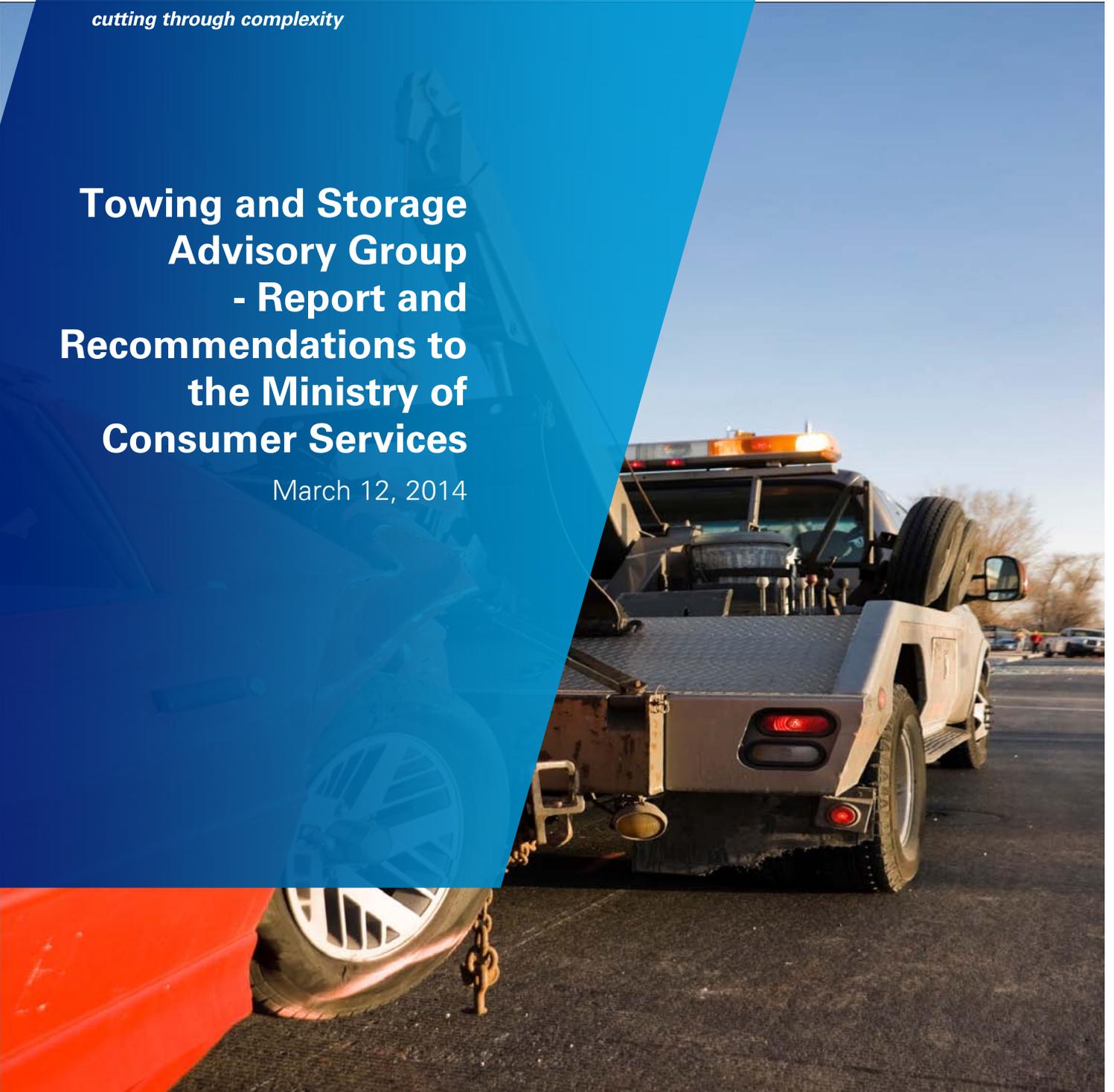




cutting through complexity

Towing and Storage Advisory Group - Report and Recommendations to the Ministry of Consumer Services

March 12, 2014



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0 Transmittal Letter

March 12, 2014

The Honourable Tracy MacCharles
Minister of Consumer Services
6th Floor, Mowat Block
900 Bay Street
Toronto, ON
M7A 1L2

Dear Minister MacCharles,

We are pleased to submit to you the enclosed report on the Towing and Vehicle Storage Industry in Ontario. The report outlines our recommendations to government related to oversight of the Towing and Storage sectors in Ontario. We have made recommendations to help improve consumer protection and increase the professionalization of the sectors. In the towing industry, we recommend the implementation of a province-wide towing oversight model and for the storage industry we recommend government establishes a process to develop a fair value methodology, and explores a number of options related to the issue of delayed notification when cars are in storage.

The findings and recommendations in this report were developed after a series of workshops with a wide variety of industry stakeholders. This enabled us to consider industry issues from a number of diverse perspectives and leverage the depth and breadth of experience and knowledge of the advisory groups. We had many hours of informed discussion and followed a process that allowed us to explore and focus on key issues. We believe that this has been a productive and collaborative process; we appreciate this opportunity to provide this important public service. As the Ministry considers implementing Advisory Group recommendations, we would encourage the Ministry to continue to engage the Advisory Groups.

Finally, we would like to extend our appreciation to the Ministry for its leadership and staff who provided excellent guidance and support to the panel so that we could arrive at the recommendations contained in this report.

Sincerely,

The Towing and Storage Advisory Groups

1 Executive Summary

1.1 How to Read This Report

In the Fall of 2013, the Ministry of Consumer Services (MCS or “the Ministry”) requested that a group of industry stakeholders come together to form the Towing Advisory and Storage Advisory groups. These groups were asked to provide input and advice on issues and factors associated with the oversight of the towing and vehicle storage industries.

The purpose of this report is to summarize the work and recommendations of the Towing and Storage Advisory Groups resulting from consultation sessions held in January and February 2014 on the topic of towing and vehicle storage practices in Ontario. This report constitutes the final report of the Advisory Groups. The Ministry is responsible for any and all decisions to implement recommendations from this Consultation Report and for considering their effects.

1.2 Background and Context

The creation of the Advisory Groups was brought about by the identification of towing and vehicle storage related issues in the Ontario Auto Insurance Anti-Fraud Task Force’s final report. Specifically, the Task Force made recommendations relating to a province-wide licensing scheme, road safety, consumer protection, and unreasonable towing and storage costs. In response, the Government’s 2013 Fall Economic Statement committed to work towards developing a province-wide solution to provide oversight to the towing industry, as well as issues related to vehicle storage. Recommendations from a recent Coroner’s Inquest also urge the government to address safety issues related to the towing industry.

MCS was tasked as the government lead for conducting research and making recommendations for provincial oversight of the towing and vehicle storage sectors. MCS held a consultation kick-off meeting on towing and vehicle storage with stakeholders in December 2013. The purpose of the meeting was to start the discussion, raise interest in these issues, and secure participants for the next stage of consultations. Additional consultation meetings on towing and vehicle storage took place in late January and early February 2014 with two 18-member Advisory Groups comprised of a diverse stakeholder group. The Groups’ primary objectives were to identify issues in the towing and storage industries, and provide consensus recommendations to government on how to address these issues, including the possibility of an oversight model.

To develop these recommendations the Advisory Groups took part in a total of four workshops. The diagram below summarizes the objectives and outcomes of each of the four sessions.

| Work Shop | Participants | Discussion Topics | Outcomes |
|--|------------------------|---|--|
| 1 Scope and Issues - Towing (Jan. 30) | Towing Advisory Group | <ul style="list-style-type: none"> Level setting: current industry Issue identification Establish evaluation principles Preliminary solution generation | <ul style="list-style-type: none"> Consensus issues identified List of potential solutions Ideal evaluation principles |
| 2 Solution Testing (Feb. 5) | Towing Advisory Group | <ul style="list-style-type: none"> Review and refinement of preliminary solutions Identify desired functions and outcomes of the oversight body Prioritize functions Identify potential service delivery entities | <ul style="list-style-type: none"> Preliminary consensus recommendations regarding the functions of the oversight body |
| 3 Scope and Issues - Storage (Feb. 6) | Storage Advisory Group | <ul style="list-style-type: none"> Level setting: current industry Issue identification and analysis Preliminary solution generation Identify considerations that could be used to guide the establishment of fair value and notification times | <ul style="list-style-type: none"> Consensus issues identified Considerations to establish fair value and notification time List of potential solutions |
| 4 Summary Session (Feb. 13) | All | <ul style="list-style-type: none"> Validate stakeholder input on issues Review and discuss potential models | <ul style="list-style-type: none"> Stakeholder-driven consensus recommendations |

These workshops resulted in the development of consensus recommendations, as well as potential future considerations for government.

