                   So going back to whether the Public  
3 Utilities Board is empowered to determine questions of  
4 law, determining just and reasonable rates is the  
5 Public Utilities Board responsibility, and it has to  
6 do this by interpreting the statutes that set out its  
7 legislative scheme.

8                   As the Manitoba Court of Appeal has  
9 found, this scheme of the legislation includes the  
10 interaction of three (3) statutes. This includes the  
11 Public Utilities Board Act, the Crown Corporations  
12 Governance and Accountability Act, and the Manitoba  
13 Public Insurance Corporation Act. Those three (3)  
14 acts together set out the legislative scheme for the  
15 Public Utilities Board authority over rate approval  
16 for MPI's Basic insurance. As a result, the Public  
17 Utilities Board is necessarily empowered to decide  
18 questions of law, because the interpretation of  
19 enabling statutes is a question of law.

20                   In another matter, a different  
21 regulatory scheme, the Federal Court of Appeal has  
22 explicitly held that determining the meaning of just  
23 and reasonable was a question of law. And as we see  
24 back on the top of the slide, tribunals who are  
25 empowered to determine questions of law are also

1 empowered to decide whether subordinate legislation is  
2 valid. And so we would -- we would indicate that the  
3 Public Utilities Board does have the jurisdiction in  
4 this instance to determine whether the reserves  
5 regulation is valid for purposes of rate approval.

6           On page 111, we discuss regulations as  
7 subordinate legislation. So what does this mean? The  
8 reserves regulation is a regulation enacted by the  
9 Lieutenant Governor in Council. It is a law that is  
10 created by the executive branch. Regulation such as  
11 this are subordinate, which means that they derive  
12 their legal authority from grants of authority by the  
13 legislature to the executive.

14           As a general rule, subordinate  
15 legislation cannot conflict with either the statute  
16 that authorized its creation or other statutes of the  
17 legislature. To the extent that the regulation is  
18 inconsistent with the statutory framework, or if it  
19 contravenes the statutory requirements, it is invalid  
20 and unenforceable.

21           We do acknowledge that typically,  
22 regulation -- that regulations are presumed to be  
23 valid. However, the focus of the Inquiry must be on  
24 the objective of the enabling statute or the scope of  
25 the statutory mandate. And so in order to determine

1 the objective of the statutory mandate, I just want to  
2 highlight a few principles of statutory  
3 interpretation, because there is an exercise of  
4 interpretation that has to be done to determine the  
5 objective of the statutory framework.

6                   So the Public Utilities Board  
7 determination of whether the reserves regulation is  
8 invalid requires an exercise of statutory  
9 interpretation, because it must be shown to be  
10 inconsistent with the objective of the enabling  
11 statute or the scope of the statutory mandate.

12                   In this case, as we've already alluded  
13 to, it's necessary to examine not only the purpose of  
14 the MPIC Act, but also the Public Utilities Board Act  
15 and the Crown Corporations Governance and  
16 Accountability Act, because together these three (3)  
17 statutes provide the framework for the Public  
18 Utilities Board independent rate approval authority  
19 for MPI's basic insurance.

20                   It's well-established in the case law  
21 from the Supreme Court and otherwise that:

22                   "The interpretation of a statutory  
23                   provision must be made according to  
24                   a textual, contextual, and purposive  
25                   analysis to find a meaning that is

1 harmonious with the act as a whole."

2 So in this context, we talk about one  
3 (1) act. However, what happens when there is a  
4 statutory framework that incorporates more than one  
5 (1) statute? In those cases:

6 "Context is especially important  
7 when the provision under  
8 consideration is found in an act  
9 that is itself a component of a  
10 larger statutory scheme. In those  
11 cases, the surroundings that colour  
12 the words and the scheme of the act  
13 are more expansive."

14 And so:

15 "In cases such as that where there  
16 is more than one (1) act that  
17 creates a statutory framework, the  
18 established principles will give  
19 rise to the principle of  
20 interpretation that presumes a  
21 harmony, coherence, and consistency  
22 between statutes that are dealing  
23 with the same subject matter."

24 And so in this case we're talking about  
25 three (3) statutes that deal essentially with one (1)

1 subject matter which is the PUB's jurisdiction over  
2 rates for MPI's basic insurance. And as -- as I've  
3 alluded to and we see on the screen:

4 "The Manitoba Court of Appeal has  
5 previously found that the Public  
6 Utilities Board jurisdiction to  
7 approve rates for service charged by  
8 MPI to consumers of basic, arises  
9 from the interplay between those  
10 three (3) acts, the PUB Act, the  
11 MPIC Act, and the Crown Corporations  
12 Governance and Accountability Act."

13 So that's the current framework, but  
14 I'd like to take you through a little bit of a history  
15 of how we got to this -- to this place in time, and it  
16 will provide context to -- to the independent rate  
17 approval authority and why the reserves regulation so  
18 clearly conflicts with that independent rate  
19 authority.

20 So on slide 114 we go back in time to  
21 the PUB jurisdiction over rates for MPI's basic  
22 insurance from 1970 to 1988.

23 "The Automobile Insurance Act was  
24 passed in 1970 in response to  
25 perceived challenges in the private

1 insurance marketplace, which  
2 included rising rates and a failure  
3 to provide adequate coverage and  
4 benefits to consumers."

5 And you'll see this in more detail in  
6 our written brief, as well as references to a 1970  
7 report that was produced essentially recommending that  
8 a Crown Corporation be formed. So:

9 "The solution that was recommended  
10 at that time was is in fact a Crown  
11 Corporation to be incorporated and  
12 compulsory auto insurance to be  
13 operated in a manner comparable to a  
14 public utility."

15 At that time, under the 1970 act, under  
16 section 29 sub (1) sub (a), the Lieutenant-Governor-  
17 in-Council was given road authority to make  
18 regulations respecting driver and vehicle premium,  
19 including the pi -- the power, pardon me, to prescribe  
20 driver and vehicle premiums.

21 "This authority under the 1970 act  
22 was exercised by the Lieutenant-  
23 Governor-in-Council between 1970 and  
24 1988. On February 1, 1988, as part  
25 of the re-enactment of Manitoba

1 statutes, the MPI Act replaced the  
2 1970 act, but essentially section 33  
3 sub (1) sub (c) maintained similar  
4 powers for the Lieutenant-Governor-  
5 in-Council relating to driver and  
6 vehicle premiums."

7 So then we moved to 1988, and what we  
8 saw in the 1980s was that Judge Robert Kopstein was  
9 appointed as the Commissioner of the Autopac Review  
10 Commission, and what led to that was essentially there  
11 were challenging financial results, public backlash,  
12 and significant rate increases, and unprecedented  
13 increases in deductibles for MPI in the 1980s, and  
14 Judge Kopstein's report was filed in 1988.

15 He noted public suspicions of political  
16 interference in rate setting, he noted the support by  
17 many members of the public for independent public  
18 scrutiny of rates, including Public Utilities Board  
19 approval of basic insurance rate increases, and Judge  
20 Kopstein in the end recommended that MPI management  
21 and its Board of Directors be granted the authority to  
22 finalize rates, subject only to review by the Public  
23 Utilities Board. And we have included excerpts as  
24 well from the Kopstein report in our Book of  
25 authorities, and they are also referenced in our



1 detailed written briefs, so I would encourage you to  
2 take a look at what Judge Kopstein has written on this  
3 point.

4                   As a result, on December 20th, 1988,  
5 the Manitoba legislature enacted the Crown  
6 Corporations Public Review and Accountability and  
7 Consequential Amendments Act, which I'll call the  
8 CCPRA Act, which many of us in this room will know was  
9 the direct predecessor to the Crown Corporations  
10 Governance and Accountability Act, up to only a couple  
11 of years ago.

12                   And so the CCPRA Act was intended to  
13 respond to concerns relating to alleged mismanagement  
14 and political interference in Manitoba's Crown  
15 corporations, including Manitoba Public Insurance, and  
16 we have included excerpts and -- and reference those  
17 in our written brief as well, excerpts from Hansard  
18 which talk about why -- what was the intent of the  
19 CCPRA Act.

20                   In that act, the PUB was granted  
21 authority to provide independent third party rate  
22 approval for a number of Crown monopolies, which  
23 included Manitoba Public Insurance's basic insurance.

24                   The CCPRA Act amended section 33 of the  
25 MPI Act and it expressly limited the Lieutenant-

1 Governor-in-Council's ability to set rates. What it  
2 did is it made any changes to the regulation related  
3 to the premiums charged for basic, subject to the  
4 approval of the Public Utilities Board.

5 "Section 26 of the CCPRA Act granted  
6 the Public Utilities Board the  
7 authority to review rates for  
8 service under the PUB Act."

9 And in fact, since 1988, since the  
10 enactment of that -- of that statute, MPI has had an  
11 annual hearing before the Public Utilities Board to  
12 have its rates for basic insurance approved.

13 The rate approval function of the  
14 Public Utilities Board was broad during this time,  
15 with its fun -- function not only to protect consumers  
16 from unreasonable changes, but also to ensure the  
17 fiscal health of the Corporation, as well as the  
18 fairness between different classes of consumers, and  
19 this broad power included being able to approve a  
20 different rate than the one sought by MPI.

21 So what we saw happen is that from 1970  
22 to 1987, the sole authority for the establishment of  
23 rates for basic insurance rested with the Lieutenant-  
24 Governor-in-Council. Then we saw a change in 1988,  
25 where the CCPRA Act expressly conferred rate approval

1 jurisdiction on the Public Utilities Board.

2 Then we move to 2018.

3 "The CCPRA Act was replaced by the  
4 Crown Corporations Governance and  
5 Accountability Act in 2018. Part 4  
6 of that Act sets out the rate  
7 approval function of the Public  
8 Utilities Board with respect to MPI  
9 basic insurance..."

10 And it was largely unchanged except for  
11 numbering. So the -- the new section where the PUB  
12 finds the -- the factors and the criteria that it  
13 looks at for rate approval are now in section 25.

14 There were amendments made to the  
15 Manitoba public Insurance Corporation Act in 2018, and  
16 so I'll walk through the amendments and then I would -  
17 - I'll -- I'll highlight essentially what the effect  
18 of those amendments was.

19 "Amendments to Section 6, through  
20 the addition of Section 6.4,  
21 established that the amounts charged  
22 for plan premiums, which includes  
23 the amounts charged for Basic  
24 vehicle insurance, were to be set by  
25 the Corporation, subject to the

1 approval of the PUB in accordance  
2 with the Crown Corporations  
3 Governance and Accountability Act.  
4 No provision is made in those  
5 sections by the Manitoba Legislature  
6 for the Lieutenant Governor in  
7 Council to have any role in the rate  
8 approval process for Basic vehicle  
9 insurance."

10 Amendments were also made to Section  
11 33(1)(c) expressly removing the ability of the  
12 Lieutenant Governor in Council to make regulations  
13 with respect to premiums payable by owners of motor  
14 vehicles. And finally, Section 33(1.1) was also  
15 amended to reaffirm the obligation to obtain PUB  
16 approval for any Basic driver premium.

17 So we would suggest that for purposes  
18 of MPI, there were three (3) affects of the 2018  
19 amendments. It affirmed the central role of the  
20 Public Utilities Board in the Basic insurance rate  
21 approval function. It expressly removed the authority  
22 of the Lieutenant Governor in Council to prescribe  
23 Basic vehicle premiums as part of the Basic rate. And  
24 it continued to limit the Lieutenant Governor in  
25 Council's authority to prescribe Basic dri -- Basic

1 insurance driver premiums by maintaining its  
2 subjugation to PUB approval.

3           And so what we saw was that the Public  
4 Utilities Board jurisdiction over independent rate  
5 approval for MPI's Basic, we would submit, was  
6 strengthened in 2018.

7           And so what this -- this history tells  
8 us is that currently, and essentially for the past  
9 thirty (30) years, there has been a single statutory  
10 framework for MPI rate approval, and that has been  
11 under the MPIC Act, the Crown Corporations Governance  
12 and Accountability Act, and the PUB Act, which  
13 establishes a single statutory framework authorizing  
14 the PUB to approve the amount of money that MPI  
15 charges Basic insurance customers.

16           The rate approval function of the PUB  
17 was broad before 2018, and we saw that finding from  
18 the Manitoba court, but the 2018 amendments made it  
19 even clearer that the PUB has broad authority with  
20 respect to the approval of amounts charged for plan  
21 premiums, which includes the amount charged for Basic  
22 vehicle insurance. And the 2018 amendments also  
23 expressly removed any role for the Lieutenant Governor  
24 in Council in setting vehicle rates.

25           So what about the rate stabilization

1 reserve, which is what the reserves regulation is  
2 about? The Public Utilities Board has found that the  
3 RSR, the rate stabilization reserve, is an integral  
4 part of its jurisdiction over rates for MPI's Basic  
5 insurance.

6                   So since 1988, as we've talked about,  
7 the Board has regularly exercised it -- its authority  
8 to review and approve rates for service for MPI. It  
9 has done so by taking into account projected costs and  
10 revenues to the test year -- for the test year, pardon  
11 me -- the prudence and reasonableness of MPI in  
12 managing those costs and revenues, and it also has  
13 looked at the overall health of the Corporation, which  
14 has included any necessary reserves.

15                   And among those reserves has been the  
16 rate stabilization reserve. From the onset of the Ba  
17 -- of the PUB's Basic insurance rate review function,  
18 the Public Utilities Board has considered itself  
19 authorized to determine the appropriateness of the  
20 RSR. And we've included there an excerpt from PUB  
21 Order 192 of '89, where the PUB found that the  
22 magnitude and constitution of the rate stabilization  
23 reserve is an integral part of the due and proper  
24 fixing of rates charged by the Corporation, pursuant  
25 to the Manitoba Public Utilities Corporation and Crown

1 Acts.

2                   And so over the past three (3) decades,  
3 the PUB has, indeed, made the RSR an integral element  
4 of its rate approval function. It has considered the  
5 appropriate level of the reserve for rate setting  
6 purposes within the context of the overall health of  
7 the Corporation. It has considered the appropriate  
8 methodology for determining the RSR level, including  
9 appropriate consumer and corporate risk tolerances.  
10 And this analysis has involved looking at different  
11 methodologies, such as the percent of premium, risk  
12 analysis, the minimum capital test, as well as the  
13 dynamic capital adequacy test.

14                   The Public Utilities Board has also  
15 considered whether additional premiums should be  
16 charged to bring the RSR within appropriate levels for  
17 rate setting, and it has also looked at whether a  
18 rebate should be given to consumers because the RSR  
19 was above appropriate levels for rate setting. And  
20 we've included in our written brief reference to -- to  
21 PUB orders where they have considered these matters,  
22 but in cross-examination during this hearing, the 2020  
23 MPI GRA, Mr. Luke Johnston also confirmed that these  
24 were considerations that the Public Utilities Board  
25 has looked at.

1                   The last two (2) bullets on this page  
2 are -- are important. The link of the rate  
3 stabilization reserve to rate stabilization and the  
4 consequent impacts on rate approvals necessarily  
5 requires PUB consideration of the target range as well  
6 as the methodology underpinning the target range. In  
7 effect, the PUB cannot ensure that RSR contributions,  
8 which come out of rates, are just and reasonable  
9 without assessing those contributions against the RSR  
10 range itself.

11

12   (BRIEF PAUSE)

13

14                   MS. KATRINE DILAY: And so this page  
15 is -- is quite full, but this page summarizes how and  
16 why the reserves regulation conflicts with the  
17 legislative framework underlying the independent rate  
18 approval process. So here we've listed Section 2(a),  
19 3, and 4, but we would submit that the thrust of our  
20 argument really relates to Section 2(a) and 3. Those  
21 provisions unlawfully interfere with the objective,  
22 the scope, and the application of the statutory  
23 framework granting the PUB independent rate approval  
24 authority for MPI Basic insurance.

25                   These provisions inexorably frustrate



1 the legislative framework underlying the independent  
2 rate approval process, and it does this in a number of  
3 different ways. First, it usurps the jurisdiction of  
4 the PUB to determine an appropriate Basic insurance  
5 RSR level for rate setting purposes. It also usurps  
6 the jurisdiction of the PUB to approve an appropriate  
7 methodology for the determination of the RSR level.

8           The reserves regulation also imposes a  
9 minimum Basic insurance rate stabilization reserve,  
10 the 100 percent MCT, that has been expressly rejected  
11 by the Public Utilities Board as a maximum target.  
12 The reserves regulation requires the PUB to impose  
13 rate increases in circumstances where the Basic RSR is  
14 below 100 percent MCT and no draw-down from other  
15 lines of business is feasible or possible.

16           It also prohibits the Public Utilities  
17 Board in its rate approval process from drawing down  
18 reserves for the purposes of promoting or -- or  
19 encouraging rate stability in any circumstances other  
20 than when the RSR would be maintained at or above 100  
21 percent MCT.

22           It frustrates the purpose of the rate  
23 stabilization reserve by requiring the maintenance of  
24 funds equal to 100 percent MCT in the RSR, even in  
25 situations where drawing down -- drawing down, pardon

1 me -- or depleting the RSR is necessary in order to  
2 mitigate rate shock or to protect against rate  
3 increases occasioned by unforeseen events, which is the  
4 purpose of the rate stabilization reserve.

5                   And finally, it also restricts the  
6 ability of the Public Utilities Board to disallow  
7 unreasonable costs if the effect would be to draw down  
8 the Basic RSR below the mandatory 100 percent MCT  
9 target.

10                   On this slide, we would propose that  
11 any conflict that exists between the statutory  
12 framework -- which as we saw is the PUB Act, the MPIC  
13 Act, and the Crown Corporations Governance and  
14 Accountability Act -- there's a conflict between that  
15 statutory framework and the reserves regulation. The  
16 conflict must be resolved in favour of the independent  
17 rate approval of the Public Utilities Board.

18                   And this is the case for a few reasons.  
19 First of all, the authority of the PUB to set just and  
20 reasonable rates and to regulate the size of the RSR  
21 flows from interrelated statutory enactments within a  
22 statutory framework.

