COMPULSORY MOTOR INSURANCE IN THAILAND

Brian Lawrence [1]
Faculty of Risk Management
Assumption University of Thailand

Abstract

In most countries and for most classes of business, insurance is voluntary not compulsory. There are often two exceptions: workman's compensation and third party motor insurance. This paper describes the legal compulsion in Thailand for vehicle owners to insure for compulsory third party death and injury risks, and the legal obligation of motor insurers to accept all applications for this cover.

The compulsory motor insurance system came into effect in October 1993, and enough time has elapsed to make an evaluation of the scheme. It is state controlled but not state funded, vehicle owners having to buy insurance from private insurers. The premiums are set by the government's Insurance Commissioner, as are the limits of compensation. No commission may be paid to intermediaries. In addition, there is a Victims Compensation Fund, administered by the Department of Insurance, for the benefit of road accident victims where the vehicle is untraceable, stolen, or otherwise uninsured. Important sections of the Motor Vehicle Accident Victims Act are described, and statistics are provided for growth and loss ratios.

Despite the very low individual premiums, the early fears of insurers that they would make huge losses have been disproved, and the scheme is profitable to the extent that many insurers actively seek this business, and pay commission. Insurers also view the compulsory scheme as a means of persuading motorists to pay more for the wider voluntary cover. The exception to profitability is motor cycle business. Not all those who must be insured are insured: evasion by vehicle owners is common, especially motorcyclists, and fraudulent certificates of insurance can be bought.

Thailand's culture, which is strongly hierarchical and non-confrontational, deters many claimants. Thailand is a non-litigious country, although there are signs that this is changing. The Insurance Commissioner has used radio and other media to inform the public of their rights, and has

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[1] Assistant Professor Brian Lawrence, MSc, BA, FCII; Chartered FCIPD, Chartered Insurer, is Dean of the Faculty of Risk Management, based in Bangkok.

established 76 provincial bureaux to help claimants (funded by motor insurers). Nevertheless, the Victims Compensation Fund is under-used.

The Motor Insurance Context in Thailand

Most of the 1990s saw huge economic growth in Thailand, along with other South East Asian economies. This came to an abrupt end in 1997, but has been reviving since 2001, with the first half of 2004 showing excellent economic results. Insurance, always sensitive to the economy, followed the growth, downturn and subsequent recovery. Motor insurance has long accounted for two-thirds of the general (i.e. non-life) premium income, a dominance found in many countries.

The motor insurance market in Thailand has 69 active insurers. It is a mix of international and local insurers. Some local insurers are family owned, others are subsidiaries of Banks. Some have foreign shareholders, the number having greatly increased since 1997 because of the need for more capital and because of the liberalisation-globalisation process (Lawrence, 2001b). There is wide disparity between insurers in their volume of motor business, many deliberately being small players, and others deliberate giants. Motor insurance is highly competitive in Thailand because of the attraction of so many customers, the regular cash-flow of premiums, and the very small need for reinsurance. In March 2003 the Prime Minister stated that there were too many general insurers, and asked the Department of Insurance to plan legislation which would provide incentives for company mergers. This is aimed at curbing the proliferation of small local insurers. The distribution of motor insurance is dominated by vehicle dealers and finance companies, but cover can also be bought direct, over the counter from insurers who have branches, and via the internet.

The non-life insurance industry is governed by the General Insurance Law of 1992. This law also authorises the government to make regulations specifying details. Within the Ministry of Commerce is the Department of Insurance, whose head is the Director-General (also known as the Insurance Commissioner). There is a government tariff system for motor insurance, which controls premium rates, policy cover, and commission. The tightest control is exercised over compulsory third-party insurance.

The government tariff system for voluntary cover provides a standard motor insurance policy to be used by all insurers. The minimum cover is third party risks: legal liability for injury to third parties (including passengers) and damage to property. Fire and theft risks can be added. The widest cover is comprehensive, which includes accidental damage to the insured vehicle. There is a premium tariff, a new sophisticated rating structure having been introduced in 2000. As in many countries, the motor loss ratio (for voluntary insurance) in Thailand is higher than for any other class of general business (Lawrence, 2001).