1.3 Towing

1.3.1 Key Issues

The Advisory Group identified five broad categories of towing industry issues to explore and analyze. Within each of these categories, issues and root causes were identified. Each category is presented below, and the Towing Advisory Group’s key findings are highlighted. Additional details are provided in the body of this report.

| Safety | Consumer Awareness and Protection | Unprofessional Practices | Consumer and Provider Costs | Other (Industry Issues) |
|---|---|--|--|---|
| <ul style="list-style-type: none"> • Tow operator safety • General road safety • Public safety | <ul style="list-style-type: none"> • Uninformed decision making • Opportunistic behaviour | <ul style="list-style-type: none"> • Misinformation • Fraud • Improper fees for service | <ul style="list-style-type: none"> • Inconsistent rates or excessive rates • No fair value for service | <ul style="list-style-type: none"> • Sustainability • Negative industry perception among public |

Category 1: Safety

The Advisory Group identified tow operator and general road safety as a broad issue area. Specific issues in this category pertained to tow operator vehicular accidents, on-the-job injuries as well as road safety among the general public. The Towing Advisory group found that the general public has limited awareness of safety measures, which can increase risk for both tow operators and the public.

Additionally, there is no single point of responsibility for creating, overseeing and enforcing standards relating to training, equipment, communication and operations. The Towing Advisory Group also suggested that safety issues are present due to the absence of standards related to incident management and response protocols.

Category 2: Consumer Awareness and Protection

The Advisory Group identified a number of issues related to consumer awareness and protection. Specifically, the Advisory Group heard that consumers lack knowledge of towing practices, and their own rights, which leaves consumers unable to make informed decisions and vulnerable to unethical business practices. The Advisory Group found that these issues occurred due to the absence of Ontario-wide standards, or complex and varying municipal standards.

Additionally, the advisory group found that in some cases, such as a serious collision, opportunistic behaviour can emerge as consumers cannot choose operators, the services provided or the price charged. Drivers involved in traffic collisions are often in a vulnerable state and have difficulty making decisions.

Both consumers, and tow operators do not have a single window to raise issues or complaints, so there is no clear avenue for recourse or protection in the event of wrong-doing, or perceived wrong-doing. There is also no central way to track tow operator performance, which could serve as a deterrent to unethical tow operators and help protect consumers.

Category 3: Unprofessional Practices

The Advisory Group identified a number issues relating to unprofessional practices, ranging from misrepresentation and misinformation being provided by some tow operators to consumers, to

outright fraud. Most of the issues identified in this category related to consumers being misled by service providers (including tow operators, and other related providers) for monetary gain.

The Advisory Group concluded that there are no common standards to inform professional practices, and there are few barriers in place to discourage unprofessional practices. The Advisory group suggested that these unprofessional practices are likely to persist unless a dedicated oversight body is created, to monitor, and enforce industry standards and a code of conduct.

Category 4: Consumer and Provider Costs

The Advisory Group identified a number of issues related to consumer and provider costs. From a consumer perspective, there can be inconsistent or excessive rates for service as well as an unclear payment process (i.e., a refusal to accept non-cash payments, confusing invoices, etc.). From a tow operator perspective, there is a perception that other industry stakeholders such as insurers and consumers sometimes expect lower than realistic prices. Tow operators also, at times go uncompensated for their services or are left with the responsibilities to dispose of cars they have towed (e.g., when asked by the police).

The Advisory Group found that there is no consensus “fair” price or even general guidance around pricing, which can lead to inconsistent or unfair prices. Consumer and provider cost issues can also be related to unethical practices.

Category 5: Other – Industry Issues

Select members of the Advisory Group identified several issues related to the health and sustainability of the towing industry, including that there is a negative perception of the industry growing among the general public due to some bad operators, and a lack of understanding and appreciation of the important service towers provide (i.e., clearing road ways). It was also noted that the industry is potentially facing high tow operator turnover rates, which is costly for business owners and a likely result of the industry becoming a less attractive career choice.

1.3.2 Recommendations and Conclusions

1.3.2.1 Overview

After careful consideration and much discussion regarding issues and potential solutions, the Advisory Group was able to develop a consensus recommendation to government to remedy the issues identified above.

The Towing Advisory Group recommends the implementation of a province-wide towing oversight model.

The oversight model recommended by the group has seven primary functions, in other words, the Advisory Group identified seven areas of “work” that the oversight model should undertake to adequately address the current issues in the towing industry. The functions are summarized in the diagram below.



1.3.2.2 Towing Model Oversight Functions

Function 1: Set Standards

The Towing Advisory Group recommended that an oversight model should establish industry standards that must be met and adhered to by towers, operators and businesses relating to:

- vehicles and equipment;
- operations;
- qualifications and training;
- fair value guidelines;
- financial protection;
- employee protection; and
- business practices (i.e., payment methods and administrative responsibilities).

To effectively address issues related to safety, consumer protection, unprofessional practices and provider costs, these standards must be monitored, enforced and routinely updated.

Function 2: Establish Province-wide Licensing, Monitoring and Enforcement

The Towing Advisory Group recommended that a towing provincial license system should be established. All tow operators, trucks and businesses in the province of Ontario should be certified under this provincial licensing system. This towing provincial licensing should help ensure that those in the towing profession have the required knowledge, skills and experience to provide safe and professional services. Additionally, the licences should require ongoing confirmation of operator fitness to practice.

The Towing Advisory Group also recommended the use of proactive compliance monitoring consisting of random roadside checks and systematic data analysis. Such proactive compliance measures may help ensure that all industry participants are meeting the provincial licensing requirements, and inform the ongoing refinement of provincial licensing education and training requirements. In the event of compliance violations, the oversight model should be able to undertake enforcement actions that can range from additional education, warnings, and penalties.

Function 3: Manage Consumer, Provider, and Payer Complaints

The Towing Advisory Group recommended that an oversight model should establish a single point of contact for each of consumer, provider, and payer complaints. This mechanism should be transparent, address all valid complaints and provide a clear resolution and mediation process. Additionally, this function should provide information to inform compliance and enforcement

activities. A complaint mechanism should help instill confidence in the public, address unprofessional and unethical practices and improve consumer protection by offering recourse in the event of disagreements or wrong doing.

Function 4: Provide Consumer Awareness

The Towing Advisory Group recommended that consumers should be provided with the knowledge to make informed decisions, based on input from the towing industry, government, consumer groups, insurance companies and police. Consumers should be made aware of information relating to:

- towing industry costs and practices (e.g., typical costs incurred when towed, resources for support, appropriate practices for tow operators to follow, etc.);
- consumer rights and obligations;
- roles and responsibilities of stakeholders within the towing industry (i.e., police, towers); and
- accepted payment processes and charges.

Consumers should be able to access this information when required, and through a single public portal with general industry information, as well as specific provider information. This information should help consumers make informed decisions, thereby increasing consumer protection, and reducing instances of unprofessional practices and disputes over service provision and costs.

Function 5: Manage Registry and Data Repository

The Towing Advisory Group recommended that an oversight body be responsible for collecting and analyzing a wide variety of industry data. Useful data to track could include:

- operator and vehicle information (individual and industry-wide);
- safety and performance metrics;
- service provided, equipment used and cost;
- complaints; and
- operator/company insurance status.

It should be mandatory to provide this data and key portions should be made public to help improve awareness. Those administering the oversight model should use this data to help set industry standards and inform decision making. The Towing Advisory Group also noted that this data should help address unprofessional practices, by tracking tow operator performance and providing insight into compliance.

Function 6: Provide Access to Cost Recovery Tools

The Towing Advisory Group raised a consideration that, in the future, a towing industry administered oversight model could include a self-funded relief mechanism to compensate tow operators in the event that operating losses are incurred, through no fault of their own. This function is similar to a type of insurance that could be established through an industry-funded compensation pool or commercially available insurance products. This function could include a claim management process to determine valid claims. The need for this function was not unanimously supported by all stakeholders and is presented as an archive of the discussion and as a consideration for the long-term functionality of the model.

Function 7: Provide Industry Representation and Coordination

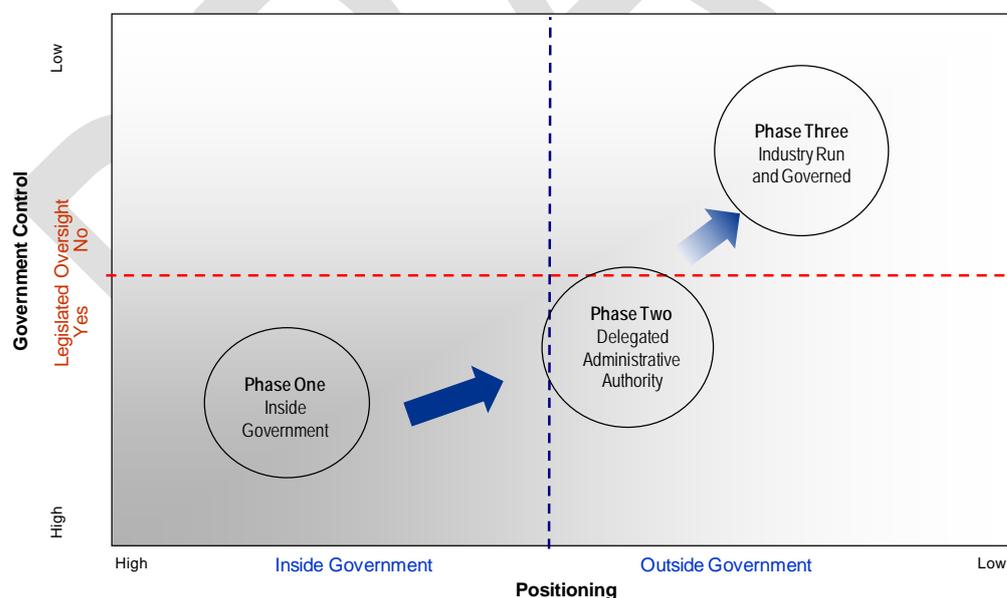
The Towing Advisory Group raised a consideration that, in the future, a towing industry administered oversight model could include an industry coordination function to act as the voice of the industry and liaise with key stakeholder groups. This function could also help coordinate other oversight functions of stakeholders, including government, insurance companies, the police, and other stakeholders.