23                   As we discuss, the reserves regulation  
24 is a subordinate legislation, and so it cannot  
25 conflict with its parent statute or another statute of

1 the legislature, and it cannot override the  
2 obligations that are given to the PUB through another  
3 body -- by statute.

4 We also see that the Crown Corporations  
5 Governance and Accountability Act as well as the PUB  
6 Act contained conflict of laws clauses that provide in  
7 the event of a conflict, those enactments are to be  
8 preferred.

9 The MPIC Act on -- under which the  
10 Lieutenant Governor in Council created the regulation  
11 does not contain such a provision regarding conflict  
12 of laws. And we've included references to that in our  
13 written brief as well as in our book of authorities  
14 for your reference.

15 Thirdly, the Crown Corporations  
16 Governance and Accountability Act was enacted more  
17 recently than the other acts, and it is presumed to  
18 take precedence over the other Acts in the event of a  
19 conflict.

20 And finally, the statutory purpose for  
21 which the Crown Corporations Governance and  
22 Accountability Act as well as its predecessor  
23 legislation was enacted clearly demonstrates a  
24 legislative intent that has evolved and progressed  
25 through time that the -- that the Lieutenant Governor

1 in Council be subordinate to the Public Utilities  
2 Board in the rate approval process.

3                   And so what are we asking for? The  
4 remedy that CAC (Manitoba) is seeking in this  
5 proceeding is that for the purposes of exercising the  
6 independent rate approval authority of the Public  
7 Utilities Board and consistent with the statutory  
8 framework, CAC (Manitoba) would ask the Public  
9 Utilities Board to find that sections 2(a), (3) and  
10 (4), although the -- the thrust of our argument  
11 really relays to 2(a) and (3) of the reserves  
12 regulation are invalid.

13                   And CAC (Manitoba) also asks the Public  
14 Utilities Board to continue to exercise its rate  
15 approval function consistent with the statutory  
16 framework and its longstanding finding that the  
17 magnitude and constitution of the rate stabilization  
18 reserve is an integral part of the due and proper  
19 fixing of rates for Basic insurance.

20                   And on page 124, we indicate that even  
21 if the reserves regulation was validly enacted, which  
22 CAC (Manitoba) strongly opposes, it is not binding on  
23 the Public Utilities Board for rate approval purposes.  
24 And this is case because it directly interferes with  
25 the Public Utilities Board independent rate approval

1 process, and we would refer you to essentially the --  
2 the same arguments regarding the interference with the  
3 rate approval process as well as the fact that the  
4 Public Utilities Board has considered the magnitude  
5 and constitution of the rate stabilization reserve as  
6 an integral part of its responsibility over Basic  
7 rates.

8                   And so I'm just going to go back to  
9 slide 107 for a moment. So in the event that the  
10 Public Utilities Board finds that the reserves  
11 regulation is invalid, as we've argued, or if it is  
12 valid but not binding on the Public Utilities Board,  
13 CAC (Manitoba) would strongly recommend, based on the  
14 arguments that were presented by Mr. Williams  
15 yesterday, that the capital management plan should be  
16 revised to better reflect the collaborative process  
17 over past years as it relates to the appropriate level  
18 for the rate stabilization reserve including the one  
19 (1) in forty (40) DCAT scenario and analysis.

20                   The benefits of a range which has a  
21 minimum and a maximum threshold, which as we've heard  
22 from certain witnesses on this -- in this hearing, is  
23 more likely to encourage rate stability versus a  
24 single target which is more likely to encourage rate  
25 volatility.

1                   And finally, a revised capital  
2 management plan should also be grounded in accepted  
3 regulatory principles with respect to the intimate  
4 relationship between Basic, which is a regulated  
5 monopoly, and Extension in non-utility line of  
6 business which can help to inform an appropriate  
7 evidence-based transfers from Extension, the  
8 unregulated line of business, to the regulated  
9 monopoly.

10                   And so that concludes the -- the  
11 PowerPoint portion of our presentation. What I would  
12 suggest is to -- that we could turn to the  
13 recommendations document which I propose to take  
14 approximately ten (10) minutes to go through. And  
15 after that, I would be happy to take any questions, if  
16 that would be appropriate with the Board.

17

18                   (BRIEF PAUSE)

19

20                   MS. KATRINE DILAY: So -- thank you,  
21 Kristen, we've already gone through many of these  
22 recommendations as part of the presentation, but some  
23 of them we have not gone through in as much detail, so  
24 I just want to highlight a few.

25                   I will not read out or go through the

1 first two (2) with respect to forecasting as  
2 Mr. Williams touched upon those yesterday.

3 Under "prudent and necessary costs" --  
4 and I'll just note, I'm on the document CAC Exhibit 23  
5 which was filed yesterday on this proceeding. So with  
6 respect to personal injury protection plan, we would  
7 recommend that MPI should be directed to report back  
8 at the 2021 GRA on whether its new claims management  
9 strategy is working and we heard some argument in  
10 evidence in -- from Mr. Williams yesterday on this  
11 topic as well.

12 With respect to MPI agreements with  
13 service providers, which include brokers, repair  
14 shops, and chiropractors for example, CAC (Manitoba)  
15 recommends that MPI should report back during the 2021  
16 general rate application on industry best practice in  
17 ensuring compliance with the Competition Act, value  
18 for money, and quality service availability which may  
19 include viable alternatives to agreements with service  
20 provider associations such as the Irish messenger  
21 model, rate cards, and requests for proposals.

22 Regarding service delivery model and  
23 broker compensation, we have two (2) recommended  
24 findings at the beginning of this section. We would  
25 recommend that the PUB should find that, as reflected

1 in agreements, operating standards, and practices, the  
2 relationship between MPI and brokers have served to  
3 create barriers to entering the marketplace and to  
4 developing and maintaining relationships, and that the  
5 current broker compensation model does not appear well  
6 adapted for fundamental changes in the marketplace  
7 which include evolving customer expectations and  
8 technological advances as well as rapidly changing  
9 insurance operational dynamics.

10 CAC (Manitoba) would recommend that MPI  
11 be directed to report back on the prudence and  
12 reasonableness of existing compensation packages,  
13 especially in light of these evolving consumer needs,  
14 technological disruption, as well as the need to  
15 preserve and enhance services in rural and remote, we  
16 would add, as well northern communities.

17 Similar to a previous recommendation,  
18 MPI should be directed to report back on alternative  
19 agreement models which might deliver better value for  
20 captive ratepayers, ensure compliance with the  
21 Competition Act -- and Mr. Williams alluded to this as  
22 being a potential risk for the corporation -- as well  
23 as to reduce barriers to entry for competitor  
24 services.

25 And the next one is -- is very



1 important from our consumer -- from our -- our  
2 client's perspective. CAC (Manitoba) would recommend  
3 that MPI should be directed to conduct engagement with  
4 Manitoba consumers about MPI's future service delivery  
5 model and to report back, and this should be the 2021  
6 GRA.

7                   We would recommend that engagement  
8 should be both quantitative and qualitative given that  
9 both types of engagement are complimentary but provide  
10 different insights and that engagement should be  
11 included on issues such as the option of credit card  
12 payments, the option of online transactions and phone  
13 transactions, the role of brokers, the role of MPI,  
14 and service delivery options in urban versus rural and  
15 remote areas.

16                   CAC (Manitoba) would recommend that MPI  
17 be directed to file an update relating to future  
18 service deliver model in the next GRA or at a  
19 technical conference if that is deemed appropriate  
20 which has grounded in engagement with consumers and  
21 stakeholders and also reflects a commitment to  
22 maintaining and enhancing options for consumers in  
23 northern, rural and remote communities, enabling all  
24 Manitobans to access online MPI services and ensuring  
25 all consumers who wish to access MPI services through

1 a bricks and mortar option where available have the  
2 choice between MPI and broker options.

3                   And this last bullet in this section  
4 was alluded to by Mr. Williams yesterday. CAC  
5 (Manitoba) would recommend the PUB should direct that  
6 it be mandatory for MPI and broker staff to notify  
7 consumers of competitive options to Extension and SRE.

8                   With respect to information technology,  
9 CAC (Manitoba) has three (3) recommendations, that a  
10 survey of MPI employees should be conducted regarding  
11 the implementation of the Nova project and results  
12 should be filed in the next General Rate Application.

13                   Given Project Nova's risk business case  
14 and lessons learned from physical damage re-  
15 engineering, MPI should be directed to report on  
16 Project Nova's risk status, budget, and business case  
17 to the PUB quarterly.

18                   And regarding the risky business case,  
19 we'll have a little bit more information about that in  
20 the confidential portion of our submissions, as well,  
21 but Mr. Williams also discussed this yesterday.

22                   And, finally, MPI should be directed to  
23 confirm in the 2021 GRA whether the Government of  
24 Manitoba will pay for the driver and ve -- vehicle  
25 administration portion of Project Nova.

1                   Regarding benchmarking, CAC (Manitoba)  
2 recommends that given ongoing benchmarking challenges,  
3 MPI should be directed to report back to the Public  
4 Utilities Board within six (6) months on its future  
5 plans for benchmarking.

6                   With respect to investments, and you  
7 heard -- Board members will have heard Mr. Williams's  
8 argument on this topic yesterday, the recommended  
9 finding is that MPI's current shadow portfolios will  
10 not achieve the objective of the Public Utilities  
11 Board in Order 159/18 to assess whether MPI has  
12 foregone an opportunity to hedge against long-term  
13 risk by rejecting real return bonds and reducing real  
14 assets in its new portfolio.

15                   That MPI should be directed to revise  
16 its shadow portfolio to compare the risk and return to  
17 MPI's current portfolios under a real liability me --  
18 benchmark.

19                   And CAC (Manitoba) recommends that MPI  
20 should be directed to file the proposed revised shadow  
21 portfolios with the Public Utilities Board by February  
22 1st of 2020 and that Interveners of record should be  
23 provided an opportunity to file comments on MPI's  
24 revised shadow portfolios.

25                   And thirdly, consideration should be

1 given to matching longer lived liabilities with growth  
2 assets. And Mr. Williams talked about that briefly  
3 yesterday relating especially to the Saskatchewan  
4 experience.

5                   Regarding road safety, CAC (Manitoba)  
6 believes this is a very important issue, and it gained  
7 a lot of insight and value from the technical  
8 conference.

9                   And it would recommend that the PUB  
10 give consideration to holding a technical conference  
11 on road safety every two (2) years to feed into the  
12 General Rate Application process.

13                   Another recommendation is that, in  
14 order to demonstrate road safety portfolio  
15 optimization, MPI should be directed to engage with  
16 the road safety provincial committee to prepare a  
17 provincial road safety budget which would include  
18 Manitoba road -- all Manitoba road safety initiatives,  
19 the lead as well as other players and associated  
20 budgets and that this provincial road safety budget  
21 should be filed in the 2021 GRA.

22                   MPI should be directed to engage with  
23 Manitoba First Nation political organizations as well  
24 as First Nations themselves toward developing a First  
25 Nation road safety strategy and to report back in the

1 2022 GRA on the pro -- on the progress of such  
2 strategy.

3                   And finally, Manitoba Public Insurance  
4 should be directed to engage with Manitoba consumers  
5 in addition to Manitoba stakeholders as part of its  
6 road safety program development.

7                   And so, under the heading of, "Overall  
8 health of the Corporation," this is relating to the  
9 argument that I just presented this morning. Of  
10 course, CAC (Manitoba) recommends that the PUB should  
11 determine the reserves regulation is invalid for  
12 purposes of the MPI 2020 GRA.

13                   And if the PUB determines that the  
14 reserves regulation is valid, that it should determine  
15 it is not binding on it for purposes of rate approval.

16                   Regarding the capital management plan,  
17 the PUB should find that the capital management plan  
18 is not grounded and accepted regulatory practice. It  
19 is not based on risk analysis and is based upon the  
20 myth of competition in the Extension line of business.

21                   So, CAC (Manitoba) would recommend that  
22 the capital management plan should be revised to  
23 reflect that the 100 percent MCT target isn't  
24 appropriate for MPI's rate stabilization reserve  
25 because it represents a significant cost to ratepayers

1 without being linked to MPI risk or experience.

2                   It should also reflect the  
3 collaborative process over the past number of years as  
4 it relates to a risk and experienced-driven level for  
5 the rate stabilization reserve, including the one (1)  
6 in forty (40) DCAT scenarios.

7                   It should also reflect the benefits of  
8 a range which is more likely to encourage rate  
9 stability than a target. Should also recognize the  
10 social wastefulness of excessive reserves held by MPI  
11 and that excess reserves should be reflected as  
12 rebates to consumers as opposed to reducing the rate  
13 indication and that reserve deficiencies should be  
14 reflected as surcharges to consumers as opposed to  
15 increasing the rate indication.

16                   Regarding the -- the transfers from  
17 Extension, CAC (Manitoba) recommends that the PUB find  
18 there are significant doubts that the proposed 200  
19 percent MCT for Extension reflects the prudent risks  
20 of Extension and that accepted regulatory practice --  
21 or principles with respect to the intimate  
22 relationship between Basic and Extension should help  
23 inform appropriate evidence-based transfers from the  
24 unregulated line of business to the regulated  
25 monopoly.

1                   And these principles would include that  
2 Basic, a legislated monopoly under regulation,  
3 provides be -- benefits to Extension, that given the  
4 benefits provided to Extension from Basic, the PUB  
5 should determine that it can examine that it has the -  
6 - the power and the authority to examine the  
7 appropriate capital level for Extension for purposes  
8 of Basic rate approval, that the value of the benefits  
9 afforded by Basic to Extension should flow back to  
10 Basic ratepayers.

11                   And this can be accomplished, as we  
12 heard from Mr. Todd, by establishing an appropriate  
13 capital level for Extension and any revenues in excess  
14 of the target capital level should be transferred back  
15 to reduce the revenue requirement, in other words, the  
16 ra -- the rates paid by Basic customers.

17                   And MPI should also be directed to  
18 provide reporting on Extension regarding its  
19 competitive status, including market share, profit  
20 target result, and monitoring of advice regarding  
21 competitive options by brokers and MPI staff.

22                   In the event that the reserves  
23 regulation is found by the PUB to be valid and  
24 binding, which is -- which is not the argument of  
25 CAC (Manitoba), but in the event that finding is made,

1 CAC (Manitoba) would recommend that the capital  
2 management plan as it currently is proposed does not  
3 comply with the mandatory language of the reserves  
4 regulation.

5                   And finally, with regards to the  
6 capital management plan, CAC (Manitoba) recommends that  
7 MPI should conduct engagement with consumers as well  
8 as stakeholders regarding the definition of rate  
9 shock, which includes the difference between overall  
10 rates and individual consumer bills. As we heard  
11 yesterday, individual consumers experience rate  
12 increases at various levels, and that MPI propose a  
13 definition for consideration at the next GRA.

14                   We would recommend that in the future,  
15 MPI not include a net capital maintenance provision,  
16 given that that was approved for one year only, and  
17 that the intent of a capital management plan would be  
18 -- would essentially reach that purpose or that  
19 objective.

20                   I will not go through the driver's  
21 safety rating recommendations. Essentially, we have  
22 recommended future next steps, as well as  
23 considerations for decision-making with respect to the  
24 driver's safety rating, and so I won't go through  
25 those in detail.



1                   On page 6, CAC (Manitoba) does have  
2 recommendations with respect to consumer engagement,  
3 which is a very important part of its work.

4                   Whenever MPI engages with consumers, it  
5 should be directed to employ best practices, which  
6 includes that consumers should be engaged at various  
7 stages of the process, including when there are still  
8 more than one option on the table, and when an option  
9 is selected, but implementation or roll-out of that  
10 option remains to be determined.

11                   Best practice consumer engagement would  
12 suggest that consumer engagement results should be  
13 documented and reported back to consumers, including  
14 an explanation of why feedback may not have been  
15 relied upon.

16                   CAC (Manitoba) notes that while ePanels,  
17 which have been -- which are being used by MPI  
18 certainly perform a useful function, there's a risk  
19 that when consumers are asked questions relating to  
20 the same issue more than once, they may begin to buy  
21 in and not offer the same feedback as a consumer who  
22 has never been engaged on the issue.

23                   And so while retaining the -- the  
24 ePanel was a useful tool, MPI should also engage  
25 different consumers on issues.

1                   And finally, before any new products or  
2 programs for consumer use are launched, product test -  
3 - testing should be conducted with average consumers,  
4 including with consumers of varying levels of  
5 technological knowledge for online products in order  
6 to receive feedback and make changes before launching.

7                   And CAC (Manitoba) would suggest that  
8 it's -- in its experience and based up on its research  
9 and -- and knowledge about consumer engagement, the  
10 benefits of consumer engagement can be significant,  
11 including consumer provide -- consumers providing  
12 input that may not have been present and getting  
13 consumer buy-in and education with respect to options  
14 that are being considered.

15                   The final section of our recommendation  
16 is the just and reasonable rate in accordance with  
17 statutory objectives.

18                   And so in the event that the Reserves  
19 Regulation is found to be invalid or not binding on  
20 the Public Utilities Board, CAC (Manitoba) recommends  
21 that the PUB should order a rate decrease of minus 0.6  
22 percent. And this recognizes that there is  
23 insufficient evidence to further modify the rate  
24 request, because there is still significant legal  
25 uncertainty surrounding the Reserves Regulation.

1 There's an absence of DCAT analysis for the test year,  
2 assuming the one (1) in forty (40) risk tolerance,  
3 which would make setting a target range for the RSR  
4 based on past practice challenging.

5                   There is the absence of a capital  
6 management plan, which contemplates transfers from  
7 extension to basic, grounded, and accepted regulatory  
8 practice.

9                   And we also noted yesterday the  
10 revision to collision claims forecasts for the second  
11 half of the 2019/20 year, which takes into account  
12 unusually favourable experience in the non-winter  
13 months.

14                   And so while CAC(Manitoba) is  
15 recommending the minus 0.6, the decrease of 0.6  
16 percent in rates, it does note that these are still  
17 issues that are outstanding that may -- that may have  
18 impacted the rate this year, but given that these  
19 issues are -- are still unresolved, it -- it is  
20 recommending at this time a decrease of 0.6 percent.