Compulsory Third Party Insurance

After being considered for 25 years, third party motor accident insurance was made compulsory from 1 October 1993, by the Protection for Motor Vehicle Accident Victims Act of 1992 (Buddhist Era 2535). All motor vehicles in Thailand (except State vehicles) must be insured against accidents which cause bodily injury or death (but not property damage) (AXCO, 2000). This is not liability insurance, as claims are paid irrespective of liability to a motor accident victim, including those in the vehicle (Wijenaike, 1996). Thus compensation is paid on a No-fault basis, with no need to establish negligence. The insurance cover protects the driver as well as passengers, people getting into or out of the vehicle, and pedestrians or cyclists. Victims in another vehicle would be covered by that vehicle's insurer. The Act also makes provision for a Victims Compensation Fund for victims of uninsured drivers.

This is a civilised, compassionate, development to provide some redress for the personal disasters which motor vehicles so often inflict. The Insurance Commissioner hosted a radio show in 1993 as part of the campaign to publicise the new scheme.

This insurance is compulsory for both owners and insurers. There is a penalty, on conviction, for motorists not having a policy, and a penalty for licensed motor insurers who refuse to give cover. Insurers cannot reject applications for this insurance. Some insurers surrendered their motor insurance licence rather than write this compulsory business (Asia Insurance Review, November-December 1993). However, many insurers see motorcycles as bad risks and try to avoid this segment (Bangkok Post, 5 November 2002).

The law applies to the owners of all motor vehicles (Section 7). It is an offence to use a vehicle for which compulsory insurance has not been obtained (Section 11). Exceptions are government vehicle (national, provincial and municipal), military vehicles, and some royal vehicles (Section 8). Insured are given a sticker to place on the vehicle to signify that compulsory insurance is in force for that vehicle (Section 12). Where the Insured terminates the policy prematurely, the Insured must return the sticker, and the insurer must inform the Insurance Commissioner (Section 13).

A victim is defined as a person sustaining an injury (death, body, or health) caused by a motor vehicle used on the road or caused by objects carried or installed on the vehicle (Section 4). This includes persons who are in or on any part of the vehicle or who are getting into or alighting from the vehicle.

The application of this compulsory insurance to motorcycles was deliberately delayed until March 1995 to ease the administrative burden on insurers. Even so, the insurers were flooded with applications for compulsory motor insurance for cars.

The growth and loss experience since its inception in 1993, is shown in Table 1.

Table 1

GROWTH AND CLAIMS, 1993 - 2003

	A Premiums*	B Increase	C Loss Ratio	D Policy Numbers	E Increase
1993	3,956,234	-	46%	3,227,084	-
1994	5,154,121	30%	39%	4,410,236	37%
1995	6,754,671	1%	41%	7,851,708	75%
1996	7,694,982	14%	37%	9,536,287	21%
1997	7,885,696	2%	37%	9,212,921	-(3%)
1998	6.779,563	(-14%)	41%	8,033,654	-(13%)
1999	6,885,534	(-3%)	46%	9,606,753	20%
2000	7,199,788	5%	43%	10,131,286	5%
2001	7,656,659	6%	43%	11,239,799	11%
2002	7,034,040	-(8%)	54%	11,576,439	3%
2003	8,465,698	17%	51%	13,623,291	18%

*Unit: 1,000 Baht Source: Department of Insurance

The very low growth in 1997 and negative growth in 1998/99 are due to the regional economic crisis which began in 1997. The negative growth in 2002 is again due to economic uncertainty, and the growth in 2003 reflects national economic health and a big increase in vehicle sales (especially motorcycles because of a low rate of interest for hire-purchase, coupled with a low initial instalment). The huge growth in policy numbers in 1995 is because of the introduction of motorcycle business. What is puzzling is the negative growth in 1999 coupled with a 20% increase in policy numbers: the paradox may be due to the influence of the low-premium motorcycle account.