1.3.2.3 Organizational Evolution

The Advisory Group also explored potential approaches to model administration. The three approaches summarized below were discussed conceptually with the Advisory Group and deemed to be potentially feasible.

- **Inside of Government:** Government would be accountable for model oversight functions and responsible for delivery.
- **Delegated Administrative Authority (DAA):** Government would establish legislation and regulations, and the DAA would be responsible for ensuring that the legislation and regulations are implemented and enforced.
- **Industry Run and Governed:** An industry body, independent of government, could be accountable for the oversight functions and responsible for delivery.

The Advisory Group recommended that in this instance, the oversight model should begin inside of government and transition into a Delegated Administrative Authority, provided that sufficient capacity exists outside of government. Select members of the Advisory Group raised the consideration that, over time, the model could further transition to an industry run organization; however this would take place in the future, and require further analysis. The graphic below displays the level of government administrative and financial control over the respective approaches, as well as the potential transition

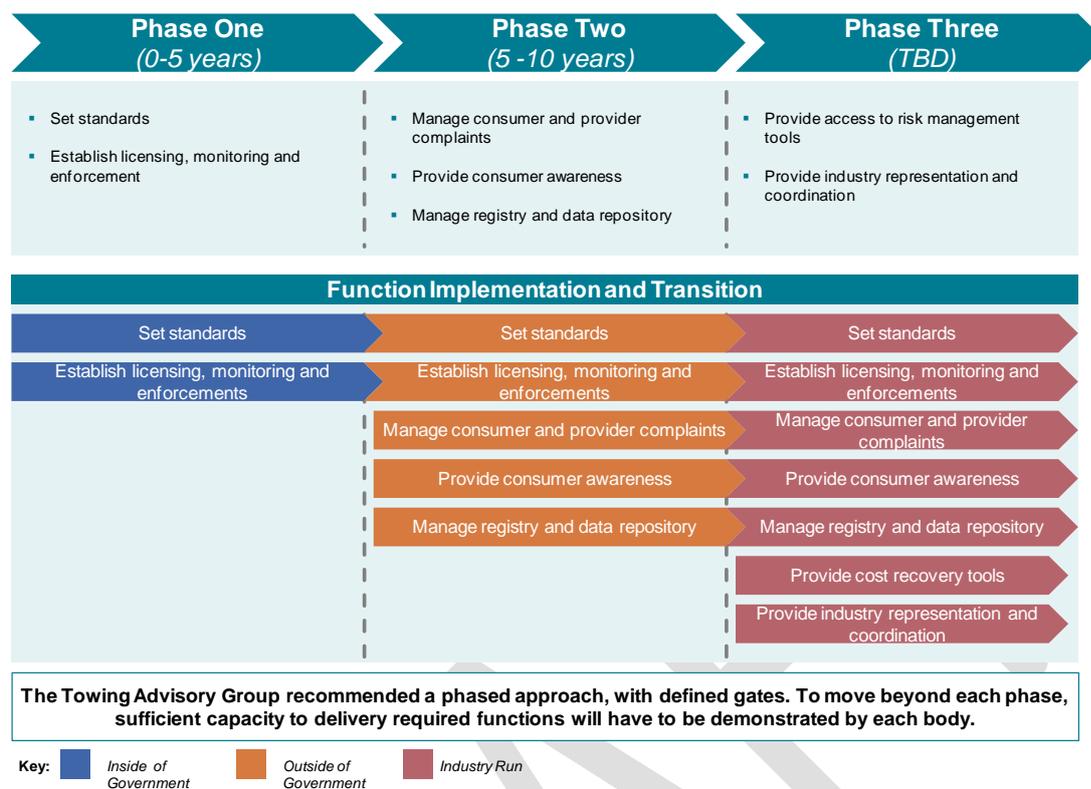


sequence.

1.3.2.4 Towing Model Function Prioritization

To help guide implementation, the Towing Advisory Group provided recommendations regarding the priority with which model functions should be implemented. Functions were prioritized based on perceived urgency, and on the basis of which functions were most likely to result in the most significant impact to the towing industry. Based on this prioritization, the Advisory Group

recommended a phased approach to implementing an oversight model. The functions identified in phase one were deemed to address the most pressing issues.



Phase One

The Advisory Group recommended that the first phase of the oversight model focus on:

- setting standards (e.g., through regulation); and
- establishing provincial licensing, monitoring and enforcement.

The functions in this initial phase should be designed to address the most critical issues in the towing industry, particularly those related to **consumer protection and awareness, unprofessional practices** and **safety**.

The Advisory Group observed that government currently has the capacity to deliver these functions, whereas other industry stakeholder would require significant lead time to effectively begin administering an oversight model. As such, the Advisory Group recommended that oversight model begin inside of government.

Before proceeding to Phase Two, the Ministry may wish to evaluate the performance of the model and seek to understand remaining gaps in services to be addressed in subsequent phases. Such an evaluation would provide insight into the need and readiness for further evolution of the model; depending on the results, further implementation of subsequent phases or functions may not be required.

Phase Two

During the second phase, it is recommended that the oversight model move from government administration and delivery, towards a delegated administrative authority model. Should issues continue to persist following Phase One, the second oversight phase should focus on expanding the functions of the oversight model to include:

- Managing consumer, provider and payer complaints
- Providing consumer awareness
- Managing a registry and data repository

Phase Three

Select members of the Towing Advisory Group noted that the government may wish to consider a third implementation phase, wherein the oversight model moves entirely outside government control and legislated oversight under the supervision of industry. During this third phase, functions to be implemented could include:

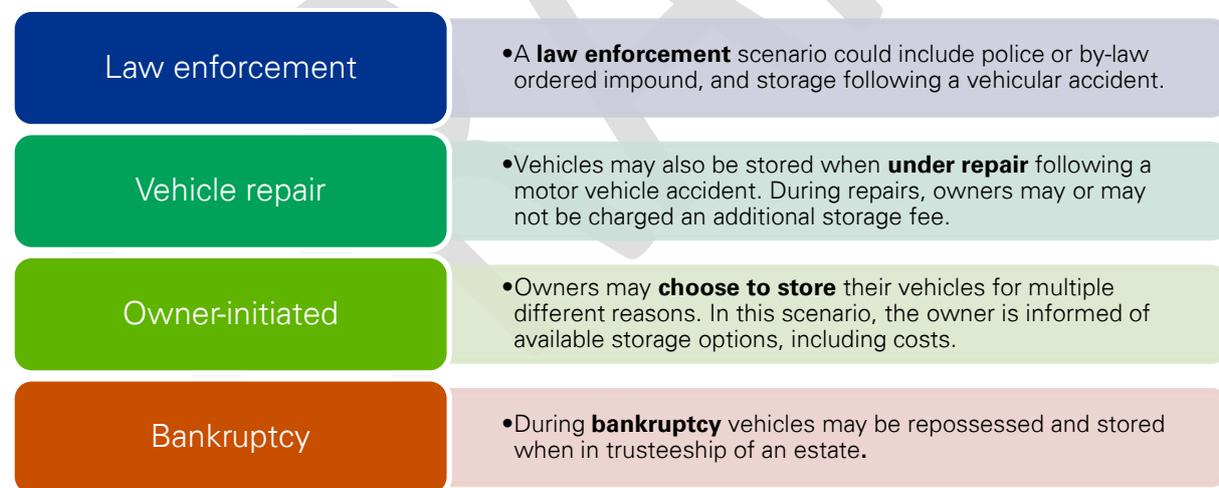
- Providing access to cost recovery tools
- Providing industry representation and coordination

These considerations should be further examined after the implementation of the first two phases. Similar to the evaluation conducted following implementation of Phase 1, a similar evaluation conducted during Phase 2 will allude to the need and readiness for further change, potentially including moving the model outside of government. This phase was not unanimously supported by all stakeholders and is presented as a consideration for the long-term future of the model.

1.4 Vehicle Storage - Findings and Recommendations

1.4.1 The Need for Vehicle Storage

The Storage Advisory Group noted four potential scenarios in which a vehicle may be stored. Once identified, the scope of the discussions of the Advisory Group included all four categories of storage.



1.4.2 Key Issues

The Storage Advisory Group identified three broad categories of issues; two of the categories represented the perspectives of major stakeholder groups, the consumer and the provider.

| Consumer perspective | Operator perspective | Other issues |
|---|---|---|
| <ul style="list-style-type: none"> •Delayed notification to owners of stored vehicle •High storage costs •Difficulty accessing own vehicle •Limited control over choice of operator | <ul style="list-style-type: none"> •Abandoned vehicles •Lack of requisite vehicle and owner information | <ul style="list-style-type: none"> •Inconsistent standards and services offered •Difficult for insurers to access vehicle |

Within each of these categories, root causes of the issues and potential solutions were identified. The three issue categories are presented below, and the Storage Advisory Group’s key findings are highlighted. Additional issues and root causes are described in the body of the report.