21                   And finally, in the event that the  
22 Reserves Regulation is found to be valid and binding  
23 on the PUB, CAC(Manitoba) recommends the PUB find that  
24 the capital management plan, as currently proposed, is  
25 not consistent with the Reserves Regulation, because

1 it contemplates the RSR level being below 100 percent  
2 MCT.

3 And so that concludes our  
4 recommendations. Madam Chair, if I could just have  
5 one minute to check with my client if we have any  
6 further comments.

7 THE CHAIRPERSON: Certainly. Thank  
8 you.

9 MS. KATRINE DILAY: Thank you.

10 Madam Chair, subject to any questions  
11 from the panel, those are our closing submissions.

12 THE CHAIRPERSON: Thank you, Ms.  
13 Dilay.

14 Mr. Gabor...?

15 BOARD MEMBER GABOR: Ms. Dilay, I have  
16 some questions about the -- the regulation, but I'm  
17 proposing to hold them until the reply stage.

18 So other than that, I have a couple of  
19 other questions, and it has to do more with the  
20 jurisdiction.

21 On -- sorry, page 2, the last bullet  
22 before Information Technology:

23 "PUB should direct that it be  
24 mandatory for MPI and broker staff  
25 to notify consumers of competitive

1 options to Extension and SRE."

2 I guess the question is: what do you  
3 think our jurisdiction is over broker staff?

4 MS. KATRINE DILAY: Right. And so  
5 over broker staff I -- I would accept that, I think  
6 that would be a -- they're probably a recommendation-  
7 making power.

8 With respect to MPI, we talked  
9 yesterday about the -- that Extension is operating  
10 essentially in a competitive market, however, the way  
11 that it looks does not appear to be very competitive  
12 given the very large market share and profit levels.

13 And so if the PUB, you know, is  
14 entitled to -- to look at capital levels for  
15 extension, for purposes of basic rate approval  
16 processes, there is likely room there for the PUB a --  
17 it would likely be a -- a recommendation as well.

18 BOARD MEMBER GABOR: Okay.

19 Secondly, in the same vein, under road  
20 safety on page 3, the second bullet:

21 "MPI should be directed to engage  
22 with the Road Safety Provincial  
23 Committee to prepare a provincial  
24 road safety budget."

25 The reality is I guess we can direct

1 them to engage with the road safety provincial  
2 committee. Do you think we have any powers beyond  
3 that in relation to safety budget? Because as I  
4 understand that, that's a provincial government  
5 matter, not an MPI matter.

6 MS. KATRINE DILAY: So, in our view,  
7 MPI's road safety portfolio and the optimization issue  
8 has been an issue that this Board has looked at, and  
9 it has looked at MPI's portfolio as optimized, sort of  
10 within itself.

11 Now that we have a provincial road  
12 safety strategy, a provincial road safety committee, I  
13 think there's a legitimate question and -- and we  
14 would -- we would suggest that there is a legitimate  
15 con -- consideration of the optimization of MPI's  
16 portfolio within the Manitoba road safety portfolio.

17 And so perhaps it may be a  
18 recommendation or a direction that MPI report back on  
19 those efforts and the road safety -- the provincial  
20 road safety budget.

21 BOARD MEMBER GABOR: Thank you.

22 THE CHAIRPERSON: Ms. Hainsworth, do  
23 you have any questions?

24 Thank you very much, Ms. Dilay.

25 MS. KATRINE DILAY: Thank you.

1 THE CHAIRPERSON: We'll now proceed to  
2 hear from you, Mr. Wood, on behalf of CMMG, please.

3

4 FINAL ARGUMENT BY CMMG:

5 MR. JAMES WOOD: At the beginning of  
6 the GRA process, MB -- MPI had reported a profit of a  
7 hundred and fifty nine million, one hundred thousand  
8 dollars (\$159,100,100), a \$68 million dollar increase  
9 over the previous year.

10 At last year's GRA, CMMG took the  
11 position that no increase was required, and certainly  
12 advocated against the imposition of a new capital  
13 maintenance provision.

14 This position was based on the  
15 excellent financial performance and condition of MPI  
16 at that time, where income was up and claims costs and  
17 administrative costs were down.

18 Certainly this year we've been told  
19 that MPI has received exceptionally good results and  
20 therefore they amended their application based on  
21 those good results.

22 Last year, at the time of the  
23 application, we note that retained earnings for the  
24 corporation grew from 261 million in 2017, to 352  
25 million by February 28th, 2018, and then 425 million

1 as of August 31st, 2018.

2                   This year again we are seeing a  
3 corporation that is cash-rich and it has unilaterally  
4 taken steps to ensure that its reserves are even  
5 further bolstered over what this Board would normally  
6 determine.

7                   The rate requirement and the premium  
8 sought for motorcyclists on a -- are an extremely  
9 important issue because motorcyclists in this GRA are  
10 asked to pay an increased rate of over 5 percent when  
11 all but a few other classes of vehicles are being  
12 given rate decreases.

13                   In Undertaking number 10, MPI provided  
14 a rate-based analysis of serious injury of vulnerable  
15 road users, specifically motorcyclists. In order to  
16 have a portrayal of the statistics -- a better and  
17 more accurate portrayal of the statistics, in the  
18 response we found we were given the response when  
19 comparing motorcycle rates to that of the larger  
20 Manitoba vehicle driver pool.

21                   The rate per one -- for ten thousand  
22 (10,000) licenced drivers are relatively similar but  
23 motorcyclists, on average, perform better than the  
24 larger driving public as a whole.

25                   In cross-examination and looking at



1 CMMG-1-10 Appendix 1, the motorcycle claims lost data,  
2 we were looking at the accident benefits incurred  
3 costs. These accident benefits incurred costs  
4 decreased in 2016, decreased in 2017, and decreased in  
5 2018.

6                   Again in cross-examination, we looked  
7 at the accident benefits paid. They also decreased in  
8 2016, decreased in 2017, and decreased in 2018. We  
9 also saw that same data -- in that same data that the  
10 highest incurred costs and benefits paid were to -- in  
11 2018 only three (3) out of a hundred and sixty-seven  
12 claims, just under 2 percent of the claims being  
13 responsible for the highest claims.

14                   This was also reflected in CMMG-1-12 in  
15 the lost comparison between motorcycle riders and  
16 private passenger major classes. In this data  
17 provided by the corporation, we saw that the frequency  
18 and severity of loss under PIPP for the major class of  
19 motorcycles again decreased in 2016, decreased in  
20 2017, and decreased in 2018.

21                   This data also showed a straight  
22 decline in PIPP counts from 2016 for the last  
23 three (3) years. Motorcyclists should be rewarded for  
24 their declining frequency of accidents. However, we  
25 are seeing as a result of the decline in interest

1 rates that their premiums are the subject of large  
2 increase by the corporation due to the reduction in  
3 investment income.

4                   Certainly, a low interest rate  
5 environment negatively impacts all MPI ratepayers  
6 through higher premiums. However, motorcyclists are  
7 disproportionately impacted by low interest rates due  
8 to the formula used to calculate personal injury  
9 protection plan benefits which make up the majority of  
10 their premiums.

11                   MPI's amended application fully  
12 demonstrates the disproportionate affects that  
13 declining interest rates has on insurance rates for  
14 the motorcycle class.

15                   Last year, Mark Giesbrecht on  
16 October 17th stated that -- about the capital  
17 maintenance provision, it's an integral part of our  
18 plan to manage stable and predictable rates for all  
19 Manitobans which we feel is paramount. However, MPI's  
20 treatment of the motorcycle class has been anything  
21 but stable and anything but predictable.

22                   The argument that when interest rates  
23 are higher, motorcycle premiums receive a benefit from  
24 a discounting perspective that is disproportionately  
25 higher than the benefit received by other major

1 classes.

2                   This is cold comfort when motorcyclists  
3 experience is markedly improved and we are still being  
4 asked to pay more and incur significantly higher  
5 insurance rates increases when other major classes are  
6 being -- rates are being decreased. There must be a  
7 way for MPI and the Board to address this anomaly.

8                   We heard from Mr. Johnston that  
9 allocating to equities in the investment portfolios is  
10 one of those ways. Saskatchewan Government Insurance  
11 has a larger allocation to growth assets, and SGI  
12 allocated equities towards longer lived liabilities.

13                   We heard that on October 8th when  
14 Mr. Williams from CAC was cross-examining Mr. Bunston  
15 that suggested that MPI over the last five (5) years  
16 underperformed SGI by about 1.7 percent. That was  
17 conceded.

18                   In the context of this discussion on  
19 October 15th discussing SGI's larger profit margins  
20 and their asset mix, I asked Mr. Johnston would it not  
21 be prudent to increase some of the allocations of  
22 equities for MPI slightly in the long tail  
23 liabilities.

24                   One thing Mr. Johnston did concede that  
25 obviously if MPI had more growth assets tied to the

1 rate indication, it would bring the motorcycle rate  
2 down.

3 CMMG is proposing for consideration  
4 that MPI and the Board considers some model that would  
5 ameliorate the affect on investment income on the  
6 claims reserves that occurs by the reduction in  
7 interest rates.

8 Mr. Giesbrecht last year also said that  
9 when it was the introduction of the capital  
10 maintenance provision that this is to offer Manitobans  
11 stable and predictable rates. He said that's part of  
12 our management, it's core to our mandate, and that is  
13 why we are requesting a CMP be introduced into our  
14 methodology.

15 We learned this year that with the CMP,  
16 the rate for motorcyclists would have been  
17 7.3 percent. Without it, it would be 5.1 percent.

18 Certainly, it would beg the question  
19 that motorcyclists need protection from volatility,  
20 but this is not happening with a CMP, and certainly, a  
21 CMP this year is essentially being replaced by a  
22 capital bill provision.

23 And when asked about the MCT levels  
24 being projected at lower than 100 percent in future  
25 years, although MPI is not asking for a capital bill

1 provision this year, it certainly would suggest that a  
2 capital bill provision in future years is being  
3 projected.

4

5

(BRIEF PAUSE)

6

7 MR. JAMES WOOD: Certainly, MPI's  
8 customers that keep getting increased rates in times  
9 when interest rates go up when they are not  
10 necessarily also responsible for accidents involving  
11 vehicles where there are long-term PIPP costs is a  
12 priority.

13 Really what we're seeing is that a  
14 capital maintenance provision or now a capital build  
15 provision protects the corporation from possible  
16 adverse events but not motorcycle customers and no  
17 Manitobans in general.

18 To borrow from Mr. Doug Houghton's  
19 presentation, although PIPP coverage is paid by most  
20 vehicle owners, some vehicle classes do not pay and  
21 are still being subsidized by premiums paid by other  
22 major classes. Also not paying are those persons with  
23 drivers licences who do not own vehicles but who  
24 contribute to accident costs.

25 Since all Manitobans can receive PIPP

1 benefits and since one third of all PIPP claims are  
2 for non-contributors, why then should motorcyclists  
3 pay substantially more for this coverage when other  
4 vehicle owners, such as ATV owners, snowmobile owners,  
5 and licenced non-vehicle owners, pay nothing?

6                   Certainly, there's other methodologies  
7 for assigning PIPP costs, and I would just direct in a  
8 general sense to some of the suggestions made by  
9 Mr. Houghton allocating a greater share of PIPP to  
10 other types of -- other types of vehicles transferring  
11 personal injury protection plan premiums to drivers  
12 licences.

13                   In some cases, it is the driver who  
14 causes the accidents, not the vehicle, and it would be  
15 a much more equitable system if PIPP premiums were  
16 transferred, all or in part, to drivers licences  
17 rather than placed solely on the vehicle.

18                   Also in creating fairness, perhaps  
19 looking at this transfer of penalties to drivers  
20 licences and looking at in the serious injury losses  
21 which -- who is to -- who is at fault in those  
22 circumstances, and if that's being factored into the  
23 formula for a rate making.

24

25

(BRIEF PAUSE)

1 MR. JAMES WOOD: Looking at how PIPP  
2 flat rate or an assignment of PIPP to the drivers  
3 licence would affect average premiums for all classes  
4 and, as well, how premiums would be affected should  
5 excluded vehicle classes, such as interprovincial  
6 trucking, were required to pay PIPP. As well, what  
7 would the impact be if PIPP and penalty costs were  
8 applied solely to the drivers licence?

9

10 (BRIEF PAUSE)

11

12 MR. JAMES WOOD: Given all of the  
13 above, we are looking at the Board and MPI to consider  
14 a revised formula, taking into account non-paying  
15 beneficiaries to the -- to the PIPP. This would make  
16 a more equitable formula for recipients.

17 Again, we are not suggesting a decrease  
18 as the private passengers are -- are potentially going  
19 to receive this year for the motorcycle rate group,  
20 but we are suggesting that given this inequitable  
21 formula that there should be zero percent increase  
22 from the motorcycle class of group.

23 Subject to any questions.

24

25 (BRIEF PAUSE)

1 THE CHAIRPERSON: We have no questions  
2 for you. Thanks very much, Mr. Wood.

3 MR. JAMES WOOD: Thank you.

4 THE CHAIRPERSON: Mr. Monnin, we can  
5 break now if you'd like, or do you want to start, and  
6 then we'll break around 10:30 or at a point that's...

7 MR. CHRISTIAN MONNIN: Thank you,  
8 Madam Chair. I'm in your hands. I -- I do have a  
9 slide deck I do need to -- to share. So it might make  
10 sense to take a small break and...

11 THE CHAIRPERSON: Sure. That's great.  
12 We'll be back at 10:25, please.

13

14 --- Upon recessing at 10:10 a.m.

15 --- Upon resuming at 10:26 a.m.

16

17 THE CHAIRPERSON: Thank you. Mr.  
18 Monnin, would you proceed?

19

20 FINAL ARGUMENT BY BIKE WINNIPEG:

21 MR. CHRISTIAN MONNIN: Thank you,  
22 Madam Chair, members of the Board. I provided Kristen  
23 with a slide deck which I may be referring to from  
24 time to time. That'll be MPI Exhibit number 4.

25 It's not as comprehensive as the other



1 slide decks that you've received throughout this  
2 Hearing, but it's just a qui -- it's a few graphs  
3 which I would likely -- will likely be referring to  
4 during my submissions.

5                   In addition to the more generally  
6 thrust of its grounds to intervene in this year's  
7 General Rate Application, Bike Winnipeg today intends  
8 to focus on some more specific issues, namely, at a  
9 very high level, MPI improving its road safety  
10 measures.

11                   At the same time, the next issue is are  
12 we -- however, are we losing ground on promoting safe  
13 driving behaviour, and then get into has MPI  
14 demonstrated in a concrete fashion that it has  
15 optimized its road safety budget, or viewed from  
16 another angle, is MPI carrying out its  
17 responsibilities as a leader on road safety by se --  
18 spending on initiatives that can reduce the social and  
19 financial costs of collisions.

20                   And then we'll get into the issue of  
21 the quality and clar -- clarity if MPI's data  
22 collection, and then the use of messaging road signs  
23 as it relates to effective road safety, also the issue  
24 of identifying vehicles to dangerous to other road  
25 users and rating them accordingly, and then some

1 general comments with respect to road safety and how  
2 this issue is to be dealt with in the context of GRA  
3 proceedings.

4 I intend to address each of these items  
5 one (1) at a time. And I'll begin with the first item  
6 being MPI improving its road safety measures.

7 On that particular point, Bike Winnipeg  
8 welcomes MPI's commitments to change how they measure  
9 the impact of crashes and what it views as real  
10 progress on the issue of road safety.

11 Firstly, there has been what -- what  
12 Bike Winnipeg would view as a see change in tone,  
13 openness and transparency on behalf of MPI since Bike  
14 Winnipeg has been involved in these proceedings. That  
15 ought to be commended.

16 This can ably -- also be seen in more  
17 tangible and concrete ways, such as adopting Road to  
18 Zero, using social costing to measure the impact of  
19 accidents and indicating its desire to improve and  
20 develop its data collection capacity.

21 MPI's old process to prioritise --  
22 prioritize road safety initiatives was based on  
23 business cases designed to reduce MPI's claim costs.  
24 It can be said that managers are taught that what gets  
25 measured gets done.

1                   And a corollary to that is that, if you  
2 are measuring the wrong thing, you're probably doing  
3 the wrong thing, too. MPI's previous manner of  
4 prioritizing was the opposite to the Vision Zero  
5 method, where in Vision Zero, the road safety goal is  
6 to reduce harm to people using the transportation  
7 system.

8                   And for cyclists and other vulnerable  
9 road users, road safety is a life and death issue,  
10 where getting hit by a motor vehicle moving over 30  
11 kilometres per hour is likely to cause serious harm.

12                   That is why Bike Winnipeg strongly  
13 supports the Vision Zero methodology which MPI is  
14 committed to bringing forward in a road safety plan  
15 which they present at next year's hearing.

16                   There are also other measurement issues  
17 that MPI is committed to deal with in their upcoming  
18 road safety plan, namely, using social costing to  
19 measure the impact of collisions or, conversely,  
20 giving an increased emphasis on human toll, developing  
21 observational studies of road behaviour and measuring  
22 road safety results rather than relying on driver  
23 perceptions of road safety programs.

24                   Bike Winnipeg looks forward to seeing  
25 MPI's revised road safety plan in the coming year.

1 I'd now like to talk about the issue of  
2 -- it was are we -- despite the see change, are we  
3 losing ground on promoting road safety behaviour.

4 The evidence brought forward in this  
5 Hearing shows that motor vehicle accidents continue to  
6 be huge -- to be a huge public health issue in  
7 Manitoba.

8 The 2018 collision statistics report  
9 states that, in 2018, there were twelve thousand  
10 fifty-seven (12,057) victims or casualties of traffic  
11 collisions. Seven (7) were killed, four hundred and  
12 thirty-seven (437) serious injured, one thousand eight  
13 hundred eighteen (1,818) sustained minor injuries,  
14 nine thousand four hundred twenty-two (9,422)  
15 sustained minimal injuries, and three hundred and ten  
16 (31) sustained injuries undefined in terms of  
17 severity.