The total Compulsory Direct Premium in 2003 represents 20.4% of all Direct Premiums for motor insurance in Thailand, the voluntary premiums accounting for 79.6%.

Premiums and Insurers

The premiums are prescribed by regulation made by the Minister under the provisions of the1992 law, with different tariffs for motor cycles, cars, buses and various commercial vehicles. Thus there is no underwriting of compulsory insurance: the premium is determined by the type of vehicle (with a substantial loading for hired vehicles). Although 18% commision is allowed by the Insurance Commissioner for voluntary insurance, it is 0% (nil) for compulsory cover. Many policies are sold over the counter at branch offices of insurers.

Premiums are low (as are compensation amounts) but there is a need to get people accustomed to the idea of compulsory insurance. Unreasonably high premiums would make it appear that a compulsory scheme is being used by insurers to make profits; and high levels of compensation would be a strong inducement to fraudulent claimants. Once the discipline of insuring becomes accepted by motorists, the hope of government and insurers is that customers will be prepared to pay higher premiums for higher compensation limits. In addition to any private arrangements, there is a market agreement that a 5% reinsurance cession is made to Thai Re.

Insurers publicly claim that they are not looking for profit from compulsory insurance. Rather they see it as a marketing opportunity to persuade customers to buy the wider, more expensive, voluntary cover. The compulsory scheme is seen as a way of gaining access to these clients, the General Insurance Association estimating that 50% of applicants for compulsory insurance would also buy a more expensive, voluntary cover including damage to the Insured's vehicle and damage to third party property (Asia Insurance Review, Nov-Dec 1993). Thus the compulsory scheme would make motor insurance even more important in Thailand, boosting its already dominant position in the general classes of insurance, especially for those insurers with national networks.

As with voluntary motor insurance, some insurers have a very large market share of compulsory business. The top ten compulsory insurers together account for 71% of the total premium income for compulsory third party motor insurance. This is shown in Table 2 below. These companies dominate the market, their relative positions changing slightly each year but with Viriyah always being the unmistakable leader.

Table 2

Top Ten Compulsory Insurers: End of 2003

Company	Share %
1. Viriyah	23.8
2. Road Victims Protection Co.	10.46
3. Sampanth	5.97
4. Liberty	5.79
5. Mittare	5.28
6. Commercial	5.02
7. Synmunkong	4.33
8. Thai Setakj	3.62
9. Union Prospect	3.61
10. South East	2.95

Source: Department of Insurance

The set premiums may be altered by the Department of Insurance from time to time. Motorcycle taxis are an important means of transport in Thailand. Their compulsory premium was increased on 1 April 2003 from the basic Bt200 to reflect the fact that these are commercial rather than private motorcycles. Motorcycle taxi drivers complained about the increase, saying that their low earnings make premiums difficult to afford, and that the process of making claims is slow, with slow payments made by insurers (Bangkok Post, 27 February 2003).

The premiums for ordinary motorcycles was also increased on 1 April 2003, from Bt200 to Bt300, to reflect a loss ratio of over 140% for these vehicles. Even the Deputy Commerce Minister considers this still not enough, as a true premium for the risk should be Bt522, but he feels he cannot make such a big increase in one step. So, the premium would be increased to Bt400 in 2004 and Bt522 in 2005 (Bangkok Post, 17 March 2003). The compensation amounts for motorcycle victims would also be increased from Bt 80,000 to 100,000 for permanent disability or death. The Deputy Minister also promised a joint campaign between government and the private sector to reduce road accidents.

Compensation

Compensation is paid by the insurer on a no-fault basis, and the law prescribes fixed amounts (which can be altered by Ministerial Regulation). There is a limit per accident (which is higher for vehicles with more than 7 seats). The amounts payable are intended to provide immediate relief to victims. The amount of compensation is quite low, but is being gradually increased. The maximum liability of the insurer for any one victim includes a sub-limit for medical treatment or funeral expenses, the balance being compensation for injury or death.