Category 1 - Consumer Perspective

The Storage Advisory Group identified a number of issues from the consumer’s perspective related to vehicle storage. Two of the major issues relate to consumers receiving a delayed notice from operators when their vehicles are stored, and high storage costs. These two issues became the focus of the Storage Advisory Group’s discussions and recommendations. There are a number of root causes that may drive the first issue related to delayed notification, including that:

- The Repair and Storage Liens Act (RSLA) does not include a requirement for operators to provide owners or creditors with notice of storage prior to 60 days of storing the vehicle. In fact, notice would only be given after the 60 day mark in order for operators to be able to continue charging for storage or to sell the vehicle. Thus, there is limited incentive or obligation among operators to notify interested parties before the 60 day mark.
- storage operators cannot reasonably identify which vehicles will ultimately require notification, versus those that will be claimed by interested parties in due course without notification;
- operators do not always have immediate access to the information required to notify the owner, especially when there are other interested parties (e.g., lessors/lenders); and
- there is no consistent standard or mechanism by which to make notification.

High storage costs are perceived to be caused by delayed notice provided to owners, indirect costs from other operations may be built into the storage fees, no common understanding or benchmark of “fair value” in the storage industry, and exorbitant storage rates, in some instances.

Additional issues from the consumer perspective include experiencing some difficulty in accessing their vehicle once it is located, having no central body to oversee complaints, and a lack of choice in where their vehicle is stored.

Category 2 - Operator Perspective

Although not the original focus of the consultation sessions, a number of issues were identified from the storage operator perspective with respect to vehicle storage. One major issue from the operator perspective is that some vehicles are abandoned at storage facilities by owners. This issue relates to high storage costs noted in the previous section; in some cases, the storage costs may exceed the value of the vehicle. The cost to dispose of the vehicle may also exceed the value of the vehicle.

Secondly, storage operators do not always receive requisite information from tow truck drivers or owners, they may not be aware of existing resources available to access vehicle owner information, or are unwilling to incur costs related to accessing such information. This issue is perceived to be

caused by laws that prohibit access, a lack of awareness of effective information sources, and unwillingness among some customers to disclose their personal information.

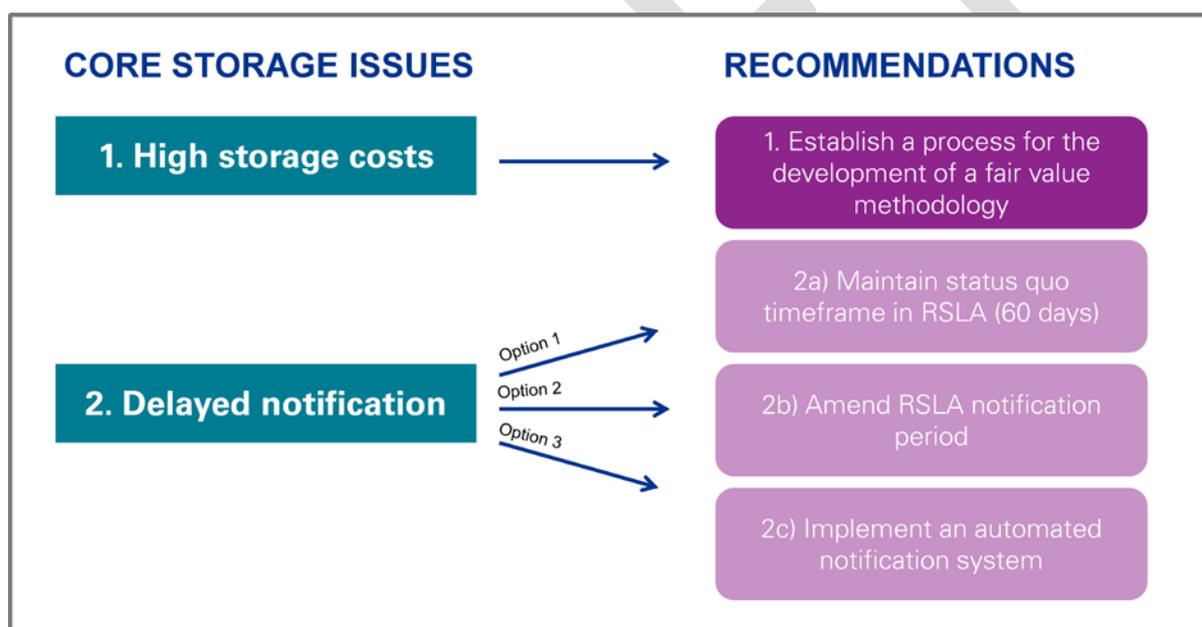
Category 3 - Other Issues

The Storage Advisory Group identified a number of issues that could not be categorized from either the consumer or operator perspective. One such issue relates to variability in standards and service offerings observed among vehicle storage facilities. This issue relates to the issue of cost identified from the consumer perspective above, as variable services result in variable costs. Additional causes of this issue include differences in the facilities and infrastructure offered by storage operators (e.g., indoor versus outdoor storage and land value), as well as inconsistent standards across municipalities regarding licensing, zoning and the definition of storage.

Lastly, similar to the issue noted from the consumer perspective, the Advisory Group also identified an issue related to consistent and appropriate access to stored vehicles by insurance companies (e.g., when storage facilities are not open 24/7).

1.4.3 Recommendations and Conclusions

The Storage Advisory Group reached agreement and produced recommendations in a number of areas. The following section describes the recommendations developed by the Storage Advisory Group relating to two core issues: notification timelines and fair value for vehicle storage.



Fair value for vehicle storage

High storage costs were noted to be an issue among some consumers, insurers and secured creditors. The first recommendation of the Storage Advisory group seeks to address this issue. The recommendation achieved consensus within the Advisory Group and is summarized below.

The Storage Advisory Group recommends that the Ministry undertake a review of possible ways to determine fair value.

The desired components of the fair value methodology are described below. Specifically, the **output** of the process is envisioned to be criteria, formula or check-list to determine fair value.

The **intended audience** of the methodology is storage operators, municipalities, owners, insurers and the judiciary, who may use the methodology to inform their pricing, or to resolve vehicle storage cost disputes between operators, owners, insurers or secured creditors.

The process to establish a fair value methodology should include involvement from **representatives of a number of relevant stakeholder groups**, potentially including: storage operators, vehicle finance and leasing companies, insurance companies, financial institutions, the judiciary, auto body repair operators, consumers, and other qualified professionals, as required.

Notification timelines

Following extensive discussions, the Storage Advisory Group determined that a single consensus recommendation could not be formed relating to the issue of delayed notification.

Instead, three potential solutions were proposed and are summarized below for the Ministry's consideration.

| Option | Description | Stakeholder Groups in Support of the Option |
|--|--|--|
| a) Continue with the status quo | This solution proposes to maintain the RSLA as is, with no requirement to notify before 60 days. | The majority of the storage and towing operators support this option. |
| b) Amend the notice period referenced in the RSLA | This option would see a mandatory notice period earlier than 60 days implemented. | If no feasible alternative option is found, this option is supported by: <ul style="list-style-type: none"> • Insurers • Financing companies • Consumers • Large vehicle fleet companies |
| c) Implement an automated notification system using existing and new data sources | An automated system could be implemented whereby operators are required to upload vehicle information, at which point notification is triggered and storage fees may begin to be accrued. Interested parties may then access the system to identify and locate their vehicles. | Tentative support to explore the option was expressed by: <ul style="list-style-type: none"> • Insurers • Financing companies • Consumers • Large vehicle fleet companies |

Generally, it was agreed that more information is required regarding the scale and scope of the notification issue in order to develop a consensus recommendation. For example, the investment required to establish and operate this system is unknown at this time. Without an understanding of the scale of the notification issue (i.e., average storage cost, average duration in storage, etc.) and the cost of the notification system, stakeholders could not recommend the option. It should be noted that members representing police and enforcement functions were not present in the Advisory Group consultation session at the time of gauging interest in the above options.

1.5 Conclusion

The Advisory Groups reached consensus on all but one recommendation put forward. There was full agreement to recommend a phased oversight model for the towing industry, with seven specific functions.

It was agreed that a process should be established to establish a methodology to establish fair value guidelines for the storage industry. Lastly, a number of options were presented for consideration to address delayed notification in storage.

The Advisory Groups are submitting this report to the Minister of Consumer Services to help inform the government's future decision regarding introducing oversight mechanisms for the towing and storage industries.

DRAFT

2 How to Read This Report

2.1 Overview

In the Fall of 2013, the Ministry of Consumer Services (MCS or “the Ministry”) requested that a group of industry stakeholders come together to form the Towing Advisory and Storage Advisory groups. These groups were asked to provide input and advice on issues and factors associated with the oversight of the towing and vehicle storage industries.

The purpose of this report is to summarize the work and recommendations of the Towing and Storage Advisory Groups formulated during consultation sessions held in January and February 2014 on the topic of towing and vehicle storage practices in Ontario. This report constitutes the final product of the Advisory Groups. KPMG was engaged by the MCS to facilitate consultation sessions with the Advisory Groups, document discussions and prepare this report on behalf of the Advisory Groups.