18 Eight hundred and eighty-six point two  
19 (886.2) people for -- per hundred thousand population  
20 were injured in a traffic collision. Bike Winnipeg  
21 submits that, while cars are getting safer, roads are  
22 built to a higher standard.

23 Neither the number of collisions per  
24 ten thousand (10,000) drivers know the number of  
25 injury collisions per ten thousand (10,000) drivers is

1 on a downwards trend.

2                   Indeed, Mr. road ke -- Mr. Ward Keith  
3 indicated in his presentation that the downward trend  
4 he enjoyed over the entire population for fatal  
5 collisions and fatalities did not hold for vulnerable  
6 road users over the same period of time.

7                   And, Kristen, if you can go to slide  
8 deck of slide number 1, please. Now, the Board is  
9 familiar with these. They've seen these throughout  
10 the Hearing. But we just wanted to again draw your  
11 attention to what these graphs show.

12                   In regards -- and that regard, the  
13 injury rates have trended upwards over the last  
14 decade. The data shows, which is a particular  
15 concern, a 50 percent increase in serious injury  
16 collisions over the period from 29 -- 2014 through  
17 2017.

18                   And of in -- for those who are  
19 interested, that can be found at the transcript pages  
20 580 to 581, lines 11 through 25 and lines 1 through  
21 20, October 10, 2019.

22                   This ought to be a pressing and  
23 substantial concern to all. During the Hearing, the  
24 PUB heard -- heard about vari -- about small  
25 variations up or down and changes of collision

1 counting methodology in 2011.

2                   And MPI, relying on that, pointed to  
3 declining fatalities. Kristen, if you'd go to slide  
4 deck -- slide number 3, please.

5                   However, the bottom line remains that  
6 neither crashes per driver, nor injury collisions per  
7 driver, nor serious injuries per hundred thousand  
8 population are trending downwards, which would be  
9 expected -- which would be the expected result if the  
10 road safety education and behaviour modification in  
11 Manitoba were successful.

12                   I'd now like to touch upon the issue of  
13 whether MPI has demonstrated a concrete fashion that  
14 has optimized its road safety budget or is it carrying  
15 out its responsibility as a leader on road safety by  
16 spending on initiatives that can reduce the social and  
17 financial costs of collisions.

18                   On the issue of the importance or the  
19 magnitude of the social costs of collisions, it's  
20 important to note that when it was put to MPI there  
21 was no disagreement with Transport Canada's  
22 calculation of societal costs of collisions in  
23 Manitoba to have been estimated to have been 1.9  
24 billion in 2016, up 21 percent from 2015.

25                   This can be found at transcript page

1 968 October 10th. As well, there was no resistance  
2 from MPI with the fact that when looking at the  
3 societal costs, two thirds (2/3) of that amount are on  
4 account of fatalities or injury and one third (1/3)  
5 being property damage; transcript page 971 October  
6 11th.

7                   While there is consensus on the order  
8 of magnitude of social cost, there is a disparity with  
9 respect to what is indeed an optimal budget when it  
10 comes to reducing social -- social costs.

11                   In the past, the Board has recognized,  
12 and reading from Board Order 122-10 at page 52:

13                   "There are far too many deaths,  
14                   injuries, and motor vehicle  
15                   accidents occurring in Manitoba."

16                   And a concentrated effort to  
17 development programs and enhance existing programs  
18 should be capable of achieving -- achieving success.  
19 Success in such an effort would not only be expected  
20 to bring down the degree of human misery associated  
21 with motor vehicle accidents, but also could be  
22 anticipated to allow for further rate de -- decreases  
23 all in the public interest.

24                   In short, when it comes to an optimal  
25 budget, the consideration ought to be whether it is

1 sufficient to enable a sig -- significant reduction  
2 and the cost of MPI of injuries to vulnerable road  
3 users in the short and long-term.

4                   However, when asked on cross-  
5 examination on the issue of optimization of its  
6 budget, in particular, whether it was MPI's view that  
7 the goal was the best return on its -- on its  
8 investment or to actually bring down injuries and  
9 fatalities, Mr. Wennberg's evidence was that it was a  
10 bit of both. And that can be seen at transcript pages  
11 979 and 980.

12                   And I'd like to pause here for a moment  
13 on what My Friend, Mr. Lafontaine Guerra, said  
14 yesterday in his closing arguments. And this is page  
15 270 -- 2,709 of the transcript.

16                   And I think that highlights quite  
17 starkly the disparity on what optimization of a budget  
18 actually means. And starting at lines 8 through 18,  
19 Mr. -- my -- My Friend -- My Friend provided as  
20 follows:

21                   "The topic you see here obviously  
22 involves from a budgetary  
23 perspective a very modest budget  
24 compared to other budgets that MPI  
25 was discussing this year, namely



1 things like Project Nova, and  
2 whether they'd be tempted to take a  
3 look at the current graph and seeing  
4 the minute changes from year to year  
5 -- see that as perhaps an area of  
6 concern.  
7 But we would submit that the issue  
8 here is not the exponential growth  
9 of the road safety but, more  
10 importantly, the optimization of the  
11 budget."

12 And I think the Board needs to  
13 crystalize precisely what its intent is on  
14 optimization of the budget. And we suggested that  
15 it's -- it's to lead to a significant reduction of  
16 fatalities and injuries.

17 Mr. Wennberg sugge -- suggests it's a  
18 bit of both. And My Friend suggest -- My Friend  
19 suggested yesterday that an optimization -- and we  
20 would -- you know, for our takeaway from that, that  
21 it's really on the return of investment.

22 And that's not what bu -- that's not  
23 what Road to Zero and it's not in line with what this  
24 Board has stated with respect to what Road to Zero  
25 should be.

1                   While Mr. Wennberg indicated that it's  
2 easy for MPI to commit the technical conference to use  
3 social cost as MPI actually did already use social  
4 cost at that time, what we've seen is a relatively  
5 flat forecasting with respect to the road safety  
6 budget.

7                   Mr. Wennberg's evidence was that, in  
8 general, you will see a fairly flat budget unless MPI  
9 can identify certain areas that need some injection of  
10 new spending.

11                   In addition, Mr. Enden (sic) when  
12 respond -- Eden, pardon me, when responding to a  
13 question of what is -- of what is the impact of  
14 including a social cost methodology, he indicated, if  
15 MPI uses the social costing method, then human toll,  
16 such as fatalities or serious injuries, would  
17 therefore become a higher priority and would likely  
18 rise in a priority ranking.

19                   He indicated the impact of that is MPI  
20 would assign more funds and spend more time working on  
21 an issue. And that can be found at transcript page  
22 818 on October 10th. Eight one eight October 10th,  
23 2019.

24                   However, it was also Mr. Eden's  
25 evidence that day when asked whether it was safe to

1 say that the IBM framework being used to set the road  
2 safety priorities has tended to result in a quite  
3 consistent or flat level of expenditures in the past  
4 three (3) years.

5                   And he admitted that that's the way  
6 that it had worked out. His evidence was that that  
7 could change from year to year. But looking at what  
8 is forecasted, the budget does indeed remain flat.  
9 And that's transcript pages 1,007-1,008. And that's  
10 on October 11th, 2019.

11                   When you look at the increase in  
12 collisions and the relatively flat forecasting for the  
13 budget, a conclusion can be drawn that MPI's road  
14 safety education and behaviour modification programs  
15 are failing to achieve net improvements in road  
16 safety.

17                   And I know that we've seen this ad  
18 nauseam, but, Kristen, if you'd go to slide 4, this is  
19 a slide that I would say is well tilled soil in this  
20 Hearing, we've seen it quite often.

21                   But demon -- but it certainly  
22 demonstrates how the projection that we see doesn't  
23 seem to coincide with the upward trending of the  
24 accidents and collisions that we've seen.

25                   In order to make roads measurably safer

1 through education driver behaviour modification, Bike  
2 Winnipeg is of the view that MPI must significantly  
3 change its road safety programming.

4                   It's not a matter of tweaking, not a  
5 matter of shuffling between the existing programs.  
6 MPI has to engage in a truly significant change in  
7 both methodology and resources.

8                   In the same way that it's unrealistic  
9 to assume that spending more money on similar projects  
10 would be effective in significantly changing the  
11 results, it is also unreasonable, or unrealistic, to  
12 assume that changing methodology alone would be  
13 effective in significantly changing the results.

14                   Road safety is a matter of suffering.  
15 It's a matter of death for thousands for Manitobans.  
16 In the past, the PUB has ordered MPI to take action,  
17 but results have not changed.

18                   From Bike Winnipeg's perspective, the  
19 record before this Board leads to the conclusion that  
20 MPI has not responded to PUB's past request to really  
21 identify what an optimal budget for road safety is.  
22 The data and the facts seen to date demonstrate that  
23 while the changes that it has brought -- MPI has  
24 brought in a laudable -- these have not had the  
25 necessary impact of significantly reducing fatalities

1 and injuries.

2 In the same vein, but a little bit of a  
3 different issue, another point of concern relates to  
4 whether MPI anticipi -- anticipated bringing any  
5 expertise or individuals or professionals --  
6 professionals, incorporating them in to the road  
7 safety programming, now that it was using social costs  
8 or an increased human toll.

9 The evidence provided was that MPI  
10 hired an individual who specialized in running  
11 marketing communications, but at that point they don't  
12 anticipate bringing anybody else -- anybody else with  
13 any type of expertise. And that can be found at  
14 transcript 9, pages 980 to 981, October 11, 2019.

15 So to close the loop on this particular  
16 point, Bike Winnipeg's recommendations is that the  
17 Public Utilities Board direct MPI they need to show  
18 results in reducing harm on the road, even if doing so  
19 will incur costs substantially more than what they  
20 have been spending. At the current level of spending,  
21 the road safety effort is not adequate.

22 Greater resources need to be applied to  
23 road safety education and driver behaviour  
24 modification in a manner that will achieve a decrease  
25 in collisions and injuries.

1 I'd like to now talk a little bit about  
2 the issue of quality and clarity of MPI's data  
3 collection. In addition to data collection, the  
4 analysis and accessibility regarding road safety as it  
5 relates to educating and motivating drivers to change  
6 behaviours is a massive training task.

7 At present, MPI has segmented the task  
8 of educating drivers into three (3) parts: training  
9 new drivers, educating active drivers, and changing  
10 the behaviour of what could be perceived as scofflaw  
11 drivers. The Board has seen a great deal of evidence  
12 from MPI that they are actively working on the  
13 effectiveness of their training for new drivers.

14 It is of a concern to Bike Winnipeg  
15 that even with this relatively captive audience, half  
16 the road safety budget, results are not encouraging.

17 Bike Winnipeg is more concerned,  
18 however, with limited efforts to the two (2) other  
19 categories which we previously identified. While it's  
20 not the role of the PUB to instruct MPI on how to  
21 conduct its business, in seeking to ensure both that  
22 MPI is financially able to fulfill its mandate, that  
23 the rates are just and reasonable, it would be  
24 appropriate for the PUB to work to ensure that MPI is  
25 doing this training in an effective manner.

1 Data collection needs to identify the  
2 knowledge gap -- the knowledge gaps rather, among  
3 drivers. The first step in the training process is  
4 determine who needs to learn what.

5 MPI representatives reiter --  
6 reiterated their focus on the road safety programs, on  
7 the priority -- priority issues of distracted driving,  
8 speeding, and impaired driving. These priorities have  
9 been developed from factors that have been reported as  
10 contributing to crashes. This is one (1) type of  
11 analysis that contributes to understanding why  
12 collisions occur. While it is necessary, it is not a  
13 sufficient analysis.

14 Bike Winnipeg submits that it's also  
15 necessary to understand what drivers understand, what  
16 drivers misunderstand about the rules of the road.  
17 Several opportunities for gra -- gathering use --  
18 useful data on knowledge gaps became apparent during  
19 this hearing.

20 Kristen, if you could go to slide 6,  
21 please.

22

23 (BRIEF PAUSE)

24

25 MR. CHRISTIAN MONNIN: During cross-

1 examination and -- and during the IR process, in  
2 particular IR Bike Winnipeg MPI 1-1, we learned that  
3 MPI administers, on average, sixty-one thousand  
4 (61,000) classified driver tests a year, two-thirds  
5 (2/3) of the applicants failed that test. That was  
6 reaffirmed on cross-examination at page 991 of the  
7 transcript.

8                   Further, we heard evidence that MPI did  
9 look at the failure rates by location to determine at  
10 what -- at which testing locations applicants are  
11 disproportionately failing and which demographic groups  
12 are most likely to fail. That can be found at pages  
13 994, 996 of the transcript.

14                   Bike Winnipeg submits that this is rich  
15 data that MPI generates, and it should be collated for  
16 analysis. These tests are administered to new  
17 drivers, so analysis of driver results by each issue  
18 in the written and road test will identify the gaps in  
19 road safety issues for new drivers. It would be very  
20 important data for driver training, and it could be  
21 indicative of knowledge gaps among all Manitoba  
22 drivers.

23                   Further, still with IR Bike Winnipeg  
24 MPI 1-1, and that's the transcript 988, 989, we had  
25 confirmation that 15 percent of Class 5 drivers have



1 never been tested in Manitoba, and 50 percent of all  
2 Class -- Class 5 drivers have not been tested in the  
3 last fifteen (15) years.

4           Bike Winnipeg submits that this raises  
5 some serious questions about MPI's ability to verify  
6 that all Manitoba drivers meet their standard for safe  
7 driving if a mere 12 percent of them have been tested  
8 in the last four (4) years.

9           This manner of proceeding assumes that  
10 a training certificate issued in another jurisdiction  
11 or fifteen (15) years ago, in -- in this jurisdiction,  
12 remains valid.

13           MPI witnesses argue that older drivers  
14 are less prone to have collisions than young drivers,  
15 but even though the thirty-five (35) plus cohort has a  
16 lower crash rate, they represent the majority of  
17 drivers, so the probability of a crash involving a  
18 driver aged thirty -- thirty-five (35) to eighty-five  
19 (85) remains significant.

20           MPI should gather the data from a few  
21 thousand experienced drivers a year to understand the  
22 gaps in the road knowledge of these drivers. At  
23 present, the evidence before the Panel is that they  
24 only retest in the case of suspension or loss of  
25 licence.

1                   In addition, still with IR Bike  
2 Winnipeg MPI-1-3, it was confirmed that MPI issues  
3 about four thousand two hundred (4,200) Class 1 to 4  
4 licences a year and administers about sixty-three  
5 hundred (6,300) road tests for those classes of  
6 licences. The applicants for these licences --  
7 licences would generally be experienced drivers.  
8 Collating the data on which issues cause applicants to  
9 fail on those road tests may also point to road safety  
10 knowledge and behaviour gaps.

11                   In addition, MPI could gather data on  
12 the road safety knowledge of experienced drivers by  
13 administering a written classified test to these  
14 applicants.

15                   And so in closing on this particular  
16 point, Bike Winnipeg would recommend that the PUB  
17 order MPI to commence to collate the data from its  
18 driver training and testing in order to identify the  
19 gaps in road safety knowledge among Manitoba drivers.

20                   I'd like to now touch upon the issue of  
21 the use of messaging on roadside signs as it relates  
22 to effective road safety. When asked whether MPI had  
23 ever investigated or enquired, working with Manitoba  
24 infrastructure to use signs to educate drivers or have  
25 more permanent signs, Mr. Eden advised it is something

1 that MPI had looked at before. He also advised that  
2 it's something that it would have to do a review to  
3 determine what potentially MPI's role would be in such  
4 a scenario, because it wouldn't want to do something  
5 that's beyond its role or jurisdiction.

6                   However, there was something Mr. Eden  
7 indicated MPI would be open to consideration of the  
8 Road Safety Committee, and that can be found at page  
9 1022 of the transcript, October 11th, 2019.

10                   MPI stated it does not maintain  
11 research on the effectiveness of these signs and  
12 reminding drivers of the rules of the road. In the  
13 private sector, there are studies of the effectiveness  
14 of roadside billiard -- billboards, which have led to  
15 continuing growth in that sector.

16                   Bike Winnipeg is aware of informational  
17 signs in other jurisdictions that tell drivers how to  
18 pass bicycles, for example, posting on a permanent  
19 basis in strategic places where there is considerable  
20 bike traffic, to remind drivers of the rules of the  
21 road.

22                   And Kristen, if you can go to slide 7  
23 of the deck, please. And in this -- on the left you  
24 see an -- an example in New Zealand of that type of  
25 sign.

1                   Indeed Mr. Wennberg indicated, speaking  
2 for Mr. Eden, that he had found certain areas within  
3 different municipalities where you could have signage,  
4 particularly if the roads are going from a hundred  
5 kilometres to 70 kilometres to 50 kilometres. And Mr.  
6 Wennberg's evidence on that point was there's strong  
7 educate -- indications from other jurisdictions that  
8 this seems to work, and that's at pages 1023 and 1024,  
9 October 11, 2019, transcript.

10                   And so in closing on this particular  
11 issue, Bike Winnipeg recommends that MPI be asked to  
12 clarify whether informational road signs are within  
13 its role or investigate their effectiveness as it  
14 relates to costs in increasing road safety.

15                   I'd like to touch upon the issue of  
16 identifying vehicles dangerous to other road users and  
17 rating them accordingly. In IR Bike Winnipeg MPI 2-5,  
18 Bike Winnipeg requested that MPI provide descriptive  
19 tables and statistical analysis to compare the crash  
20 costs relate to full-size pickups to those of 'C' size  
21 cars over the past ten (10) years, outlining some of  
22 the analytical tables that would be part of that  
23 comparison.

24                   MPI replied they cannot modify its rate  
25 design in the context of the current GRA regardless of

1 the outcome of any such study. MPI has applied for  
2 rates for services consistent with PUB approved  
3 methodologies, including accepted actuarial practice  
4 and the vehicle classification system and rate groups.

5           Bike Winnipeg's request was -- it  
6 remains anchored in desire to recognize what can be a  
7 -- what can be stated as the aggressivity of certain  
8 vehicles on the road. This stems from certain  
9 European jurisdictions that require -- that car front  
10 ends minimize collision consequences for pedestrians  
11 and cyclists. It's not the case in North America.