Preliminary compensation is payable by the Insurer, according to the amounts specified by ministerial regulations made under the Act (Section 20). Preliminary compensation for bodily injury means medical treatment and necessary expenses relating to that treatment; and in the case of death means funeral expenses. A victim can complain to the Office of the Victim Compensation Fund if the Insurer does not pay (Section 21).

An insurer cannot refuse compensation because of the invalidity of the insurance policy (Section 16). Nor may the Insurer refuse compensation because of the insured's dishonesty or gross negligence (Section 17). Where ownership of a vehicle is transferred, the insurance too is deemed to be transferred to the new owner (Section 18). Before a motor vehicle can be registered, proof of insurance must be given (Section 19).

Receiving compensation does not preclude a victim from pursuing a bigger settlement by claiming on the grounds of negligence in the civil courts (Section 22) (Wijenaike, 1996). There is a penalty for fraudulent claimants (Section 45). The Insurance Commissioner has the power to impose the fines laid down by the Act, but judicial process through the courts is not necessary if the fine is paid within 30 days (Section 46).

Claims: Culture and Accidents

In Thailand, as in most other Asian countries, people are not generally claims conscious and seldom turn to the courts for compensation (AXCO, 2000). Most policyholders and claimants would not know how to make claims in the early years of compulsory insurance. Victims at the lower end of the social scale would be inhibited from claiming due to the hierarchical culture in Thailand.

At the end of 1998 the government created a central company, the Road Victims Protection Company, jointly owned by the general insurers in proportion to the size of their motor business. It is under the control of the Ministry of Commerce and has a branch in every province of Thailand. The purpose of this company is to deal on a nationwide basis with claims for death and injury claims (AXCO, 2000). If the insurer does not have a local presence in the victim's province, the central company pays the compensation due, seeking reimbursement from the insurer concerned. The central company is under an obligation to make the payment within seven days of the claim being made.

The General Insurance Association (GIA), which is an association of non-life insurers, welcomed this government initiative in principle because it would put pressure on all insurers to behave professionally and not protract payments (Asia Insurance Review, August 1997). The bigger motor insurers have their own country-wide network of branches and claims centres. Virayah Insurance Company, Thailand's largest motor insurers, has 20 claims centres in Bangkok and 42 in the provinces (for all types of motor claims).

Data collected by insurers on motorcycles showed that premium income did not even cover handling costs, never mind claims. The original premium agreed between insurers and the government was later reduced from 600 Bt to 200 Bt. Insurers were reluctant to provide a facility for motorcyclists, despite their obligation under the Act, because although motorcyclists consistently have the worst accident rate, the premium was not enough even to cover administration expenses. The central company's purpose was therefore extended to provide a facility for motorcyclists to buy this insurance. The central company looked at the issue of insuring motorcycles in a positive way, for it is surely better to have them insured than not, and the central company has gone out of its way to achieve this, through its efficiency and helpfulness (Seubtavikul, 2000).

The standard of driving in Thailand is not high. There is always a spate of crashes during holiday festivals such as Songkran (April), and some horrific multiple crashes. The Public Health Ministry announced that in 2001 80% of that year's two million road casualties (12,936 deaths) were motorcyclists (Bangkok Post, 4 November 2002). The Ministry said that 94% of these motorcycle accidents were caused by irresponsible behaviour such as riding under the influence of alcohol; and only 22% of riders and 4% of pillion riders were wearing helmets at the time of the accident.

In the New Year period of 2002 (27-31 December) there were 438 road deaths, and 24,242 people were injured (The Nation, 2 January 2003). The number of deaths was a 10.6% increase over the same period in 2001 (even though the government had mounted a media campaign to try to reduce the deaths by 20% in 2002). Males outnumbered females by 3 to 1. 53% of the accidents were due to drivers who had been drinking alcohol. Motor-cycles accounted for 90% of the deaths and 84% of the injuries. Most of the accidents were in the North East (Isaan). The number of casualties involved is like having a jumbo jet crash every day for a fortnight.