The Ministry is responsible for any and all decisions to implement any recommendations resulting from this Consultation Report and for considering their effects. Implementation of the recommendations may require the Ministry to plan and test any changes to ensure that the Ministry will realize satisfactory results.

2.2 Limitations

In producing this report, KPMG has summarized discussions and opinions raised by the Advisory Group members during consultations. KPMG has not independently verified the accuracy or completeness of the information offered by the members.

3 Background and Context

3.1 The Consumer Protection Problem

In the 2011 Provincial Budget, the Ontario government announced the creation of the Ontario Auto Insurance Anti-Fraud Task Force (Task Force). In its November 2012 final report, the Ontario Automobile Insurance Anti-Fraud Task Force recommended that:

- The government should implement a province-wide licensing scheme for the towing industry, to be administered by an Administrative Authority. Fraudulent practices should be addressed along with road safety and consumer protection issues (Recommendation 5).
- The government should amend provisions in the Repair and Storage Liens Act to reduce unreasonable towing and storage costs for vehicles damaged in a collision (Recommendation 7).

Recommendations from a recent Coroner's Inquest into the death of a driver following a collision with a flat-bed tow truck on Highway 403 also urge the government to address safety issues related to the towing industry (e.g., driver training and improved roadside safety).

In response, in the 2013 Fall Economic Statement, Ontario's government committed to work towards developing a province-wide solution to provide oversight to the towing industry, as well as issues related to vehicle storage. The creation of the Advisory Groups was brought about by the identification of towing and vehicle storage related issues in the Ontario Auto Insurance Anti-Fraud Task Force's final report.

3.2 The Role of the Ministry of Consumer Services

The Ministry of Consumer Services was tasked as the government lead for conducting research and making recommendations for provincial oversight of the towing and vehicle storage industries with the aim of:

1. enhancing consumer protection;
2. combating insurance fraud; and
3. improving road safety.

The Ministry participated in the consultation process in multiple capacities, including:

- organizing and selecting the Advisory Groups;
- organizing consultation sessions;
- engaging and managing KPMG as a third party vendor;
- observing and supporting conversations;
- providing insight and information to KPMG and the Advisory Group, where relevant and required; and
- responding to questions.

In addition, the decision to adopt any of the recommendations contained within this Report rests solely with the Ministry.

Participants from MCS and other relevant provincial Ministries are listed in Appendix 6.3 of this report.

3.3 Advisory Group Membership

The Ministry of Consumer Services held a consultation kick-off meeting on towing and vehicle storage with stakeholders in December 2013. The purpose of the meeting was to start the discussion, raise interest in these issues, and secure participants for the next stage of consultations.

Additional consultation meetings on towing and vehicle storage took place in late January and early February 2014.

3.3.1 The Towing Advisory Group

The 18-member Towing Advisory Group was comprised of stakeholders from the towing industry, insurance industry, consumer advocate groups, auto clubs, the vehicle financing and lease industry, the provincial government, Ontario municipal governments and police. This group's primary objective was to identify issues in the towing industry, and provide consensus recommendations to government on oversight of the towing industry. To develop these recommendations the Towing Advisory Group took part in three workshops. These workshops resulted in the development of a recommended towing industry oversight model, as well as potential future considerations for government.

Members of the Towing Advisory Group were asked to use their talents, experiences and knowledge to contribute to the conversation and the development of recommendations.

The membership of the Towing Advisory Group is listed in Appendix 6.1 of this report. Select members are pictured in the photo below.



3.3.2 The Storage Advisory Group

The 18-member Storage Advisory Group was comprised of stakeholders from the storage industry, insurance industry, consumer advocate groups, auto clubs, the vehicle financing and lease industry, provincial government, Ontario municipal governments and police. There was overlap between some of the members of the Towing Advisory Group and the Storage Advisory Group.

This group's primary objective was to identify issues in the storage industry, and provide consensus recommendations to government on oversight of the storage industry. To develop these

recommendations the Towing Advisory Group took part in two workshops. These workshops resulted in the development of consensus recommendations, as well as areas of future consideration for government.

The membership of the Storage Advisory Group is listed in Appendix 6.2 of this report. Select members are pictured in the photo below.



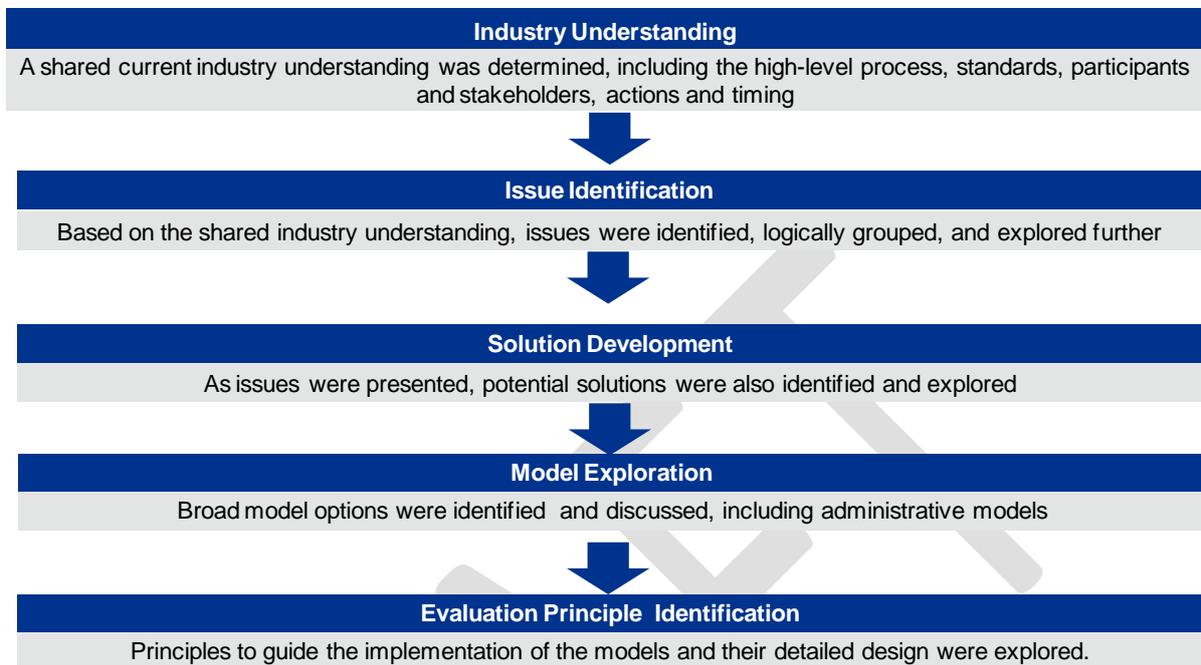
3.4 Consultation Process

The Ministry of Consumer Services committed to holding up to five public consultation sessions relating to oversight of the towing and vehicle storage industries. The diagram below summarizes the objectives and outcomes of each of the four scheduled sessions. The consultations sessions took place between January and February 2014.

| Work Shop | Participants | Discussion Topics | Outcomes |
|--|------------------------|---|--|
| 1 Scope and Issues - Towing (Jan. 30) | Towing Advisory Group | <ul style="list-style-type: none"> Level setting: current industry Issue identification Establish evaluation principles Preliminary solution generation | <ul style="list-style-type: none"> Consensus issues identified List of potential solutions Ideal evaluation principles |
| 2 Solution Testing (Feb. 5) | Towing Advisory Group | <ul style="list-style-type: none"> Review and refinement of preliminary solutions Identify desired functions and outcomes of the oversight body Prioritize functions Identify potential service delivery entities | <ul style="list-style-type: none"> Preliminary consensus recommendations regarding the functions of the oversight body |
| 3 Scope and Issues - Storage (Feb. 6) | Storage Advisory Group | <ul style="list-style-type: none"> Level setting: current industry Issue identification and analysis Preliminary solution generation Identify considerations that could be used to guide the establishment of fair value and notification times | <ul style="list-style-type: none"> Consensus issues identified Considerations to establish fair value and notification time List of potential solutions |
| 4 Summary Session (Feb. 13) | All | <ul style="list-style-type: none"> Validate stakeholder input on issues Review and discuss potential models | <ul style="list-style-type: none"> Stakeholder-driven consensus recommendations |

3.5 Overview of Discussion Topics

The consultation process was designed to be iterative, with each exercise, discussion and session building upon the outcomes of the preceding activity. In general, the approach illustrated below was followed for each Advisory Group:



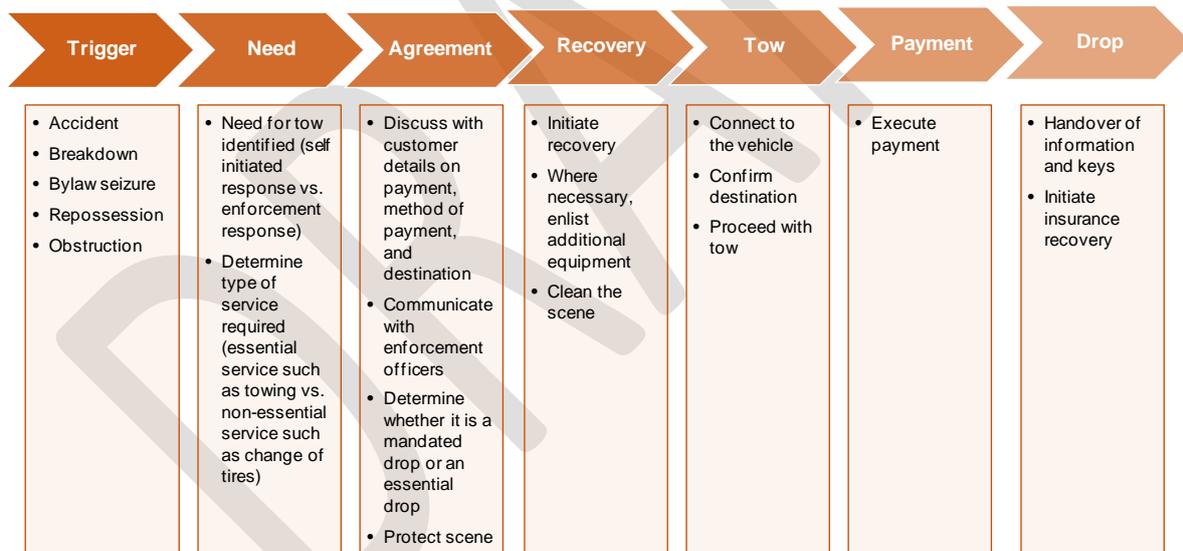
4 Towing

4.1 Understanding the Towing Process

To begin the consultation process, the Towing Advisory Group set the parameters for discussion by identifying the high-level process steps involved in towing, and relevant stakeholders and participants involved in the process. As a result, the Towing Advisory Group came to a common understanding of the towing industry, and was able to focus their analysis on select areas. The primary stakeholders and participants were identified and defined as follows:

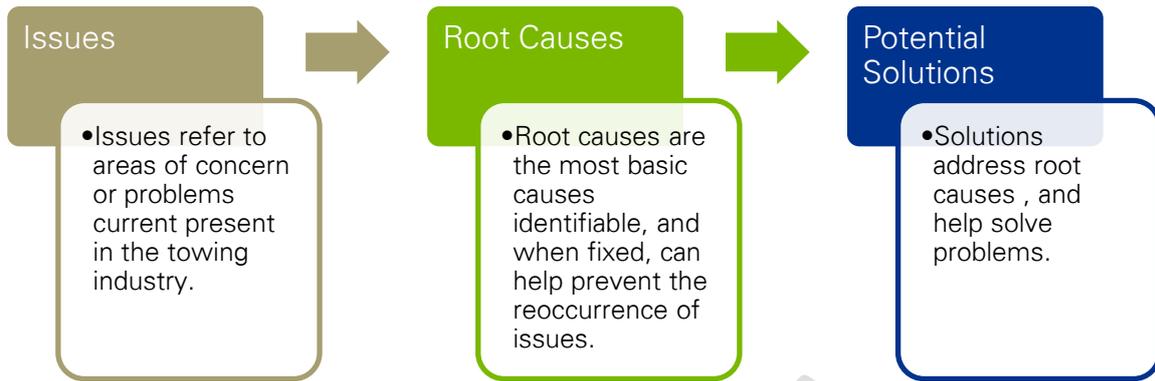
- **Consumers** – The owner or secured creditor of a vehicle
- **Tow operators** – Individual responsible for driving tow trucks and performing towing services
- **Service providers** – Any individual that provides a service triggered by the towing process, including towing operators
- **Payer** – The individual or entity responsible for paying tow operators and service providers. This generally includes consumers, auto clubs and insurance companies.

The graphic below illustrates a high-level summary of the generic end-to-end steps involved in towing, as well as activities that may take place under each step. Of note, multiple variations in the activities and order were identified by the Advisory Group. The diagram below summarizes activities that may, but do not necessarily take place in all instances.



4.2 Issues, Root Causes and Potential Solutions

Based on the common understanding of the industry, the Advisory Group then explored the most pressing issues facing the towing industry. Once a list of consensus issues was identified, the Advisory Group performed a root cause analysis on each issue to develop a deeper understanding of why these issues were occurring. Finally, the group collaboratively developed potential solutions for issues. Solutions deemed to be realistic were explored in greater detail during the selection of an oversight model; additional details are provided in section 4.3.1. The graphic below includes a definition of terms and illustrates how one step logically feeds into the next.



The five broad issue categories the Advisory Group identified are summarized in the graphic below and described in detail in the following section.

| Safety | Consumer Awareness and Protection | Unprofessional Practices | Consumer and Provider Costs | Other (Industry Issues) |
|--|---|--|---|---|
| <ul style="list-style-type: none"> Tow operators safety General road safety Public safety | <ul style="list-style-type: none"> Uninformed decision making Opportunistic behaviour | <ul style="list-style-type: none"> Misinformation Fraud Improper fees for service | <ul style="list-style-type: none"> Inconsistent rate or excessive rates No fair value for service | <ul style="list-style-type: none"> Sustainability Negative industry perception among public |

Please note, at the time of this report, no analysis was conducted regarding the scale or scope of the issues noted below; that is, the Advisory Group did not validate whether the issues are true generalizations or isolated incidents.

4.2.1 Safety

■ Issues

The Advisory Group identified tow operator and general road safety as a broad issue area. This issue is important as those working in the towing industry and Ontario’s motorists should be protected from unnecessary risk.

Specific issues in this category pertain to high rates of tow operator vehicular accidents (as referenced in recent Coroner Reports). These types of vehicular accidents were noted to occur when tow operators are rushing to the scene of an incident, conducting towing operations with improper equipment, or while their trucks are stationary (i.e., other motorists will run into their parked vehicle). The general public is also put at risk in these instances, both on scene and en route in situations that are often avoidable. Tow operator injuries can also occur during the course of routine tow operations, as there is some inherent danger in the profession.

■ Root Causes

The Towing Advisory group found that the general public has limited awareness of safety measures, which can increase risk for both tow operators and the public.

In addition, currently, there is a sense of urgency for operators to arrive on the scene first, which may compromise safe driving; if tow operators are not on the scene first, they generally will not get the associated work.

Motorists also contribute to these issues as they are unfamiliar with the safety measures, such as moving over when tow operators are providing service, or pulling their car to the shoulder of the road if it is disabled.

Additionally, there is no single point of responsibility for creating, overseeing and enforcing standards relating to training, equipment, communication and operations. Best practices are not tracked and there is no one responsible for sharing them. There are also few disincentives for unsafe behaviours.

■ **Solutions**

A potential solution to these issues is the creation of an oversight body with the ability to establish and enforce standards across the towing industry. These standards could include training standards that individuals must meet to be tow operators, as well as minimum equipment standards, and could be enacted through regulation, among other means.

Additionally, the Advisory group suggested that a potential standard response model be developed. Rather than the status quo (“first on the scene”), a different model to triage, or demand management could be implemented.

4.2.2 Consumer Awareness and Protection

■ **Issues**

The Advisory Group identified a number of issues related to consumer awareness and protection. Specifically, the Advisory Group heard that consumers generally lack knowledge of towing practices, and their own consumer rights. This results in consumer vulnerability, as consumers are unprepared to make informed decisions about services offered by towing providers and other related industry stakeholders. Consumers often are unaware of the following areas:

- payment methods;
- tow destinations; and
- fee information.

This lack of information can enable opportunistic behaviour among operators. Additionally, in cases, such as a serious collision, opportunistic behaviour can emerge as consumers cannot choose operators, the services provided or the price charged. Drivers involved in traffic collisions are often in a vulnerable state and have difficulty making decisions.

■ **Root Causes**

There is a lack of tow industry education and awareness aimed at consumers in general, and during the tow process, information is not always effectively exchanged. Complex and varying jurisdictional standards also make it difficult for consumers and tow operators alike to gain a coherent understanding of the industry.

There is also no oversight model, or standards in place requiring tow operators to inform consumers that their vehicle has been towed, or standards to help ensure that tow operators attempt to provide information to consumers. Tow operators can also have difficulty finding out relevant consumer information due to various forms of privacy legislation, which they suggest makes it exceedingly difficult to contact individuals with relevant information.

Finally, both consumers, and tow operators do not have a one-window entity with which to raise issues or complaints, so there is no clear avenue for recourse or protection in the event of real or perceived wrong-doing.

■ Solutions

The Advisory Group identified a number of potential solutions to these issues, including the creation of a centralized body to track and address complaints from both consumers and tow operators, in an effort to improve consumer protection. Moreover, consumer awareness and the exchange of information on-site could be improved by requiring tow operators to visually identify themselves and through the use of existing best practices such as mandatory towing authorization forms.

Issues related to consumer awareness and protection could also be addressed by educating consumers on key issues, (e.g., their consumer rights in the towing process) by leveraging existing driver certification program training or “pink slips”, or an awareness campaign.

4.2.3 Unprofessional Practices

■ Issues

The Advisory Group identified a number of issues relating to unprofessional practices, ranging from misrepresentation and misinformation being provided to consumers, to outright fraud. Specific issues identified include:

- invoice padding to increase consumer costs;
- inappropriate or unsolicited referrals and related “kick-back” fees;
- multiple tows per incident, unjustifiably driving up service costs;
- reselling plates to unlicensed operators, leading to safety issues;
- lack of tow operator visual identification, causing consumer confusion;
- refusal to accept non-cash payments; and
- client information not requested/received at the time of the tow, resulting in consumers being unable to locate their vehicle after the fact.