12           On this point though, Mr. Wennberg on  
13 cross-examination agreed with the suggestion of if  
14 some vehicles pose greater dangers on the road than  
15 others, this would be a consideration when it comes to  
16 managing road safety and their cost impact on MPI.  
17 That can be found at transcript page 1,025 in October  
18 11th.

19           Further, Mr. Wennberg also indicated  
20 that he wasn't aware of whether MPI had, within its  
21 own data, the ability to easily pull a report that  
22 would determine if one sort of vehicle was more  
23 dangerous than the other. However, he indicated that  
24 he'd be happy to receive any information or research  
25 documents or correlation on that particular issue if

1 Bike Winnipeg were to provide it. That can be found  
2 in transcripts 1025, 1026, October 11th.

3 In that regard, Bike Winnipeg will be  
4 providing that literature as requested. Bike Winnipeg  
5 recommends on this point that the PUB direct MPI to  
6 conduct a thorough analysis to determine whether  
7 larger vehicles, such as a pickup truck, are causing  
8 greater damage to other road users than smaller  
9 vehicles such as sedans, and if so, whether their rate  
10 fully reflects those additional costs.

11 I'd like to make some general comments  
12 with respect to road safety and how the issue is dealt  
13 with in the context of the GRA proceedings. We  
14 touched upon what My Friend Mr. Lafontaine Guerra said  
15 yesterday in -- in his closing, but he also commented  
16 that road safety was one of the three (3) most  
17 canvassed issues during the hearing, yet when looking  
18 at the budget for road safety was rather modest in  
19 comparison, the suggestion seemingly being that too  
20 much time and resources may have been spent on an  
21 issue that is small in the grand scheme of things.

22 Rather, Bike Winnipeg respectfully  
23 submits that this is what the Board ought to take --  
24 what the Board ought to take away from that submission  
25 is that road safety is one of three (3) most important

1 issues in the proceedings on account of how important  
2 it actually is. It has an impact on rate making, it  
3 is a matter of life and death.

4                   Bike Winnipeg further submits that what  
5 this Board ought to take away is that this puts into  
6 sharp focus the fact that this modest budget, as  
7 referred to by MPI counsel, does not meet the needs  
8 that are required by the particular issue.

9                   The take-away from MPI is that the  
10 issue of road safety relates to modest expenditure and  
11 is thoroughly dealt with by the technical conference,  
12 and therefore should not figure largely or at all in  
13 the GRA proceedings.

14                   Bike Winnipeg, while being supportive  
15 of the technical conference, urges a more cautious and  
16 deliberate take on the issue. While there is some  
17 consensus that the road -- that the issue of road  
18 safety may have -- may have a staggered appearance in  
19 the GRA, with the off years having the sub -- having  
20 it being a subject dealt with at technical conference,  
21 it does not agree with the suggestion that it should  
22 be stretched to every three (3) years.

23                   We've seen some real and meaningful  
24 steps taken on the issue of road safety, and that is  
25 because it's been at the forefront and top of mind of

1 the issues before this Board. It cannot be stressed  
2 enough, this has been done on account of this Board  
3 consistently, this Board diligently reminding and  
4 pushing MPI of what can be seen in Board Order 135/14,  
5 that the Board expects, however, that MPI demonstrate  
6 in a more concrete fashion that it's optimized its  
7 road safety budget and is carrying out its  
8 responsibilities as a leader on road safety by  
9 spending on initiatives that can reduce the social and  
10 financial costs of collisions. This can only be  
11 achieved with the road safety issue coming before this  
12 Board on a consistent and on a regular basis.

13                   Therefore, Bike Winnipeg recommends  
14 that while the Board ought to continue to use the road  
15 safety technical conferences as a method to push  
16 forward on the road safety file, it must also continue  
17 to ensure that while the file returns -- that the file  
18 returns before it on a consistent and regular basis in  
19 order to ensure that proper oversight and direction is  
20 provided by this Board.

21                   Subject to any questions, those are my  
22 submissions on behalf of Bike Winnipeg. Thank you  
23 very much.

24                   THE CHAIRPERSON: Thank you, Mr.  
25 Monnin. The Board doesn't have any questions. Thanks



1 for you participation.

2 Mr. Unfried...?

3 MR. CURTIS UNFRIED: Yes. Good  
4 morning, Madam Chair. I was just wondering if we  
5 might have a short five (5) minute recess for the --  
6 we've got a slide deck that was delivered. We would  
7 also like to get set up in the front as well.

8 THE CHAIRPERSON: Certainly.

9 MR. CURTIS UNFRIED: Thank you.

10

11 --- Upon recessing at 10:55 a.m.

12 --- Upon resuming at 11:01 a.m.

13

14 THE CHAIRPERSON: Mr. Unfried, are you  
15 ready to proceed?

16 MR. CURTIS UNFRIED: Yes. Good  
17 morning --

18 THE CHAIRPERSON: Thank you.

19

20 FINAL ARGUMENT BY IBAM:

21 MR. CURTIS UNFRIED: -- Madam Chair  
22 and panel members. Thank you for that brief break.

23 When we started this hearing back on  
24 October 7th, during the opening statement, you'll  
25 recall that I highlighted two (2) words for your

1 consideration, was being context and perspective.  
2 This is a friendly reminder that the information that  
3 you are about to hear had to be put into proper  
4 context and perspective, as when you see a dollar  
5 value and/or percentage value, it must be seen within  
6 the full and proper context.

7 I'm going to be highlighting those same  
8 two (2) words here for you today for the purposes of  
9 our closing statement with respect to the role of  
10 brokers in Manitoba and the commissions paid by MB --  
11 MPI for those broker services.

12 On that note, you -- the Board heard  
13 evidence that brokers play a vital role in ensuring  
14 consumer protection in insurance transactions. The  
15 evidence also establishes that brokers must remain  
16 involved in any online delivery service model so that  
17 consumer protection can be maintained.

18 Brokers provide Manitobans with  
19 professional insurance advice at a fraction of the  
20 cost that is paid by insurers in other jurisdictions.  
21 And I'll -- let me be clear. Although brokers are not  
22 opposed to online transactions, they frankly and --  
23 are prepared to embrace it, they do believe that they  
24 must remain an integral part of the online experience  
25 in order to ensure that the consumer protection

1 provided today is maintained.

2                   You also heard a little bit about IBAM.  
3 Obviously, it has two thousand (2,000) broker members,  
4 and represents the interests of both brokers and  
5 consumers in -- in the Province of Manitoba. In  
6 short, IBAM simply wants to ensure that the consumer  
7 remains knowledgeable and informed about all of their  
8 choices, exposures, and risks when purchasing auto,  
9 property, and commercial insurances.

10                   You also heard evidence that all  
11 brokers and all members of IBAM that are licensed  
12 professionals are governed by the Insurance Act, and  
13 also by the Insurance Council of Manitoba. Those  
14 members, you also heard, have been the face of Autopac  
15 since 1971. In our view, and in the -- we believe the  
16 evidence is clear, this forty-eight (48) year  
17 relationship has been beneficial not only for MPI, but  
18 for the members of IBAM, and the residents of the  
19 Province of Manitoba. The results speak for  
20 themselves. MPI reports that on average, Manitobans  
21 enjoy the lowest auto insurance rates in the country.

22                   As also set out in our opening  
23 statement, IBAM did not choose to be here. However,  
24 the reality of the situation required them to do so  
25 and to seek Intervener status. There can be no

1 dispute that MPI, and to a lesser extent, the CAC,  
2 made the conscientious decision to focus on the issue  
3 of broker commissions at this particular hearing.

4           As you are aware, MPI considered six  
5 (6) different operating models earlier this year. The  
6 only issue that was raised was the issue of broker  
7 commissions. As Mr. Gabor correctly pointed out  
8 yesterday, there are over three hundred (300) pages  
9 filed by MPI with respect to the issue of brokers  
10 and/or broker commissions.

11           I should add as well that that the CAC  
12 in the questions -- in the information rounds that 97  
13 percent of the questions, or forty-eight (48) out of  
14 the fifty (50) questions they submitted related to  
15 broker commissions.

16           So with the proverbial guns being  
17 turned on the broker community, IBAM sought  
18 intervention, and -- and rightfully so. And thanks  
19 for the Board again for granting it. They -- they  
20 want to ensure that the Board had a proper and  
21 complete picture of their role in providing the  
22 services to Manitobans.

23           Why were they targeted, I don't know.  
24 There's little focus on other operating expenses  
25 throughout the course of this hearing, and frankly,

1 after hearing the evidence at this hearing, your guess  
2 is as good as mine as to why the guns were pointed on  
3 the issue of broker commissions. And based on the  
4 submissions on behalf of MPI yesterday, there might be  
5 some question as to why they made the decision to --  
6 to do so as well.

7 After hearing the evidence, I found  
8 myself asking why are we here? Are there other costs,  
9 or they're maybe trying to distract from some other  
10 more important issues? Regardless, at the time that  
11 intervention was granted, IBAM wel -- welcomed the PUB  
12 process and the opportunity to present the facts.

13 And what those facts have -- have  
14 revealed is that from 2011 to 2019, brokers delivered  
15 over \$9.5 billion in revenue to MPI. According to its  
16 annual report, in 29 -- in 2019, MPI's total expense  
17 was \$1.429 billion, which represents approximately  
18 eleven hundred dollars (\$1,100) for each citizen in  
19 our Province.

20 In 2019, broker commissions paid on  
21 government mandated Basic vehicle insurance was \$32.7  
22 million. Again, it was approximately two point two-  
23 eight (2.28) of MPI's total expenses.

24 The PUB documents also revealed that in  
25 2019, the average compensation for employee at MPI was

1 ninety-three thousand five hundred and sixty dollars  
2 (\$93,560). This increased from 5.3 percent in 2018.  
3 Stats Canada reports that the average salary in  
4 Manitoba in 2017 was forty-five thousand dollars  
5 (\$45,000).

6                   You noted that Mr. Wennberg pointed out  
7 in his testimony that MPI employees do not receive  
8 bonuses, but we would counter that by saying there's  
9 no need to provide bonuses when the average  
10 compensation is over ninety-three thousand dollars  
11 (\$93,000) a year. MPI is now forecasting an 8.92  
12 incre -- percent increase in total compensation  
13 expense in 2020, and the PUB documents reveal that  
14 since 2013, for the Basic line of insurance only, MPI  
15 spent \$135.8 million on external consultants.

16                   You've also heard significant evidence  
17 on the upgrade to the legacy systems; \$106 million has  
18 been earmarked for that particular project, along with  
19 an additional \$21.3 million for ongoing maintenance  
20 and support on an annual basis. And that, of course,  
21 was in addition to the over \$20 million in IT write-  
22 downs that you had heard earlier in this hearing as  
23 well.

24                   Although there are these other issues,  
25 the reality is, from IBAM's perspective, they

1 obviously can only deal with the matters that they can  
2 control, and are intimately knowledge and familiar  
3 with. And it's evident that on that point, they've  
4 provided high-quality services at a very low price.

5           If anything, when put into proper  
6 perspective, the brokers in this Province deliver  
7 extremely good value for the ratepayer. And as you've  
8 heard, they are the lowest paid on a percentage basis  
9 in Canada.

10           In his opening statement, My Friend,  
11 Mr. Scarfone, indicated that, and I quote:

12           "The old way of doing business is  
13 simply not working. With  
14 transparency comes the expectation  
15 of providing Manitobans with value  
16 for their money. If compensation  
17 paid to service providers is too  
18 high, or not fair to the consumer,  
19 then the compensation model is  
20 broken and must be -- must be  
21 fixed."

22           We found that surprising, given that  
23 MPI routinely advises MPI (sic) that Manitobans pay  
24 among the lowest auto rates in the country; MPI's  
25 operating expense ratio, or OPEX ratio, was 19.2

1 percent, which is much lower than its peers in the  
2 industry; and the fact that MPI was seeking a  
3 reduction of point zero -- point -- .06 percent in  
4 rates for this upcoming year.

5                   Brokers are a big part of the reason  
6 that MPI's able to operate a efficiency.  
7 Nevertheless, if -- and I emphasize the word 'if' --  
8 there was no value for their money or if the broker  
9 commissions were too high or not fair to the consumer,  
10 we could understand his position and reasoning.

11                   However, the evidence is clear that  
12 with respect to the services provided by brokers in  
13 Manitoba, on the issue of value for the money, brokers  
14 provide Manitobans with professional advice and only  
15 receive a 3 percent commission on Basic. Again, that  
16 is the lowest per -- percent commission in the  
17 province -- or, in the country.

18                   Although brokers agreed to -- to a  
19 reduction in fees on Basic from 5 percent to 3 percent  
20 based on the five (5) year renewal, the reality is  
21 that they have not seen the anticipated reduction in  
22 customer traffic. MPI has a wide range of estimates;  
23 however, they have no way of knowing how many  
24 Manitobans are actually attending to brokerages on an  
25 annual basis.



1                   Nevertheless, brokers continue to serve  
2 these customers at a reduced rate that has not kept  
3 pace with inflation. Although broker compensation on  
4 mandated and competitive lines has totalled  
5 approximately \$80 million, when put into perspective,  
6 those brokers generated over \$1.3 billion in revenue  
7 for MPI. Again, it constituted less than two -- a  
8 mere 2.8 percent of MPI's Basic auto expenses.

9                   And -- and as -- as I said at the  
10 outset of my remarks, contrary to what has been  
11 reported, brokers are not opposed to online sales, and  
12 I can't emphasize that enough. IBAM and its brokers  
13 embrace the evolution of service delivery on various  
14 mo -- mobile platforms.

15                   You recall that there was some  
16 indication that brokers may have been responsible for  
17 the delay of online services at MPI, but as was  
18 confirmed on cross-examination by Mr. Wennberg, MPI is  
19 only able to go direct online if or when the  
20 technological upgrade has been completed, which, of  
21 course, is, we understand, several years away.

22                   You also heard, in fact, that many  
23 brokers provide on -- customers with online services  
24 to this day. Of course, those are non-MPI products.  
25 However, you did hear how they are transacted. The

1 consumer selects the products online, a notification  
2 is received by the broker, and that broker will then  
3 follow up with the consumer directly to ensure that  
4 that particular product is the right product for that  
5 consumer.

6                   Brokers want to remain part of any  
7 online transformation so that that central role of the  
8 broker, which includes consumer protection and  
9 ensuring that the product is the right one for the  
10 consumer, remains. The best outcome for consumers  
11 will require a collaborative approach between MPI and  
12 insurance brokers to enhance technology and auto  
13 insurance while maintaining the existing broker  
14 distribution system. This would give Manitobans the  
15 best of both worlds: continued access to low-cost  
16 professional advice and customer service from their  
17 local insurance broker, which again, protects the  
18 consumer; and increased technology options that  
19 consumers demand.

20                   Buying insurance is not like buying a  
21 T-shirt. If a T-shirt doesn't fit, you can easily  
22 send it back. However, if the insurance doesn't fit,  
23 it can be ta -- catastrophic and life-changing. In  
24 response to that concern, MPI had said, essentially,  
25 don't worry. In those instances where people have

1 been under-insured, we've reviewed it on a case-by-  
2 case basis. And if we determine that there was no  
3 intent to purposely under-insure, they would simply  
4 require the consumer to pay the difference in the  
5 premiums.

6                   Although this was a very generous thing  
7 -- a very generous thing that MPI does and something  
8 that private insurers would probably never do, we will  
9 point out the following. The reason why this is  
10 generally not needed is because brokers are involved  
11 at the time of purchasing insurance.

12                   And either way, do we really want to  
13 have Manitobans -- under-insured Manitobans depending  
14 on subjective and discretionary relief from MPI? In  
15 our view, such a model isn't appropriate. Brokers  
16 should remain an integral part of the purchasing  
17 process.

18                   Prior to moving on, I just want to take  
19 a moment to highlight MPI's publicly stated four (4)  
20 core values. You see striving for excellence,  
21 providing exceptional -- exceptional coverage and  
22 service while adapting to meet evolving customer and  
23 industry needs, focussing on continuous improvement;  
24 providing values (sic) to Manitobans, maintaining  
25 affordable rates, and ensuring accessible coverage;

1 doing what's right, acting with integrity and  
2 accountability, striving to be open and transparent;  
3 and investing in people, empowering its employees to  
4 provide excellent service while working together with  
5 business, community, and road safety partners.

6           Obviously, these four (4) core goals  
7 are -- are -- are enviable and should be followed.  
8 However, if MPI is to proceed in the manner that has  
9 been suggested, it will not only be contrary to these  
10 core values and principles; it will fundamentally  
11 alter the auto insurance landscape that has been  
12 carefully groomed over the course of the past forty-  
13 eight (48) years.

14           You'll recall during the cross-  
15 examination of Mr. Graham and Mr. Wennberg that I went  
16 a little bit into their background and experience. To  
17 be clear, the purpose of doing so was not to challenge  
18 their expertise or qualifications, but rather to  
19 highlight the fact that they were brought in from the  
20 outside of MPI.

21           I'm not suggesting that that's a bad  
22 thing; in fact, Mr. Graham was specifically hired to  
23 bring an international perspective to MPI. However,  
24 the reality was that they both did not have extensive  
25 knowledge of the history of MPI or the history between

1 the brokers of Manitoba and MPI.

2           The questioning also highlighted the  
3 fact that both Mr. Wennberg and Mr. Graham came from  
4 private insurance jurisdictions, and the reality is  
5 that there are instances where bringing an  
6 international perspective or a private-market idea to  
7 a public jurisdiction is like trying to put a square  
8 peg in a round hole. It just simply doesn't work.  
9 The evidence at this hearing has further confirmed  
10 this reality.

11           As for MPI's potential to go direct  
12 online to consumer, the most surprising aspect of this  
13 potential is that MPI has already looked at going  
14 online and, in fact, currently provides some services  
15 and has been indicated during the course of this  
16 hearing, you could -- members of the public can  
17 currently book a road test, book a knowledge test,  
18 make a payment, or manage an appointment.