There are 15,000,000 motorcycles on roads across Thailand. Research shows that if all motorcyclists wore helmets, as the law prescribes, motorbike fatalities would fall by 38% (and car deaths would fall by 45% if seatbelts were worn as the law prescribes). A survey of motorcyclists in Chiang Mai (the northern capital) found that more than 50% did not have a licence. Nor had they taken a proper driving test. Although safety helmets are compulsory, the law is irregularly enforced.

An exhaustive expertly conducted study, over three years from 1999-2002, of 1,082 motorcycle accidents, plus interviews with 3,160 riders, and police officers, doctors and nurses, in Bangkok and five provinces, was made by pathologist Vira Kasantikul. He found that more than 90% of motorcyclists involved in accidents had not been trained to ride properly, and only 0.1% had passed a driving course. Drunkeness played a big part in 40% of accidents. Professor Kasantikul (Silpakorn University, Bangkok) undertook the research because there was no reliable data on the cause of accidents. He found that speed was not the problem, as had been thought. The research has been recognised as one of the world's best study of its kind, and was awarded the title of Best 2003 Researcher in the field of science and medicine by the Thailand National Research Council (Pusaksrikit, 2003).

Thailand is considered to have the highest rate of road deaths in the world, at 40 deaths for every 100,000 people (2.9%), in figures quoted in a 2002 British medical journal. According to the National Health Institute, six million were injured in road accidents and 100,000 crippled for life in 2002. The Thailand National Development Research Institute found that traffic accidents led to economic losses representing 2.23% of GDP (Phanayanggor, 2003). The Secretary-General of the National Health Institute said that the public should rethink their attitude to road accidents, as Thai people generally feel that accidents happen due to bad luck and are not preventable.

Many countries have become habituated to a high road casualty rate, yet regard it as a national crisis of a plane crashes, or storm and floods cause havoc, or bird flu or SARS kill a few score people. Thailand does now seem to be concerned by road casualties. The Transport Ministry of Thailand announced in 2002 a revision of driving licensing, with more restrictions on driving schools and new ways to evaluate driver skills. Car-driving licenses will have to be renewed every five years, and only after passing a test. The validity of public-driving licenses (taxis and buses) will be limited to three years (Mahitirook, 2002).

The government's National Road Safety Centre announced in 2003 the beginning of a massive overhaul of traffic safety (Bhatiasevi 2003). This will include speed checks (roadside cameras) and blood-alcohol checks (breathalysers), motorcycle lanes, road improvements, and a special traffic court (with night sessions) to punish violators. Police also have authority to levy on-the-spot fines. The government's Land Transport Department also announced in 2003 that it was developing a sophisticated computer system for a transport database, including information on drivers' licences, history and status, to be accessible at the roadside by police. The complete system should be ready in 2005 (Boomnoon, 2003). The database will be made available to motor insurance companies.

The government, at cabinet level, approved in 2004 a draft directive compelling motorcycle manufacturers to install a feature which automatically switches on the headlight when the engine is started - even during the day - to make the motorcycle more visible. This will affect all motorcycle registrations from 1 January 2005. This follows the experience in many countries where this feature has significantly reduced motorcycle accidents. Malaysia introduced this in 2002.

In commercial vehicle accidents which involve injury or death to third parties, it is almost standard practice for the driver to flee the scene before the police arrive because the driver would be automatically arrested, and might not be able to afford the bail money. Although he usually surrenders later when things are calmer, it can hinder the insurer's investigation. The Insurance Commissioner introduced a 'Bail Bond' insurance product in 2003 and it is hoped that this will reduce the fleeing incidents.

According to Professor Bruce Browner, Chairman of the Connecticut Health Centre, USA, 85% of traffic fatalities occur in the developing world, with 44% occuring in Asia-Pacific nations. He predicts that it will get worse (Techawongtham, 2002). With Asia having 16% of the world's road vehicles, it accounts for almost 50% of traffic fatalities. More than 600,000 Asians are killed and 9.4 million injured every year.