Most of the issues identified in this category related to consumers being misled by service providers (including tow operators, and other related providers) for monetary gain.

■ Root Causes

The Advisory Group concluded that these issues were occurring because there are few barriers in place to discourage unprofessional practices, or in other words, current circumstances allow a tow operator to exploit the system for financial gain. There are also few consequences, or deterrents in place, as no entity is responsible for creating and enforcing common standards or a code of conduct to inform professional practices. While some unprofessional practices may be intentional, others may simply be the result of a limited understanding of what should constitute professional practices.

■ Solutions

The Advisory group developed potential solutions related to the creation of an oversight body to provide monitoring and enforcement functions. This enforcement mechanism could be tied to licensing system, and, as an example, result in penalties for unprofessional practices. This solution would likely have to involve government in some capacity to lend gravity to enforcement mechanisms.

Another potential solution could involve creating a data repository to track tow operator performance, which may help identify tow operators engaged in unprofessional practices. In addition, fair value for storage services could be determined.

4.2.4 Consumer and Provider Costs

■ Issues

The Advisory Group identified a number of issues related to consumer and provider costs. From a consumer perspective, there can be inconsistent or excessive rates for service or in some instances, fraud. Additionally, consumers can be subject to unclear and unprofessional payment processes, including a refusal to accept non-cash payments, and confusing invoices.

From a provider perspective, other industry stakeholders such as insurers and consumers sometimes expect lower than realistic prices – this can include the general public, insurers, auto clubs and municipalities with fixed rates. Additionally, the Advisory Group heard that tow operators, at times, are not compensated for their services or are left with the responsibilities to dispose of cars they have towed (e.g., when asked by the police).

■ Root Causes

The Advisory Group found that there is no “fair” price guidance for towing pricing or an established industry baseline cost. There is also limited consumer awareness about industry pricing norms. Confusion persists around these issues because of the many variables that could be factored in the price of a tow, including:

- tower operator differences (e.g., equipment, training, etc);
- scenario (e.g., accident vs. non-accident);
- geographical location;
- type of insurance coverage;
- equipment; and
- market forces.

Consumer and provider cost issues can also be related to unprofessional practices, and the lack of an oversight body to create and enforce common standards or a code of conduct to inform cost guidelines.

■ Solutions

Potential solutions include establishing industry wide cost guidelines or a standard price schedule that is adaptable for a variety of situations. A first step to creating these guidelines is the determination of what constitutes “fair value.” Once these guidelines have been developed, it was suggested that towers should display standard price lists, similar to those used by a taxi.

4.2.5 Industry Issues

■ Issues

Members of the Advisory Group identified several issues related to the health and sustainability of the towing industry. There is a concern among these members that the public is developing a negative perception of the industry as a minority of unprofessional operators are negatively affecting the reputation of the industry as a whole.

An industry related labour dynamic issue was identified as well. Members of the Advisory Group perceive that turnover rates were high, and increasing, particularly among young tow operators. This is harmful to the industry as it can result in business owners having to provide costly on-boarding and training services. High turnover also results in more inexperienced operators on the

road. Combined with a growing fragmentation of the industry, the members raised concerns about the sustainability of towing as a viable and healthy profession.

■ **Root Causes**

Members of the Advisory Group also noted that the general public does not always understand or appreciate the important service that tow operators provide to the public; it was highlighted multiple times that towers are essential in keeping traffic moving, and heavily relied upon during road emergencies, like severe weather events.

Additionally, it was recognized that inappropriate operator competence by select operators is likely to damage the image of the industry. Poor operator performance could be the by-product of limited training, and the fact that there are few qualifications required to become a tow operator.

Driver turnover is likely driven by the limited perceived benefits and risk associated with pursuing a career as a tow operator.

■ **Solutions**

Potential solutions to address these issues include establishing licensing system that has training requirements, as well as other qualifications to enter the profession, such as background checks. These training requirements could also help to develop an increasingly skilled work force, which may make towing a more attractive industry.

Finally, the industry reputation could be improved by creating a mechanism to address unprofessional behaviour, and ultimately remove routinely unprofessional tow operators from the industry.

4.3 Recommendations and Conclusions

After careful consideration, and much discussion regarding issues and potential solutions, the Advisory Group was able to develop a consensus recommendation to government in an effort to remedy the issues identified above.

The Towing Advisory Group recommends the implementation of a province-wide towing oversight model.

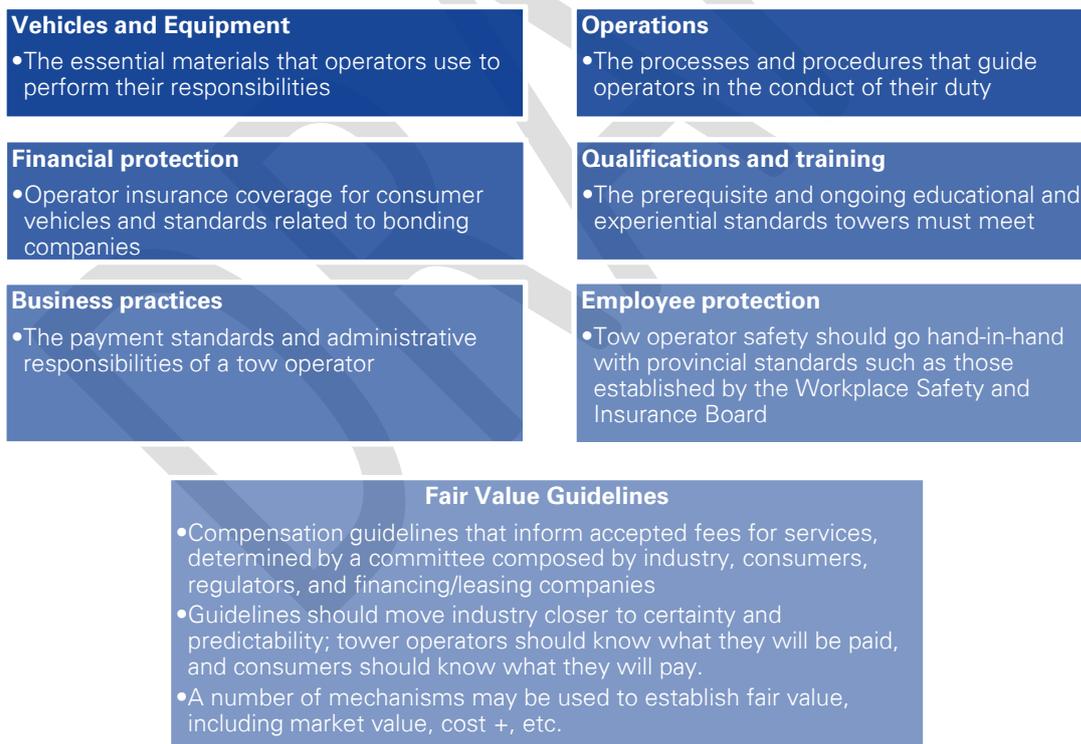
Specifically, the Advisory Group identified seven potential functions of an oversight body; these functions represent the “work” that the oversight model should undertake to address the current issues in the towing industry. Each function is listed below, and explained in the following section.



4.3.1 Towing Model Oversight Functions

Function 1: Set Standards

The Towing Advisory Group recommends that an oversight model should set standards that must be met and adhered to by towers, operators and businesses, across a variety of critical industry areas. The graphic below lists areas that should be subject to common standards.



To effectively address issues related to safety, consumer protection, unprofessional practices and provider costs, these standards must be monitored and enforced as well as routinely updated. Standards may be enacted using regulation or other means. Additionally, standards should differ for light, medium and heavy tow trucks and towing engagements, and other relevant variables.