19           And the evidence of MPI has basically  
20 said, look. We just simply want to expand upon what's  
21 already available currently, and we want to offer  
22 consumers choice in purchasing from MPI on a -- on a -  
23 - on a different plat -- on a different platform.

24           Unfortunately, this poses at least two  
25 (2) major problems. It removes the checks and

1 balances that are in place for consumers. They will  
2 no longer have professional advice from a licensed and  
3 independent broker. And MPI has already looked at  
4 doing this and has determined that it could not offer  
5 any more services online without compromising  
6 consumers and their commitment to the broker network.

7           They determined they could not offer  
8 any more services online for essentially three (3)  
9 reasons: number one (1), consumer protection and the  
10 problem with identity theft -- identity theft; number  
11 two (2), cost -- they could not beat what brokers were  
12 already doing for the price that they were paying; and  
13 number three (3), the commitment that they had made to  
14 the broker network.

15           And how do we know this? Well, we --  
16 first, we'll deal with consumer protection and the --  
17 the problem of identity theft. Mr. Graham discussed  
18 something as "simple" as a change of address and that  
19 something like that should be permitted. You recall  
20 that it had been reported in media, and he again  
21 confirmed at the hearing, that -- and he -- that, and  
22 I quote:

23                   "Mr. Graham said, 'Forcing customers  
24                   to drive to a brokerage for a simple  
25                   transaction like changing the

1 address on a driver's licence, for  
2 example, is inefficient. Just  
3 because we're a monopoly,' he said,  
4 'it doesn't mean we have to tell you  
5 how to deal with us.'"

6 And again, he agreed that he -- that --  
7 that that was his statement, and frankly, from a  
8 private insurer's perspective, it's completely  
9 understandable. However, for a public insurer that is  
10 also responsible for driver's licensing, the reality  
11 is that it is not so simple. And this is due to the  
12 fact that a change of address is tied to your driver's  
13 licence, which is a primary form of government  
14 identification.

15 And we know that this has already been  
16 looked at and considered when you looked at prior  
17 testimony given at these very G -- GRAs. First -- and  
18 we've highlighted the testimony from Ms. Marilyn  
19 McLaren back on October 25, 2011, which has been filed  
20 as an Exhibit -- 19, Tab H, and she says:

21 "Corporately, we have a real  
22 commitment to independent brokers as  
23 a key distributor of our products,  
24 and we would not expect, without a  
25 significant policy change at the

1 highest level -- we would not expect  
2 a change to change that and all --  
3 and allow Manitobans to do things  
4 online that up until now have been  
5 required to be done at a broker.  
6 In my view, from a policy perspective --  
7 policy perspective, we'll never  
8 allow people to file an address  
9 change online (sic) like you can  
10 with many, many organizations. But  
11 we understand that the Manitoba  
12 driver licence or the Manitoba  
13 identity card is a key  
14 identification document for  
15 Manitobans, and we also know that --  
16 I sh -- I can't say for sure this  
17 happened in Manitoba, but there have  
18 been cases of attempted identify  
19 theft, fraud, by, you know, people  
20 looking fairly similar to someone  
21 else. You'd change their address  
22 and send all that person's documents  
23 somewhere. So address changes have  
24 to be done in person."  
25 She then goes on to say that they take



1 a new photo every -- every time, so that -- it is one  
2 (1) of the mechanisms used to reduce identity theft.

3 This is then dealt again with by Mr.  
4 Dan Guimond at the twe -- 2014 GRA. Again, this is  
5 marked at -- as IBAM Exhibit 19, Tab F. And you have  
6 Mr. Gosselin, who is a former member of the PUB, sp --  
7 specifically asking:

8 "I'm wondering about whether or not  
9 I'd be able to interact to a greater  
10 extent with MPI via the web as  
11 opposed to having to go to a locer -  
12 - local broker shop."

13 And his -- Mr. Guimond's response was:

14 "What we did from a hard-wired  
15 indoor service delivery model is  
16 that when you look at the broker  
17 transactions, like when you have to  
18 interact with the brokers, you'll  
19 notice that all the transactions  
20 that can be automated have been  
21 automated, and the rest that are  
22 left are tied to two (2) things: one  
23 (1), transactions that are tied to  
24 physical inventory.

25 The second we did is for customer --

1 or, consumer protection, is your  
2 identity. We like the idea that you  
3 go through the broker for your  
4 driver's licence and anything ha --  
5 that has to do with your personal  
6 information about you. Why?

7 Because it offers consumers  
8 protection against identity theft."

9 And it goes on, and -- and says:

10 "That's the consumer protection  
11 aspect of how our model works."

12 So what -- what Mr. Guimond is saying  
13 there is that back -- this is back in 2014. He's  
14 saying we've already looked at going online or at  
15 least expanding our online model from where it  
16 currently is, and we've heard that that's, basically,  
17 managing appointments and booking driver's test  
18 online. And he determined that he could not go any  
19 further due to the consumer protection risk and the  
20 identify theft risk.

21 There's nothing that's changed since  
22 2014. There'd still be the same risk there today.  
23 Again, I'm not -- with -- with Mr. Graham, coming from  
24 a private insurance jurisdiction, a private insurer  
25 not responsible for driver's licensing would not have

1 a similar problem. But of course, that isn't the case  
2 with MPI here today. MPI is fundamentally different,  
3 given the fact it is a public insurer responsible for  
4 issuing government identifications.

5                   Secondly, the issue is dealing with  
6 cost. Again, you've got the benchmarks from other  
7 jurisdictions that were provided, and what those have  
8 confirmed is that bro -- the brokers' commissions  
9 being paid to Manitoba brokers are the lowest in the  
10 country.

11                   I know that My Friend Mr. Williams had  
12 made a comment that the -- the panel should not pay  
13 close attention to the -- the commissions paid in  
14 those jurisdictions where there are private auto  
15 insurers. We don't take much issue with that other  
16 than to say that our job was to show the benchmarks in  
17 other Canadian jurisdictions.

18                   There are obvious differences between  
19 the private jurisdictions and public jurisdictions so  
20 that -- but that even when you do compare Manitoba to  
21 the public jurisdictions of Saskatchewan and BC, the  
22 percentage of broker commissions in Manitoba are still  
23 the lowest. Tho -- and again, I -- I don't think  
24 there's any doubt that Saskatchewan would be the  
25 closest comparable to Manitoba, with British Columbia

1 being the other -- the other comparable.

2                   And we also have Mr. Guimond, again at  
3 the 2014 -- back in tve -- in September 2014, talking  
4 about the costs. And he says, in -- in part:

5                   "So the benefit we get with the  
6                   brokers from a consumer protection  
7                   perspective and servicing the public  
8                   -- I mean, you can't beat what  
9                   they're doing right now for what  
10                  we're paying."

11                  He then goes and talks about the  
12 potential of there being some contraction amongst some  
13 of the brokers in Manitoba, given the potential  
14 viability or lack thereof, but he says:

15                  "Right now, it's pretty hard to beat  
16                  what they provide."

17                  So again, Mr. Guimond, a person who had  
18 been with -- with MPI for over thirty-five (35) years,  
19 he was well aware of the value that brokers were  
20 providing in -- as of 2014. Nothing has changed since  
21 then. In fact, if anything, it would be it's a --  
22 it's a better deal today than it was then, given the  
23 fact that the broker commissions have not kept up with  
24 the rate of inflation.

25                  Next I'll turn to the commitment to the

1 broker network. And you'll recall that in questioning  
2 Mr. Graham and Mr. Wennberg on differences and  
3 similarities between the different jurisdictions, one  
4 of the things they readily agreed to as to what was  
5 common between jurisdictions was the law of contract  
6 and the importance of adhering to those contracts.

7                   They also ready -- readily agreed that  
8 if one party was in breach of a cont -- of their  
9 contract, the other party would obviously not be happy  
10 and that would cause friction between the parties.

11                   In this instance you have MPI making a  
12 formal commitment to the broker network in this  
13 province, both in the form of contract, and in the  
14 form of representations.

15                   First, we have the 2008 Broker Accord,  
16 I'll just have madam clerk pull that one up.

17                   And this is the highlighted version of  
18 IBAM exhibit number fourteen (14) and there are  
19 various provisions set out herein, but I'll just  
20 highlight a -- a few of them. The first being on page  
21 7, this should be a highlight, Directing Consumers to  
22 Brokers. Yes. And it says:

23                   "MPI's plan to reassessment notice  
24                   will be advising customers to go see  
25                   their brokers in the event there

1           have been any prescribed changes in  
2           the basis auto pac coverage, or in  
3           the case of life events that  
4           customers may have experienced that  
5           my require a change in coverage or  
6           coverage options."

7           It goes on to state:

8           "At the forefront of new products,  
9           moreover as part of ongoing efforts  
10          to maintain customer traffic volumes  
11          at broker offices in future, brokers  
12          will continue to be at the forefront  
13          of new product launches. They will  
14          be the first point of contact for  
15          these as they are rolled out."

16          And -- and then the other point is on  
17          page 8. There was the issue of online selling and  
18          during the term of this agreement, which of course is  
19          in effect until 2021, MPI will not endeavour to  
20          provide customers with the option of renewing vehicle  
21          registration, insurance, or driver's licenses online.

22          Again, IBAM and its members are not  
23          opposed to innovation or to online services, but  
24          remain of the view that they need to be involved given  
25          the consumer protection that they provide at every

1 turn.

2 We also have, if you just go back to  
3 these -- the slide deck, please, and the next report  
4 we've got Marilyn McLaren again in -- in October of  
5 2010, testifying at the GRA. She says:

6 "You know, the online insurance  
7 world is growing somewhat in  
8 popularity in this country. You  
9 know, quite frankly, on a simple  
10 mathematics basis we could probably  
11 handle most of the business directly  
12 in this province within our own  
13 service centres."

14 And of course you heard a lot of  
15 evidence about those service centres, as they  
16 currently exist in Manitoba.

17 However, she goes on to state:

18 "We have absolutely no intention of  
19 doing that. We have a commitment  
20 not to do that."

21 Moreover, again continuing on at that  
22 same GRA, Ms. McLaren stated:

23 "The key reason that brokers are  
24 willing to work with us and agree to  
25 such a significant reduction in

1                   their commission"

2                   Again, that's from the 5 percent to the  
3 3 percent.

4                   "is that they know we have a  
5                   commitment to work with them over  
6                   the long term."

7                   And I should add as well, there's a  
8 additional commentary that was filed in the exhibit,  
9 but is not part of the slide deck, and it's IBAM  
10 exhibit number 19, tab L. I'll just have madam clerk  
11 bring it up. And this is the evidence of Mr. Dave  
12 Schioler, who is the -- the predecessor of Mr.  
13 Wainikka at IBAM. And Ms. Anita Neville (phonetic)  
14 was asking, you know, why he was there and, in fact,  
15 said:

16                   "The fact that you're here this  
17 morning, does it indicate to you  
18 that you anticipate -- I mean,  
19 you've spoke at length about the  
20 effectiveness and the good relations  
21 with MPI, but does the fact that  
22 you're here this morning reflect the  
23 concern that MPI may be taking over  
24 some of the broker's  
25 responsibilities and roles."



1                   Mr. Schioler's response was:  
2                    "No, not at all. In fact -- and  
3                    it's a good question because in the  
4                    life of MPI, when I took on this job  
5                    approximately ten (10) years ago, I  
6                    did hear quite a bit about -- in the  
7                    broker force from brokers, some fear  
8                    about MPI is going to go direct to  
9                    the consumer. They're going to  
10                   eventually get rid of brokers and so  
11                   on, and that's why they're going to  
12                   cut the commissions. And there were  
13                   -- there was fear in the system and  
14                   we worked very, very hard and very  
15                   closely with MPI over the last  
16                   number of years to take that fear  
17                   out of the system, to work  
18                   collaboratively together to build  
19                   the relationship to the point that  
20                   we're better serving Manitobans for  
21                   sure, even though we've taken some  
22                   costs out of the system. And we're  
23                   building things together, like the  
24                   new operating standards and  
25                   operating standards are those, you

1 know, every day measures that are  
2 taken and transactions and how the  
3 parties work together, the broker  
4 and MPI."

5 He then goes on to state, at the bottom  
6 of that page:

7 "All these have been improvements,  
8 also there's been a commitment by  
9 MPI over the last, you know, eight  
10 (8) years particularly to ensure  
11 that brokers are going to be for the  
12 well beyond the foreseeable future,  
13 the distributor of MPI products.  
14 MPI has a commitment, in fact, that  
15 out of its own service centres it  
16 will do no more than 4 percent of  
17 the same type of transactions that  
18 brokers will perform."

19 So you've got Mr. -- or Ms. McLaren,  
20 Mr. Guimond, Mr. Schioler, and the broker accord all  
21 confirming the formal commitment, both contractually  
22 and -- and verbally that it's been made by MPI to  
23 IBAM. And any attempt by MPI to essentially go direct  
24 online to consumer without IBAM involvement or without  
25 broker involvement would be contrary to all of that.

1                   And from our perspective it would also  
2 be contrary to the core values that I'd cited earlier.

3                   As indicated earlier, there's little  
4 doubt that the closest comparable to our jurisdictions  
5 are Saskatchewan and British Columbia. It's also  
6 indicated we -- even when you just look at the  
7 commissions from those two particular jurisdictions,  
8 Manitoba brokers are paid the lowest in the country.

9                   We've also heard evidence that both  
10 Saskatchewan and British Columbia have looked at the  
11 online model and both of them have determined that  
12 they were to remain committed to the broker network in  
13 the respective provinces.

14                   Of course the question has to be asked,  
15 why would they do that? Did they have the -- you  
16 know, was the wool pulled over their eyes by the  
17 broker networks out there? Are they gullible? No,  
18 that's not the answer at all. The reality is that  
19 they carefully reviewed their business models and  
20 value the knowledge, independence, and value that  
21 brokers bring to the equation.

22                   The accords in British Columbia and  
23 Saskatchewan have already been filed. It shows the  
24 commitment that's been made. I've also highlighted in  
25 this slide deck the -- the print off from SGI Canada's

1 website marked as exhibit 17 where, again, they --  
2 they point out well many insurance companies are  
3 moving away from independent insurance brokers, SGI  
4 Canada chooses to embrace its broker network to  
5 provide a personal connection and better customer  
6 service.

7                   They go on to state that many of the  
8 brokers also market other company's products and  
9 services and by preve -- by representing a number of  
10 insurance companies, independent brokers provide you  
11 with professional advice and arrange for insurance  
12 coverage on your behalf. We believe this provides you  
13 with the opportunity to choose the best value for your  
14 money. An independent broker serves you best because  
15 they represent you and are able to market your  
16 insurance to the company that best meets your needs.

17                   And of course, that is exactly the  
18 situation as it currently stands with the broker  
19 channel here in -- in Manitoba. And what is MPI going  
20 to do? Well, right now we don't know, but what we do  
21 know is that they have not been prepared to provide  
22 similar commitments to the broker network that has  
23 been in place for the past forty (40) years, and of  
24 course the broker network that they have committed to  
25 by way of the broker accord and the various

1 representations alluded to earlier.

2                   Rather, what MPI is contemplating is a  
3 direct to consumer model that no other public  
4 jurisdiction has done, it expressly contrary to the  
5 assurance provided by Mr. Graham's predecessors. To  
6 use the words of Ms. McLaren, we have absolutely no  
7 intention of doing that, we have a commitment not to  
8 do that.

9                   And again, to use the words of Ms.  
10 McLaren, the reason why brokers are willing to work  
11 with us, it agrees to a significant reduction in their  
12 commission, is that they know we have a commitment to  
13 work with them over the long-term. And again, of  
14 course, it's expressly contrary to the broker accord.

15                   MPI of course, it said well, you know,  
16 direct to consumer, it's the way of the future, you  
17 could buy a, you know, all sorts of things online.  
18 Insurance is no different.

19                   However, in our view, the evidence  
20 establishes that's far too simplistic and overlooks  
21 the consumer protection aspect of broker involvement  
22 and the fact that we are dealing with a monopoly -- or  
23 the fact that we are dealing with a monopoly if it has  
24 no independent professionals.

25                   It also overlooks the assurances

1 provided by MPI to the brokers in this province, and  
2 also overlooks the practical examples that we've seen  
3 from Wawanesa and Sonnet.

4                   Again, you -- we filed the article  
5 earlier where Ms. Carol Jardine of Wawanesa, the  
6 Canadian president of Canadian PNC operations said  
7 anyone who thinks it's easy to do direct insurance is  
8 extremely naive. I've been in this business for over  
9 forty (40) years, the one thing I know is that brokers  
10 look after their customers better than the directs.  
11 Brokers know what their customers need and want and  
12 brokers will provide the value that a customer  
13 requires, which is choice.

14                   We also had evidence with respect to  
15 Sonnet, that was a -- the company identified by the  
16 CIC in its IRs. That's a -- a entity related to  
17 Economical, which is a well-established company, and  
18 you saw that the OPEX ratio of Economical has gone  
19 from thirty three point nine (33.9) percent to thirty  
20 six point three (36.3) percent. It's evident that  
21 Sonnet has been bleeding millions of dollars from  
22 Economical.

23                   And you also heard that Sonnet recently  
24 sought a fifty point three (50.3) percent rate hike in  
25 auto insurance in New Brunswick for the year 2020.

1 Again, that was filed as IBAM exhibit number 13.

2 And obviously we're all in agreement,  
3 there was a -- no concern whatsoever that the -- the  
4 PUB nor the members of this province would ever accept  
5 such a demand or request for a rate increase.

6 Going directly online to consumer also  
7 removes the important role of the independent  
8 professional. This will lead to increased liability,  
9 and we could see, frankly, if MPI were to go direct  
10 online, they would obviously look at Sonnet and others  
11 and you would -- we believe, given the liability, it  
12 would see similar language on MPI's website as is  
13 found at Sonnet's website at IBAM exhibit number 16,  
14 and that is the disclaimer:

15 "Sonnet does not guarantee the  
16 quality, accuracy, completeness, or  
17 timeliness of the information or  
18 other website content provided to  
19 the maximum it's then permitted by  
20 the applicable law, Sonnet disclaims  
21 all warranties, representations, and  
22 conditions regarding the information  
23 or other website content provided."