Southeast Asia has the world's worst road safety record. The annual economic cost of this for ASEAN countries, calculated by the Asian Development Bank in 2003, is US$11 billion annually and getting worse. This represents about 2% of annual GDP (Parameswaran, 2003).

This is a colossal waste of human life, an immense amount of human suffering, a great economic cost, and yet hardly reaches the headlines, and is never discussed at the great regional forums. Looked at purely from a business perspective, none of this should matter to motor insurers, providing the risks can be statistically captured and forecast, and premiums charged accordingly. However, in many countries insurers regard it is their ethical duty to promote safety and reduce accidents.

Underwriting Results

When the compulsory scheme was introduced in 1993, the General Insurance Association (GIA) declared that they would be happy if they managed to break even. They were concerned that the low premium of Bt1,200 per car could inflict underwriting losses for many companies. The government agreed therefore to review that rate after 18 months of operation to see if it needed to be increased - or reduced (Asia Insurance Review, Nov-Dec 1993). The GIA believed that the results for the first two years would be good, because most policyholders would not know how to make claims, but this would change from the third year as people became familiar with the claim process. In reality, as Table 1 shows, this account has been consistently profitable because of a relatively low loss ratio.

The premium for motorcycles was initially set at Bt200 which the insures claimed was much too low and it should be nearer Bt600 because the administrative cost alone of issuing a single policy would be Bt350, which if all motorcycles were to be insured would result in a net loss of Bt2.4 billion which was higher than the underwriting profit of Bt2.3 billion for all classes of business in 1991 (Asia Insurance Review, Nov-Dec 1993).

Motorcycle business, with a low flat rate of Bt200 which is not commensurate with the risk, runs at a loss. The General Insurance Association (GIA) estimated that the total cost of claims and expenses could be 140% of total premiums (which are about Bt1.1 million) (Bangkok Post, 5 November 2002). Because of the understandable reluctance of insurers to write this account, a pool of motorcycle insurers was established in July 2003: all premiums and losses are pooled and then allocated back to the individual insurers according to their market share (Kind, 2003).

Taxis are required to insure for third party liability. This class has a poor loss experience (common to most countries because of the high exposure). This led to the General Insurance Association (GIA) proposing a pooling plan between Nam Seng, Liberty and Narai (AXCO, 2000).

With the exception of motorcycles and taxis, compulsory motor insurance is profitable. This is due mainly to the Thai culture of avoiding confrontation and of accepting one's karma. Also, the central company's handling of many claims reduced their expenses. Because of these low loss ratios, insurers began advertising for the business. Insurers also began paying commission, which is illegal for compulsory business, and the Insurance Commissioner responded by reducing the set premiums. Insurers were attracted to the compulsory business because they realised that the government's provincial claims bureaux, by paying claims on their behalf, reduced their administration costs (Lawrence, 2000). In 2001 the competition for this business became intense, many insurers reducing the car premium from the 1,200 baht set by the government to as low as 700 baht (Bangkok Post, 25 December 2001). This situation continues, in 2004, with some insurers defying statistics by also reducing the premium for motorcycles.

Such competitive rate-cutting is common in many countries because of the volume of customers and the attractiveness of that premium income: the business is written for cashflow rather than with a concern for an adequate premium to cover the risk and expenses (Lawrence, 1996). In response to this rate-cutting, the Department of Insurance lowered the legal premium from Bt1,200 to 970 and then again to 920.

At first, the introduction of Act cover improved the liability account for voluntary business because Act compensation is deducted from the settlement. But the specifying of compensation limits under the Act has led claimants against voluntary policyholders to see those limits as the absolute minimum, thus increasing those claims and settlements.

Participation and Evasion

By the end of 1999 the compulsory programme covered 10 million cars, their premiums generating 70% of the total compulsory premium income (Bangkok Post 15 November 1999). By comparison, there were less than 2 million voluntary policyholders (for wider, more expensive, cover).