24 Now, I know that Mr. Scarfone indicated  
25 in response to that, well, there -- it would be

1 unlikely that a court would uphold that or there'd be  
2 arguments for a court to uphold those types of  
3 disclaimers. And of course, I can't deny that.  
4 However, the reality is that's the type of disclaimer  
5 or wording that would need to be on a website if you  
6 are removing the role of a professionally licensed  
7 insurance broker from the equation.

8                   The evidence of MPI, in -- in general  
9 terms I would sum it up as follows in comparing  
10 themselves to the broker network, is that we can do it  
11 cheaper and we can do it better. Despite these  
12 existing and practical examples from other  
13 jurisdictions that we've cited, you know, they've --  
14 they've maintained that.

15                   And of course it's not the first time  
16 that a government entity has made such a claim. I  
17 mean, I'm thinking locally, we had the Bluebomber  
18 stadium group indicate and the provincial government  
19 indicate that they could build a stadium better than  
20 David Asper. We know how that ended up with the  
21 recent \$100 million dollar write-down.

22                   Federally, we've got the Phoenix  
23 payroll system, which was supposed to reduce costs by  
24 \$78 millions dollars a year, and has now ballooned to  
25 a total cost of over 2.2 billion by 2023 and they have



1 nothing to show for it.

2                   It is also indicated this is the first  
3 time that a public insurer will be employing this type  
4 of direct to consumer model, and that will make MPI an  
5 ino -- an innovator as it is heading into the great  
6 unknown.

7                   Government innovation is a term that I  
8 had never heard before. It's a -- you know, it's like  
9 jumbo shrimp, it's a -- it's an oxymoron in many ways.  
10 It -- it just isn't something that they should be  
11 doing, with respect. It should be -- any innovation  
12 should be left to the private sector.

13                   And in fact, you'll recall we had Mr.  
14 Giesbrecht testifying earlier when he was talking  
15 about the -- the \$20 million dollars rate-down in IT  
16 and I was cross-examining him on that issue and he  
17 said there was lost effort or the effort did not  
18 materialize into a product that we could put in use.

19                   And so we -- we have been making  
20 strides to change or move from an innovator to more of  
21 a market follower in terms of technology, to make sure  
22 that we can adopt proven technology and not be on the  
23 bleeding -- of course that should be leading edge of  
24 technology.

25                   So we have lessons learned from this

1 exercise. I obviously noted the typo on -- on  
2 "bleeding" instead of "leading." However, I saw that  
3 also as a metaphor, because generally when you're on  
4 the leading edge of technology, you're bleeding money.

5           Again, MPI should not be innovating and  
6 being the leader in this area. They should look at  
7 what's been done in other comparable jurisdictions,  
8 namely Saskatchewan and BC, and follow similar suit.

9           When I look at their general claim that  
10 they could do it cheaper, we've obviously heard of  
11 Project Nova, again over a hundred million to get  
12 going and then over twenty (20) million in a year to  
13 run. But of course, they've maintained that they  
14 result in long-term cost savings.

15           However, despite the unknowns that will  
16 come with that and whether or not that budget will  
17 ultimately be met or greatly exceeded, it's also  
18 contrary to the distributed model enterprise under  
19 which MPI has historically operated. And again, this  
20 is from Mr. Guimond the -- at the October 23, 2017  
21 GRA, but it's been marked into evidence.

22           He discusses the business model in  
23 terms of trying to be the lowest price across Canada  
24 and to beat inflation is that we have what we call the  
25 distributed enterprise model.

1                   And what we mean by that is we embed  
2    ourselves from a technology perspective with our  
3    business partners, so we've embedded technology into  
4    the broker side.

5                   From a comparative advantage  
6    perspective in the marketplace, what we're doing is  
7    embedding ourselves into our business partners to be  
8    able to work with them to achieve magic numbers to be  
9    able to have the lowest, to be able to beat inflation,  
10   to be able to have the lowest price across Canada  
11   without having to change the coverage we have in our  
12   policy.

13                  And again, the -- the Project Nova  
14   is -- is not consistent with what has historically  
15   been done and is, again, in a unknown risk for the  
16   consumers of this province.

17                  Also discussed the broker commissions  
18   that have not kept with inflation and again the  
19   reduction of 5 percent to 3 percent was anticipation  
20   of the reduction of -- of consumer traffic which  
21   hasn't anticipated -- or sorry -- hasn't materialized.

22                  And the issue of trailing commissions  
23   has also been a hot topic of discussion, relatively  
24   speaking at this hearing, and again, Ms. McLaren --  
25   these are her words; I couldn't have said it any

1 better myself from October the 14th of 2009:

2 "We know very well that brokers do  
3 significant uncompensated work  
4 outside of the renewal process. The  
5 renewal commission is intended just  
6 like every other insurance  
7 commission arrangements with  
8 insurers and brokers. There's no  
9 expectation ever that the commission  
10 paid on a renewal is intended to  
11 compensate fully and only the work  
12 related to processing the renewal."

13 Of course, there's much more that is  
14 done by brokers throughout the course of the year.

15 Let's go to the next slide.

16 Again on the issue of being cheaper, we  
17 got Mr. Guimond, again from a consumer protection  
18 perspective in servicing the public, you can't beat  
19 what they're doing right now for what we're paying.  
20 Right now, it's pretty hard to beat what they provide.

21 Mr. Luke Johnston on October 2017 --  
22 the Basic commission being less than 3 percent is  
23 very, very low. So the Extension coverage is much  
24 higher. Again, a recognition that the 3 percent base  
25 is very, very low.

1 Ms. Marilyn McLaren, again October of  
2 2010:

3 "We want to work with brokers. We  
4 want to continue to make sure  
5 Manitobans choose MPI even when they  
6 do not have to. So we don't believe  
7 that we're paying more than we  
8 should. We don't believe we're  
9 paying an inordinate amount. We  
10 think it's appropriate, given the  
11 way the business is done in the  
12 future."

13

14 (BRIEF PAUSE)

15

16 MR. CURTIS UNFRIED: We've also heard  
17 of -- a great deal of evidence regarding the MPI  
18 service centres that are currently in the province.  
19 They currently only collect approximately 0.6 percent  
20 of the total Basic revenues, and we also heard  
21 evidence that MPI anticipates that 50 percent of  
22 transactions will move online.

23

24 They, however, have not made any  
25 adjustment for full-time employees to deal with this  
expected uptick. Again from our perspective, this is

1 simply not reasonable. We've already heard about the  
2 currently unacceptable wait times at call centres as  
3 they already are.

4 We also know that there's going to be  
5 advise and support that will be needed to be provided  
6 to online consumers and that we also know that MPI has  
7 difficulties with retaining employees, including those  
8 in the call centre.

9 In contrast, the brokers, MPI  
10 employees, also do not have a fiduciary duty to  
11 customers. In fact, they have a fiduciary duty to MPI  
12 and MPI alone.

13 We also know that MPI employees are not  
14 subject to the provisions of the Insurance Act or  
15 discipline by the Insurance Council of Manitoba, and  
16 we also know that MPI employees cannot offer Extension  
17 products from competitors. For those numerous  
18 reasons, they just simply cannot, in our view, provide  
19 a better service than is currently is being provided.

20 We also have heard from Mr. Dan  
21 Guimond, again, talking about if they were go direct.  
22 He says:

23 "I mean for what we pay brokers and  
24 for what they do with us, it would  
25 be, like, you know, let's say we

1                   were to go direct and just deal with  
2                   our service centres, for example. I  
3                   mean, the impact on customer service  
4                   would be horrible."

5                   He then goes on to talk about the  
6 services provided by brokers throughout the province  
7 of Manitoba and goes on to conclude by saying:

8                   "The benefit we get with brokers  
9                   from a consumer protection perspective  
10                  in servicing the public, I mean you  
11                  can't beat what they're doing right now  
12                  for what we're paying."

13                  Again if they were to attempt to go  
14 direct online, particularly without making any  
15 increase for full-time employees, Mr. Guimond's words  
16 would be -- and it would be -- never be truer:

17                  "The impact on customer service  
18                  would be horrible and the people of  
19                  Manitoba deserve better."

20                  Let's go to the next slide.

21                  In addition, again coming back to  
22 the -- the issue of whether or not they can provide  
23 better service, Ms. Marilyn McLaren, again in 2011,  
24 says:

25                  "The reality is that MPI has always

1 worked with brokers because we want  
2 people to really truly have  
3 professional insurance advice."

4 And of course right now, MPI employees  
5 cannot provide professional insurance advice.

6 Similarly, Mr. Guimond -- he says it's  
7 not worth changing from a customer service  
8 perspective, and he concludes it by saying it's --  
9 it's a way to really service the customer and offer  
10 protection that "we" -- being MPI -- could never do on  
11 our own.

12 Again, nothing's changed since 2014.  
13 MPI is still structured the same and still has the  
14 same limitations it did then as they do now.

15

16 (BRIEF PAUSE)

17

18 MR. CURTIS UNFRIED: The Direct-to-  
19 Consumer online model will also diminish customer  
20 choice. MPI has maintained that the reason why they  
21 wish to bring -- provide online services is to provide  
22 more choice. However, we would suggest that the  
23 evidence establishes otherwise.

24 Under the current distribution model,  
25 one of the benefits of consumer choice is that their



1 in-person service is available at various brokers  
2 throughout the province. There are only fourteen (14)  
3 service centres located throughout the province that  
4 belong to MPI.

5                   Having a network of brokers provide  
6 choice. If you have a bad experience at one broker,  
7 you could always go to another, whereas if MPI was  
8 running the show, you'd be going from MPI to MPI.

9                   And you also have a network of brokers  
10 that provides healthy competition. They provide  
11 different hours operation to accommodate client. They  
12 go above and beyond the call of duty, et cetera,  
13 et cetera. In a government-run monopoly with  
14 unionized employees, you would not find a similar  
15 environment.

16                   And of course, from MPI's perspective,  
17 in addition to providing consumers with choice and  
18 protection, a benefit is that brokers pay their own  
19 operating expenses. And again, it's evidenced, at  
20 least from our view, that MPI has not considered the  
21 added cost that they would incur should they implement  
22 a Direct-to-Consumer model.

23                   As the model exists today, brokers are  
24 paid only when they deliver revenue to MPI because  
25 brokers are not part of a government-funded program.

1 MPI and the taxpayer do not pay any fixed cost or  
2 overhead, salaries, hiring, training benefits,  
3 et cetera. Those are all paid for and managed by the  
4 small business brokers not the tax board -- not the  
5 taxpayer. The model that MPI is proposing would put  
6 the taxpayer on the hook for those costs.

7           In addition, there would also be less  
8 choice on Extension insurance. We heard from  
9 Mr. Graham earlier on and he rightfully said it as a  
10 truly competitive line, he doesn't think it's MPI's  
11 obligation to offer other products that might be  
12 available. And he says the role of the broker is to  
13 prepare what the best coverage is for the customer.

14           So if there isn't an Extension coverage  
15 that meets a customer's needs better, then it's their  
16 duty to inform the buyer of what are the pros and cons  
17 and what is the price of that coverage. We agree with  
18 that wholeheartedly, but of course if MPI was to go to  
19 Direct-to-Consumer, the role of the broker would be  
20 eliminated completely.

21           We also note that Mr. Todd -- you'll  
22 recall when I was cross-examining him, I had asked him  
23 the one question. He agreed that an MPI Direct-to-  
24 Consumer online model would further subsidize the  
25 Extension insurance business currently at MPI.

1                   We've also heard that MPI has a  
2 95 percent market share on Extension. Frankly,  
3 brokers are the only reason why the market share is  
4 not 100 percent. We know that brokers provide to  
5 customers a service that is their best fit and MPI  
6 Extension products are often best for the consumers  
7 due to the price and ease of claim.

8                   And again, I've highlighted from  
9 Mr. Graham and again there's been some concern  
10 expressed by the CAC and others as to the market share  
11 that is enjoyed by MPI, but the reality is is that  
12 they've reduced -- they were able to reduce their  
13 price of further 6 percent already this year, given  
14 the dominant position they currently have of a price  
15 reduction, I expect will continue to assist them in --  
16 in ensuring that they enjoy that type of market share.

17

18                   (BRIEF PAUSE)

19

20                   MR. CURTIS UNFRIED: And I also  
21 highlighted, again for the Direct-to-Consumer online  
22 model, the comments of Ms. McLaren talking about the  
23 importance of appointing agents who qualify as  
24 independent insurance brokers so that they are able to  
25 offer more than one line of insurance and to really

1 behave as professional insurance advisors to people.

2 She fully -- she knew full well that  
3 MPI employees could not provide those services and  
4 could not provide more than one line of insurance.  
5 Again, nothing's changed since that time.

6 She goes on to state:

7 "Autopac agents, independent  
8 insurance brokers, are required to  
9 offer more lines of business than  
10 just ours, and at the end, we insist  
11 that they have other markets. We  
12 don't want them just to be Autopac  
13 agents in hardware stores anymore."

14 So again, Ms. McLaren is emphasizing  
15 the importance of having independently licenced  
16 professional advisors that offer more than one line of  
17 insurance. If MPI were to go Direct-to-Consumer, that  
18 would be completely removed from the equation, and you  
19 would have consumers dealing with unlicenced,  
20 unregulated MPI employees who are only able to sell  
21 MPI products.

22 Consumer protection is also of the  
23 utmost importance. Again, brokers provide consumer  
24 protection in the following ways. They provide it --  
25 Manitobans can get advice from a licenced insurance

1 professional, as indicated and regulated by the  
2 Insurance Act and subject to the Insurance Council of  
3 Manitoba.

4                   They are required, as independent  
5 professionals, to act in the best interest of the  
6 client and must offer products and coverages not  
7 available from MPI if in the best interests of the  
8 client, and by representing other companies, brokers  
9 provide professional advice and a range for insurance  
10 coverage on behalf of the client.

11                   Umbrella insurance products are also  
12 available and that provides the opportunity for the  
13 consumer to buy the -- the insurance product at the  
14 best value for their money.

15                   Again, the role of the broker is to  
16 ensure that the consumer makes an informed decision.  
17 A customer needs will change over time and will need  
18 to be reassessed on a regular basis.

19

20                   (BRIEF PAUSE)

21

22                   MR. CURTIS UNFRIED: To be clear, IBAM  
23 supports consumer choice, at least as much choice as  
24 there can be in a jurisdiction where there's a  
25 government monopoly. However, the PUB should not

1 allow choice to be at the expense of consumer safety  
2 and service.

3                   And on that note, again I said  
4 Mr. Graham's testimony from last year which I again  
5 refer him this year, he says we need to be clear that  
6 our insurance base is immature when it comes to the  
7 understanding of insurance.

8                   There's a few when it comes to bonding  
9 new insurance policy, and it's noted only 35 percent  
10 would prefer online at the bonding of a new insurance  
11 policy at 75 percent would be comfortable renewing  
12 their policy; that is a hurdle that we need to  
13 overcome.

14                   And I'm sure that Manitoba is not  
15 unique in that regard. Insurance is a complex  
16 product, and most consumers are busy in their work and  
17 personal lives to worry about what the finer aspects  
18 of insurance policies are. And it's for that reason  
19 that brokers must remain and ensure that consumers are  
20 protected.

21                   Direct-to-Consumer online sales without  
22 some sort of broker involvement removes the ability to  
23 ensure that the insurance product purchased is, in  
24 fact, in the best interest of the consumer. Brokers  
25 know their consumers, and should be able to flag a

1 sudden change in coverage purchased online, and reach  
2 out to ensure that -- that the consumer has a full  
3 understanding.

4                   We've had evidence that Manitobans are  
5 extremely price sensitive. We suggest that this will  
6 mean there'll be added risk in that most will be  
7 default to the cheapest and not the most appropriate  
8 coverage.

9                   And the classic example that was  
10 provided earlier today is that, you know, the Basic  
11 third-party liability coverage is \$200,000, and, I  
12 mean, if anybody is ever involved in a -- in an  
13 accident, for example, in the United States, that  
14 would not be nearly enough to cover any liability  
15 arising from any such incident.

16

17                   (BRIEF PAUSE)

18

19                   MR. CURTIS UNFRIED: In its closing  
20 submission, MPI wrote that brokers act as MPI's agent  
21 for the delivery of insurance products and services.  
22 And it went on to say that MPI and brokers are not  
23 competitors. MPI pays brokers to provide services on  
24 its behalf.

25                   It's clear that if MPI was to take

1 50 percent of all market transactions which they  
2 believe is -- is attainable, they would clearly become  
3 a competitor -- they would become the competitor of  
4 all insurance brokerages in the province.

5                   And I referred to this as the David and  
6 Goliath type battle, and I also mentioned the -- the  
7 Google ad battle. We provided the Google searches  
8 that come up currently when you do key word searches  
9 on MPI and MPI renewal and Autopac renewal to provide  
10 an illustration of -- of what currently happens when  
11 you type those key words in.

12                   And MPI basically has the dominant hits  
13 right now. If they were to then start getting into  
14 online direct, they would completely dominate the  
15 market and to expect a broker in Anola or Deloraine to  
16 compete toe to toe with MPI in the -- in for the  
17 online space is it's -- I mean, it's a farce. It just  
18 is not something that is -- is realistic, and it's  
19 something that should not be permitted under the  
20 circumstances.

21                   Moreover, going Direct-to-Consumer  
22 online will not augment choice for consumers. The  
23 broker industry of Manitoba would likely be decimated  
24 which would result in fewer options for consumers, and  
25 those brokers who remain may not provide Autopac



1 resulting in a decimation of competition of Extension  
2 as there would be no or fewer brokers selling  
3 competing products.

4 MS. JENNIFER SOKAL: Good morning.

5 MR. CURTIS UNFRIED: And -- yeah --  
6 and I should just say I'll turn now to My Friend  
7 Ms. Sokal for the purpose of dealing with the  
8 jurisdiction of the Board. And if it's of assistance,  
9 I believe we will be on target for our hour and a half  
10 presentation, so.