Some vehicle owners manage to avoid the cost of buying this insurance, and thus deprive innocent third parties of straightforward compensation. In 1998 the Insurance Commissioner complained that 40% of vehicles were evading insurance (The Nation, 27 July 1998). The Commissioner asked the Transportation and Communication Ministry to enforce the compulsory insurance law on vehicles and vessels. At the end of 1998 there were 12,464,000 registered motorcycles, of which 5,081000 (41%) were insured; and 6,365,000 other registered vehicles of which 4,424,000 (70%) were insured (AXCO, 2000).

Evasion of compulsory insurance is thus common among motorcyclists, despite a low premium and their appalling accident record. There is a fine for driving on a public road without Act insurance, but this too is evaded. At the end of 2001 it was estimated that only 60% of eligible vehicles were actually insured, many of the uninsured vehicles being in the provinces, outside Bangkok (Bangkok Post, 25 December 2001). At the end of 2002 it was estimated by the Land Transport Dept that only half of all motorcyclists held driving licences (Bangkok Post 16

January 2003). In 2003 it was estimated that only about half of all motorcycles were insured (Arunmas, 2003 (1)).

An interesting initiative to reduce evasion by motorcyclists was introduced in 2003. A new personal accident insurance product, especially for low-income citizens, was designed by the Department of Insurance for use by private insurers, and launched in September 2003. This is one of the economic and social strategies is to improve the lives of the poor through a raft of financial incentives under the umbrella name of *Ua-arthorn* (We Care). This low-cost policy is made available through 70,000 Village Headmen. The Commerce Minister agreed with the Interior Minister and the Land Transport Department from 1 September 2003 to the involvement of these same Village Headmen in selling motor insurance. This is aimed mainly at convincing uninsured motorcyclists to buy compulsory third party insurance. The Headmen would receive 10% commission as an incentive (Lawrence, 2004). This is linked to the Land Transport Department's initiative in offering an amnesty to motorcyclists who have not registered their vehicles in the past three years. The Insurance Commissioner announced that legislation would be introduced to allow Village Headmen to take legal action against uninsured motorcyclists, and would be eligible to receive 30% of any of the 10,000 Baht fines collected. (Arunmas, 2003 (2).

As in many other countries, fraud is involved in compulsory motor insurance, in the cheap sale of stickers which would normally indicate that compulsory third party motor insurance has been validly bought (Kittkanya and Keeratipipatpong, 1999). This can fool the police and third parties. They are sold from noodle stalls or the back of trucks. The chairman of the General Insurance Association issued a warning that insurance should only be bought direct from authorised agents at their offices. A licensed agent must pass an examination set by the Department of Insurance. One of the problems is that agents often appoint sub-agents who are difficult to control. Another confusion is that some genuine insurers and agents sell the insurance at cut-price so as to produce premium income and gain market share, especially as the business is profitable. To control forgeries, the Department has introduced more complicated printing procedures including watermarks. The sellers of illegal stickers persistently annoy motorists and often fight amongst themselves to get customers. Some buyers know that their stickers are false, and know that they have no real insurance protection. Fake stickers are sold for 40-50 baht for motorcycles and 100-200 baht for cars.

Fraud is a perennial problem for insurers in every country (Lawrence et al, 1998). The combination of uninsured drivers and fraudulent certificates is a problem for compulsory liability insurance. In Britain it is a growing problem: the Association of British Insurers launched a computer database in 2001, making it easy for police, at the roadside, to check if a vehicle is legally insured (ABI, 2001). Some British insurers now subject telephone claimants to lie tests ('voice risk analysis'). It is estimated that the annual cost of all fraudulent insurance claims in Britain is US$1.5 billion (Daily Telegraph, London, 1 May 2004).

The Victims Compensation Fund

Because of evasion and fraud, victims of road accidents can find that there is no insurer against whom they could claim. In specific situations, payment to a victim from the Victim Compensation Fund shall be made (Section 23). These include: an uninsured owner who refuses to pay the set compensation; a vehicle owner was not in possession of the vehicle because it had been misappropriated e.g. stolen - provided that the owner has notified that to the authorities; a vehicle owner (and thus his insurer) who cannot be traced; an insurer who fails to pay; or where it is an excluded vehicle. The Fund must pay such claims within seven days from receipt of the application (Section 25), but the application must have been made within 180 days of the accident (Section 27). It can recover this payment, plus 20%, from the insurer or owner who refused to pay (Section 26), or even seize and sell the vehicle (Sections 28-30). Where the injury is caused by the a third party, or by willfulness or gross negligence by the owner, the driver or other persons, then the Fund has the right to recover the money (Section 31). The Fund may also pay compensation to a victim of an excluded vehicle, but can recover this from the excluded owner (Section 32).

The 1992 Act created this Victims Compensation Fund. It is administered by the Department of Insurance and is mainly funded by a levy of not more than 2% on compulsory premiums. The Fund provides preliminary compensation for road victims who experience bodily injury or death as a result of uninsured vehicles, stolen vehicles, unclaimed vehicles, or hit-and-run vehicles. In addition, it provides compensation for third parties who receive only partial compensation from insurers or are refused payment.

Each insurer pays an annual levy into the Fund, and victims can apply for payment from the fund from any of the provincial offices. However, few people know about the Fund and its ability to compensate victims. Its complicated procedure, demand for detailed evidence, and low compensation levels discourage the few claimants from pursuing their right, and it has meant that few victims have claimed successfully since its establishment in 1993. Because of this low level of payout from the Fund, and its accumulated cash since 1994, the government in 1999 reduced the levy on insurers to 1.5%. (Thailand Insurance, 2000).

In defence of the Fund's operation, the Insurance Commissioner pointed out that all such funds have to have clear procedures for claimants, and the demand for evidence is justifiable as most types of insurance are susceptible to fraud (Thailand Insurance, 2000). Another complaint is that the money accumulated by the Fund can only be invested in State enterprises, unlike the Social Security Fund which can invest its money in commercial banks, bonds and other financial instruments. The problem is that the Department of Insurance does not have investment experts to oversee such riskier investments.

Because of the problems, many insurers have suggested that the administration of the Fund be merged with the central compulsory claims company and its cash transferred to that, this company having been found to be working effectively (and with appropriate experts and technology) in compensating victims where there is valid insurance (Thailand Insurance, 2000).

The existence of this Fund in Thailand is similar to the Motor Insurers Bureaux (MIBs) which exist in Hong Kong, Singapore and Malaysia, and with similar facilities in Japan and India (Chew, 1995). A special agreement exists between the MIBs in Singapore and Malaysia covering claims relating to uninsured or ineffectively insured vehicles from one country when involved in an accident in the other. All registered motor insurers in both countries must be members of this special agreement.

Conclusion

With ten years of experience, the compulsory scheme has had time to be subjected to practical experience. Adjustments have been made to premiums and compensation limits, but the basis was well thought out and planned and has not needed radical change. The biggest innovation was to set up a central company funded by all the insurers, to ensure that there is easy access by the public to this scheme. Perhaps the biggest surprise was the profitability, because of low loss ratios, but this is likely to diminish as Thais become more litigious.

Finally, it is interesting to mention the position in some other countries in this region. Compulsory third party motor insurance was introduced in Hong Kong in 1951, in Malaysia in 1958, in Singapore in 1960 (Lawrence, 1996). Compulsory insurance is also required in Brunei and Philippines. Compulsory third party motor insurance was introduced in Japan in 1955. In the first decade or so the Japanese experience was volatile as insurers sought the business, but eventually a measure of rationality prevailed. Its later success has been attributed to several factors: it is not-for profit (breakeven only); there is an advisory panel to the government; there is an automobile rating think-tank which also conducts claims surveys to ensure fairness and operates 80 offices throughout Japan. 60% of compulsory premiums are ceded to the government reinsurer. The insurance industry successfully negotiates with regional medical associations to agree medical fees for traffic accidents (Sakagawa, 1995). Compulsory motor insurance was introduced in Russia in July 2003, only twelve years after the introduction of a market economy for insurance instead of the previous system of only two state insurers (Kotlobovskly, 2003).

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