11 MS. JENNIFER SOKAL: I'll take about  
12 ten (10) minutes addressing the questions posed to the  
13 Interveners at the end of day on Tuesday.

14 So firstly, IBAM takes no position on  
15 the validity of the reserves regulation. IBAM agrees  
16 with MPI as to the issues to be addressed at the  
17 conciliation but reserves the right to add issues as  
18 IBAM deems necessary. So those issues to be addressed  
19 are what services will be provided online, how will  
20 online services be delivered, and what will be the  
21 compensation structure for the online delivery of  
22 these services?

23 IBAM argues that the PUB has  
24 jurisdiction on the delivery of online services and  
25 is, in fact, required to make orders fixing just and

1 reasonable standards of practices in relation to the  
2 online services delivery model.

3                   So on its face, the -- MPI does not  
4 fall within the Public Utility Board Act's definition  
5 of public utility. However, when you look at the  
6 legislative framework that my learned friend Ms. Dilay  
7 addressed this morning, we can see that the GRA is  
8 brought under the purview of the Public Utilities  
9 Board Act.

10                   Section 25(3) of the Crown Corporations  
11 Governance and Accountability Act provides that the  
12 Public Utility Board Act applies with any necessary  
13 changes to a review of MPIC rates for services.

14                   Section 25(5) of the CCGAA provides  
15 that the Board may -- an MPI general rate application  
16 take into consideration all elements of insurance  
17 coverage affecting insurance rates.

18                   The delivery model of insurance  
19 coverage would clearly affect those insurance rates,  
20 thus -- sorry. Thank you. Thus, under the Section  
21 25, the Board may consider the online services  
22 delivery model.

23                   But Section 25(3) does bring the -- the  
24 jurisdiction under the Public Utility Board's -- Board  
25 Act. So, we can go to the next slide.

1                   Based on the establishment of the  
2 application of the Public Utilities Board Act, Section  
3 74(4) of the Public Utilities Board Act provides the  
4 Board with a broad supervisory power over MPI in  
5 General Rate Applications where the matters relate to  
6 the safety and the convenience of the public.

7                   Section 74(4) specifically provides as  
8 follows.

9                   "The Board has a general supervision  
10 over all public utilities and the  
11 owners thereof subject to the  
12 legislative authority of the  
13 legislature and may make such orders  
14 regarding equipment, appliances,  
15 safety devices, extension of works  
16 or systems, reporting, and other  
17 matters as are necessary for the  
18 safety or convenience of the public  
19 or for the proper carrying out of  
20 any contract, charter, or franchise  
21 involving the use of public property  
22 or rights."

23                   I'll note that this provision granting  
24 such the Board with such a broad power and the  
25 interest of consumer of protection has only been

1 considered once.

2 In Centra Gas, Manitoba Inc., and  
3 Manitoba Public Utilities Board in 1997, the Manitoba  
4 Court of Appeal considered an application for leave to  
5 appeal an order of the Public Utilities Board whereby  
6 the applicant argue that the Board did not have  
7 jurisdiction to order a utility not to enter into a  
8 shared services or facilities agreement.

9 The court determined that the Board's  
10 powers in this jurisdiction under the Public Utilities  
11 Board Act had to be considered in light of the  
12 legislative intent of the Act, which is the public  
13 interest, and dismiss the application for leave to  
14 appeal as the corporate structure of the utility  
15 clearly impacted the pu -- public interest.

16 Paragraph 34 of the case is  
17 particularly instructive. And I'll read it into -- in  
18 its entirety -- entirety into the record.

19 "The provisions in the Board's order  
20 designed to ensure that no cross-  
21 subsidi -- susidi -- [sorry] --  
22 subsidida -- subsidization -- [I  
23 apologize] -- exist between  
24 regulated and unregulated entities  
25 clearly meet the fundamental

1 jurisdictional test of power over  
2 discriminatory rates, Section 82,  
3 and are consistent with the broader  
4 consideration of the public interest  
5 under Section 74(1) and 77.

6 It is not unreasonable that the Act  
7 would allow the Board to be  
8 concerned about the corporate  
9 structure that could well at the end  
10 of the day affect the rates offered  
11 to the utility's customers.

12 How can it be said that this is not  
13 a matter that affects the public  
14 interest? As noted earlier in Bell  
15 Canada and Canada Radio, Television,  
16 and Telecommu -- Telecommunications  
17 Commission, the powers of any  
18 administrative tribunal may often  
19 need to be exercised by necessary  
20 implication from the wording of the  
21 Act, its structure, and purpose."

22 As we've heard over the course of this  
23 GRA, consumer protection is diminished when you remove  
24 the broker from consumers insurance decisions, either  
25 by going online with a broker reviewing a customer's

1 file to determine if the consumer made appropriate  
2 choices or whether they should have made different  
3 choices or whether by replacing the advice offered by  
4 a licenced insurance professional with that of an  
5 unlicenced MPI employee with the Corporation's best  
6 interests in mind.

7                   Moreover, MPI employees and systems do  
8 not have a line of sight into competitive products.  
9 Section 74(1) of the Public Utilities Board Act  
10 clearly provides the Board with jurisdiction over the  
11 delivery of online services in order to protect the  
12 public interest.

13                   We can turn to the next slide, please.  
14 Section 77(b) of the Public Utilities Act specifically  
15 provides this Board with the power to fix just and  
16 reasonable standards or practices over utilities  
17 amount other things.

18                   Our requested directives fall -- the  
19 majority of our requested directives fall within this  
20 power. We would even like to take it a step further  
21 and argue that this Board is in fact required to  
22 exercise this power.

23                   Section 74.1(2) of the Act requires the  
24 Board to make such directives. And it reads:

25                   "The Board shall not make a

1 determination to refrain under (1)  
2 in relation to a public utility  
3 person, product, class of products,  
4 service, or class of services if the  
5 Board finds as a question of fact  
6 that to refrain would be likely to  
7 impair unduly the establishment or  
8 continuation of a competitive market  
9 for the public utility, person,  
10 product, class of products, service,  
11 or class of services."

12 MPI's decisions to provide online  
13 services to consumers directly will impair the  
14 continuation of two (2) competitive markets, firstly,  
15 the competitive Extension market and, secondly, the  
16 broker network.

17 Since these products and services are  
18 likely to unduly impaired by the Boards refraining  
19 from making such an order pertaining to the online  
20 service delivery model, Section 74.1(2) applies and  
21 the Board is required to make such an order.

22 Based on this jurisdiction, IBAM would  
23 request that the Board issue the following directives.  
24 Order that MPI establish an online service delivery  
25 model that includes licenced insurance broker

1 oversight of MPI customers' online files.

2           Order that MPI establish an online  
3 service delivery model that requires customers to  
4 periodically attend to a broker whereby telephone --  
5 whether by telephone or in person in order for  
6 customers to receive advice from said broker,  
7 including in relation to non-MPI Extension products.

8           Order MPI to fully disclose the  
9 allocation of flat fee revenues and reallocate said  
10 revenues to the appropriate lines of business. Order  
11 that MPI require that the purchase of insurance  
12 products be performed in consultation with a licenced  
13 insure -- a licenced professional broker.

14           Order that MPI compensate brokers  
15 fairly for the value that brokers provided both to MPI  
16 and to the residence of Manitoba. Declare that MPI  
17 providing services online directly to consumers  
18 outside of the broker channel would be in breach of  
19 the accord and representations made by MPI.

20           Declare that MPI providing online  
21 services directly to consumers and without the  
22 involvement of licenced insurance brokers would  
23 adversely affect existing consumer protection.

24           Or, in the alternative, if it is  
25 determined by the Board that it does not have



1 jurisdiction on the issue of the delivery of online  
2 services, we would ask that the Board issue the  
3 aforementioned direct -- directives as  
4 recommendations.

5 I'll now turn the presentation back  
6 over to Mr. Unfried for some concluding remarks.

7 MR. CURTIS UNFRIED: I'd just like to  
8 highlight again the fact that brokers very much want  
9 to modernize the service delivery of Autopac.  
10 However, they must, in our view, remain an integral  
11 part of providing those services given the consumer  
12 protection aspect that they provide.

13 The current service delivery model is  
14 the envy of Canada and MPI should not be putting this  
15 current business model and relationship with the  
16 broker network at risk.

17 As indicated, the consumer protection  
18 choice that MPI -- or sorry, that members currently  
19 have, MPI is not able to provide. Consumers could  
20 purchase services online directly through MPI yet rely  
21 on brokers for uncompensated advice.

22 In the alternative, consumers may not  
23 seek the advice that they do not know they -- that  
24 they need. In essence, you know, the -- the broker is  
25 there to ensure that the product that is being

1 purchased is in fact right for them.

2                   And, of course, the service levels that  
3 have been provided to date, MPI cannot meet those  
4 service levels due to the fact that brokers have to  
5 compete in a competitive market.

6                   As indicated, Mr. Graham's predecessors  
7 have already been down this road, and they determined  
8 that they could not go any further online without  
9 compromising consumer protection, that the cost would  
10 exceed what was being paid to brokers, and that MPI  
11 had made a commitment to the broker network.

12                   MPI should adhere to the core values  
13 that we had cited earlier. I also wanted to highlight  
14 the fact that the -- you know, and remind everybody,  
15 of course, that brokers are not chess pieces.

16                   They are community members with  
17 families who have relied upon the contract and the  
18 word of MPI in providing services throughout Manitoba.

19                   By going direct online and by not  
20 following British Col -- the lead of British Columbia  
21 and Saskatchewan, MPI would be an innovator rather  
22 than a follower.

23                   And using the words of Mr. Giesbrecht,  
24 they should have learned from that experience with IT.  
25 And we suggest that MPI should not let history repeat

1 itself.

2                   There's little do -- little doubt that  
3 brokers have contributed to the success of MPI and,  
4 again, have done so while being paid the lowest  
5 percent in the country.

6                   The five (5) year renewal has not  
7 resulted in -- in fuser -- in -- in fewer visits. If  
8 anything, it's resulted in the stagnation fo the  
9 insurance marketplace in Manitoba.

10                   As Mr. Graham pointed out when I  
11 questioned him on that, he believed that the five  
12 hundred dollar (\$500) deductible was implemented in  
13 1997 and that the third-party liability coverage was  
14 on its thicks -- sixth birthday in 1983.

15                   Again, it -- although brokers are  
16 provided a value service, they must remain integral to  
17 the online insurance transaction.

18                   I cited here the Competition Act. It's  
19 something that's come up over the last few days. And  
20 -- and I just wanted to point out that it was not  
21 mentioned once in MPI's opening statement.

22                   I don't intend to delve much into the  
23 argument that was advanced yesterday other than to say  
24 I do not believe that there is any need for the Board  
25 to make a finding that a particular document or

1 document is in compliance with the Competition Act or  
2 not.

3                   It would no different than asking you  
4 to provide an opinion as to whether an agreement is in  
5 compliance with consumer protection legislation, you  
6 know, the Criminal Code. There's all sorts of laws  
7 out there. And, at the end of the day, I just don't  
8 see there being any benefit to that.

9                   Of course, any agreements are -- must -  
10 - if they're going to be upheld, obviously must be  
11 compliance with all applicable laws, not just the --  
12 the Competition Act.

13                   At the end of the day, and I, again,  
14 can't emphasize this enough, brokers are an integral  
15 part of providing services to the citizens of  
16 Manitoba. And the broker channel, although it should  
17 be modernized, it should never be demonized.

18                   So, subject to any questions you may  
19 have, that concludes my submission.

20                   THE CHAIRPERSON: Thank you, Mr.  
21 Unfried. Ms. Sokal, questions?

22                   BOARD MEMBER GABOR: I don't which of  
23 you want to answer this, but what is the jurisdiction  
24 of the Board to impose legal bus -- legal terms on the  
25 contract -- contractual relationship between MPI and

1 IBAM?

2 MR. CURTIS UNFRIED: In -- in which  
3 context are you...?

4 BOARD MEMBER GABOR: Well, as I read  
5 your request, that would constitute us directing items  
6 that would be -- be matters of a legal relationship  
7 between the parties.

8 MS. JENNIFER SOKAL: So, I think it  
9 goes directly to the fact that we're talking about  
10 MPI's online service delivery model. And this  
11 normally would not be under the jurisdiction of the  
12 Board.

13 But because of the fact that it's --  
14 we're -- we're trying to decide whether brokers will  
15 be involved or not, there's a huge consumer protection  
16 piece.

17 And, as I argued, that consumer  
18 protection piece brings it under the Board's  
19 jurisdiction.

20 BOARD MEMBER GABOR: The relationship  
21 between IBAM and MPI is a contractual relationship,  
22 correct?

23 MS. JENNIFER SOKAL: Yes.

24 BOARD MEMBER GABOR: But we've heard a  
25 lot about the 2008 agreement, the amendments to it.

1 That -- that sets out the terms of the relationship,  
2 correct?

3 MS. JENNIFER SOKAL: Yes.

4 BOARD MEMBER GABOR: The issue of who  
5 provides the online services and the relationship  
6 between MPI and IBAM is a matter of contract, is it  
7 not?

8 MS. JENNIFER SOKAL: It is a matter of  
9 contract. But because the -- the issue that's being  
10 addressed is whether Manitobans will received advice  
11 from licenced insurance professionals or whether they  
12 will be left to -- to only receive advice from MPI  
13 employees, we're asking the Board to order that MPI  
14 endeavour to employ an online service delivery model  
15 which includes that licenced professional advice.

16 BOARD MEMBER GABOR: But we heard  
17 evidence that MPI and IBAM are in conciliation talks  
18 to discuss their relationship in which the online  
19 service is one (1) of the issues before the  
20 conciliator.

21 MS. JENNIFER SOKAL: M-hm.

22 BOARD MEMBER GABOR: Is that not  
23 right?

24 MS. JENNIFER SOKAL: That's correct.

25 BOARD MEMBER GABOR: So, if we issue

1 the directives that you request, what's the need for  
2 the conciliation services? Those issues -- those  
3 issues will have been decided because we've imposed  
4 contractual terms upon the parties.

5 Is that not the case?

6 MS. JENNIFER SOKAL: Well, not every  
7 issue would be -- would be dealt with by an order.  
8 There would still be the issue of the way that the  
9 online services delivery model would be delivered.

10 There would be the compensation give to  
11 brokers for that service.

12 BOARD MEMBER GABOR: I don't want to  
13 get into the conciliation, but I assume that one (1)  
14 of the items of conciliation is whether the online  
15 service must go through the broker. You don't have to  
16 comment on it.

17 From the request, you want the Board to  
18 issue a directive that that be the case.

19 MS. JENNIFER SOKAL: We --

20 BOARD MEMBER GABOR: Is that not an  
21 interference of the contractual relationship between  
22 the parties?

23 MS. JENNIFER SOKAL: We believe that  
24 it's a public interest issue, a consumer protection  
25 issue. That would be a direct concern of the Board.

1 BOARD MEMBER GABOR: Would it not be a  
2 consumer protection issue once the parties have agreed  
3 to what the relationship should be? I mean, you want  
4 us to make sort of a preliminary ruling that, if --  
5 that removes the necessity of the conciliation based  
6 on something that hasn't transpired yet?

7 MS. JENNIFER SOKAL: The conciliation  
8 would still be necessary to determine the remaining  
9 issues. We are asking that the Board issue a  
10 directive that brokers be involved in the provision of  
11 insurance to Manitoba consumers.

12 BOARD MEMBER GABOR: Okay. Mr.  
13 Unfried, you made a lot of reference to comments made  
14 in 2011 or 2014?

15 MR. CURTIS UNFRIED: Yes.

16 BOARD MEMBER GABOR: IBAM and MPI are  
17 in the midst of negotiating a new agreement. Is that  
18 correct?

19 MR. CURTIS UNFRIED: Not that I'm  
20 aware of. The current agreement is until 2021.

21 BOARD MEMBER GABOR: Okay. Okay. You  
22 -- you made comments to the technology at the time,  
23 from 2011 to 2014?

24 MR. CURTIS UNFRIED: Correct.

25 BOARD MEMBER GABOR: Have there been



1 changes to technology since then?

2 MR. CURTIS UNFRIED: Yes --

3 BOARD MEMBER GABOR: So --

4 MR. CURTIS UNFRIED: -- but -- but not  
5 -- but not changes to -- to -- changes to technology  
6 that addresses the issue of consumer and identity  
7 theft.

8 BOARD MEMBER GABOR: Okay. I'm not  
9 sure we have anything on the record, quite frankly.  
10 There's -- there's just -- that's a statement being  
11 made. Unless we had somebody who is here with a  
12 background in technology --

13 MR. CURTIS UNFRIED: Yeah.

14 BOARD MEMBER GABOR: -- talking about  
15 it, I mean -- so. Okay, those are my questions.

16 THE CHAIRPERSON: Thank you very much  
17 for your presentation --

18 MR. CURTIS UNFRIED: Okay.

19 THE CHAIRPERSON: -- your closing  
20 remarks.

21 MR. CURTIS UNFRIED: Thank you.

22 THE CHAIRPERSON: Thank you.

23

24 (BRIEF PAUSE)

25

1 THE CHAIRPERSON: Ms. McCandless, I  
2 think we'll break for lunch at this point. Can you  
3 please just advise the room what will be happening  
4 following the lunchbreak?

5 MS. KATHLEEN MCCANDLESS: The  
6 remaining item is CAC's CSI submissions, so we would  
7 be going in camera after the lunchbreak.

8 So, I believe anyone who's not a party  
9 to any of the confidentiality agreements would not be  
10 entitled to return, in any event, so it would just be  
11 CAC representatives, MPI, and Board Council, I  
12 believe.

13 THE CHAIRPERSON: Thank you very much.  
14 We'll adjourn until quarter after 1:00, please.

15

16 --- Upon adjourning at 12:17 p.m

17

18

19 Certified Correct,

20

21 \_\_\_\_\_

22 Donna Whitehouse, Ms.

23

24

25