■ Function 2: Establish Province-wide Licensing, Monitoring and Enforcement

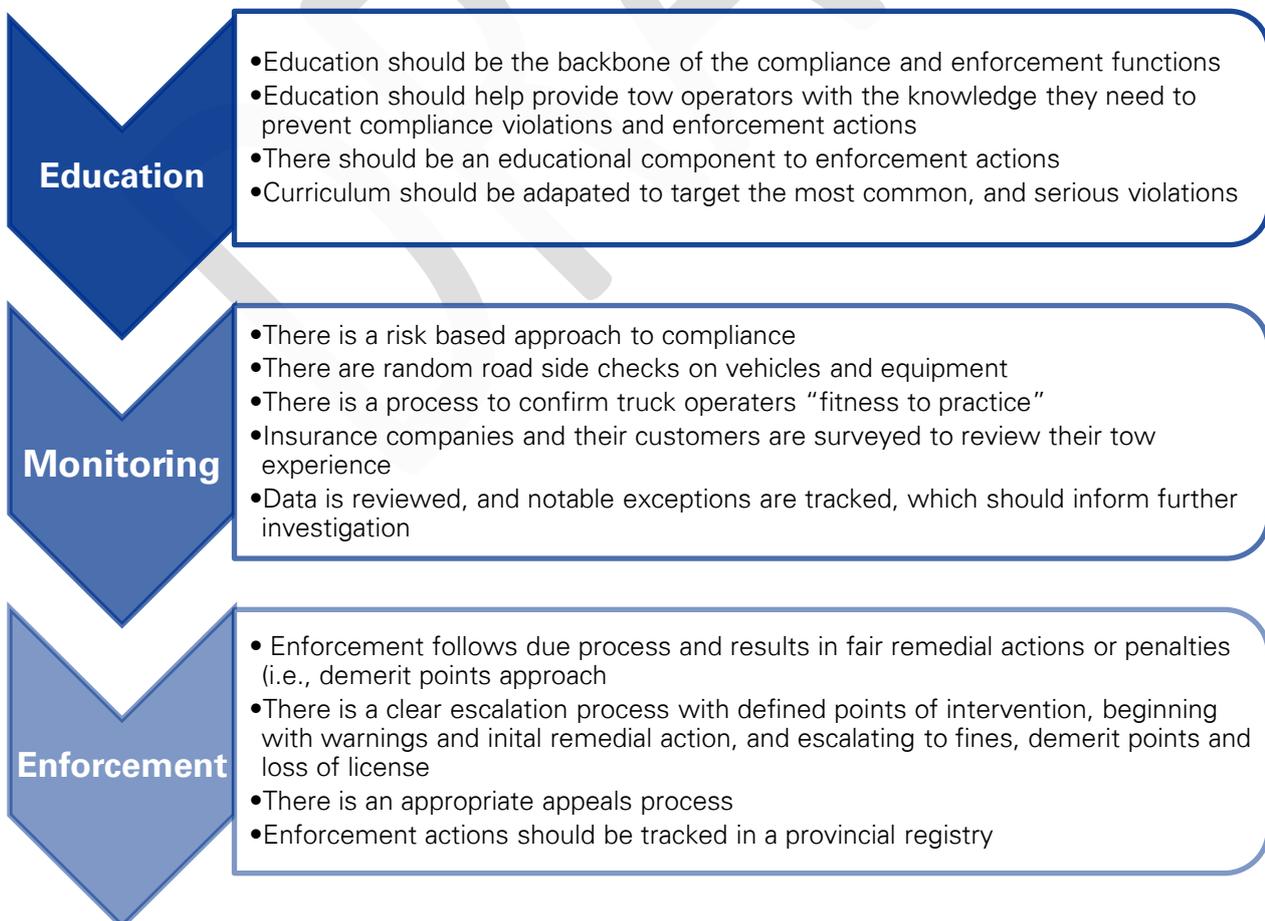
The Towing Advisory Group recommends the establishment of a towing license system. All tow operators, trucks and businesses in the province of Ontario should be certified under this licensing system. This specialized towing licensing should:

- help ensure that those in the towing profession have the required knowledge, skills and experience to meet established industry standard;
- confirm continuing operator fitness to practice by requiring license renewal;
- offer appropriate licensing for different activities and skill sets;
- leverage existing leading practices from municipalities as opposed to creating a new method or approach; and
- require mandatory visual identifiers for licensed drivers and equipment (e.g., “sticker” identification on vehicles indicating that an operator is licensed).

To earn a license, individuals should meet established criteria relating to background (e.g., criminal record checks, driving history, etc.) and training. Training should include a blend of practical and on-the-job training, and as well as training on industry standards.

Trucks and businesses should also require certification/licensing to help ensure that towing trucks have the appropriate equipment and that this equipment is appropriate for the corresponding class of vehicle. Equipment capacity should be determined by a multidisciplinary committee integrated by industry, manufacturers, engineers, MTO, and others.

This licensing system should be supported by education, compliance monitoring and enforcement functions, as displayed below.



Function 3: Manage Consumer, Provider, and Payer Complaints

The Towing Advisory Group recommends that an oversight model should provide a single point of contact for each of consumers, providers, and payers to make complaints. Complaints should be accepted at any time, capture topics beyond safety (e.g., competence, fraud) and be open to all industry participants. This complaints mechanism should have a structured intake process, with criteria for determining valid complaints and address both urgent and non-urgent requests. The complaint mechanism should be transparent, apply due process and result in specific resolutions or mediation, where possible.

Complaint data should be tracked, trends analyzed and exceptions noted to inform standards and training development, as well as compliance and enforcement actions. Additionally, the oversight body will need to have a clear focus on effectively capturing complaints and recognize that a lack of complaints does not necessary mean there are not issues, as issues may go unreported for a variety of reasons.

Function 4: Provide Consumer Awareness

The Towing Advisory Group recommends that an oversight model should provide consumers with the knowledge to make informed decisions, based on input from the towing industry, government, consumer groups, insurance companies and police. Information that the Advisory Group believes that consumers should be aware of is captured in the table below.

| Consumer Awareness Topics | |
|--|--|
| <ul style="list-style-type: none">• Towing industry costs and practices• What to do in the event of an accident/incident• Location of vehicle after it has been towed• Consumer rights and obligations (including financial obligations)• Accepted payment processes | <ul style="list-style-type: none">• Roles and responsibilities of stakeholders within the towing industry (e.g., police, towers)• The difference between essential services (i.e., towing) and non-essential services (i.e., a tire change)• Payment information, by line items (e.g., descriptions of what administrative fees may include) |

Consumers should be able to access this information when required, through a single public portal with general industry information and via mobile technology.

Enabling consumers through awareness should help them make more informed decisions, thereby increasing consumer protection, and reducing instances of unprofessional practices and disputes over service provision and costs.

Function 5: Manage Registry and Data Repository

The Towing Advisory Group recommends that an oversight body be responsible for establishing a registry to track towing industry operators and a data repository to collect a wide variety of information. This information should be compiled based on tow operator cooperation, and leveraging information already tracked by Ontario's municipalities.

The information tracked is included in the table below.

Registry and Data Repository Information

- Individual operator and vehicle information (including photos)
- Industry-wide operator and vehicle information
- Safety and performance metrics
- Service provided, equipment used and service fees
- Tow operator time on the road
- Company information and performance
- Complaints, tracked by type and outcome
- Incidents and details
- Operator and business insurance status
- Abandoned vehicles, left with tow operators

It should be mandatory to provide this data and key components of it should be made available to the public to help improve awareness, while managing privacy considerations. Those administering the oversight model should use this data to help set industry standards, compare Ontario to other jurisdictions and inform decision making. The Towing Advisory Group also noted that this data should help address unprofessional practices, by tracking tow operator performance and providing insight into compliance.

Function 6: Provide Access to Cost Recovery Tools

The Towing Advisory Group raised a consideration that, in the future, a towing industry administered oversight model could include a self-funded relief mechanism to compensate tow operators in the event that operating losses are incurred, through no fault of their own. This function is similar to a type of insurance that could be established through an industry-funded compensation pool, commercially available insurance products or other means. The need for this function was not unanimously supported by all stakeholders and is presented as an archive of the discussion and as a consideration for the long-term functionality of the model.

This function could include a claim management process to determine valid claims, adjudicated by a group with representatives from industry, government and other functional experts.

Function 7: Industry Representation and Coordination

The Towing Advisory Group raised a consideration that, in the future, a towing industry administered oversight model could include an industry coordination function to act as the voice of the industry and liaise with key stakeholder groups. This function could also help coordinate other oversight functions of stakeholders, including government, insurance companies, police and other parties:

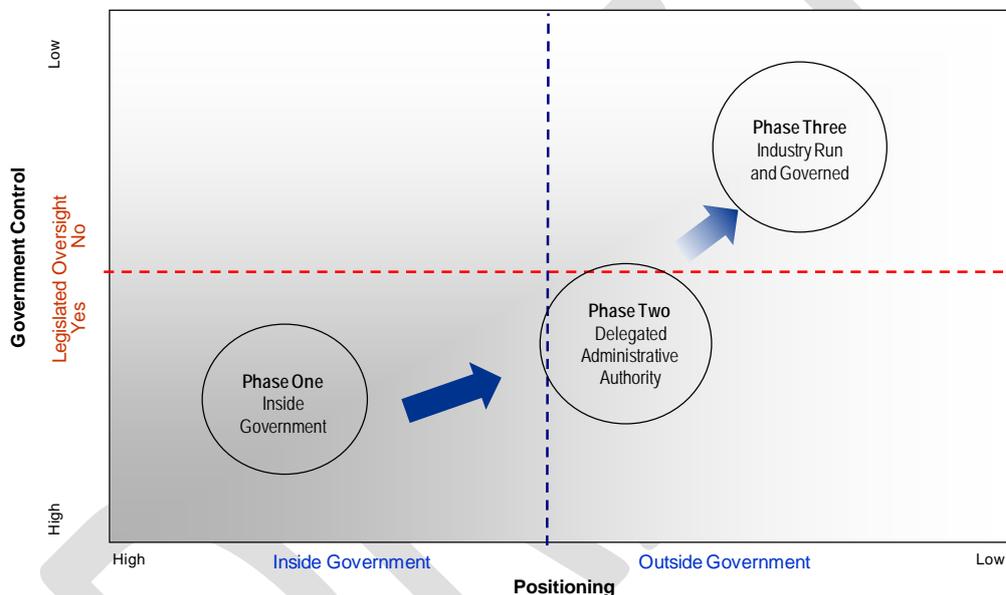
This function may be a consideration in a future state scenario wherein an oversight model is generally independent of government, and primarily delivered and administered by the towing industry.

4.3.2 Organization Evolution

The Advisory Group also discussed potential approaches to model administration. The three approaches mentioned below were discussed conceptually with the Advisory Group.

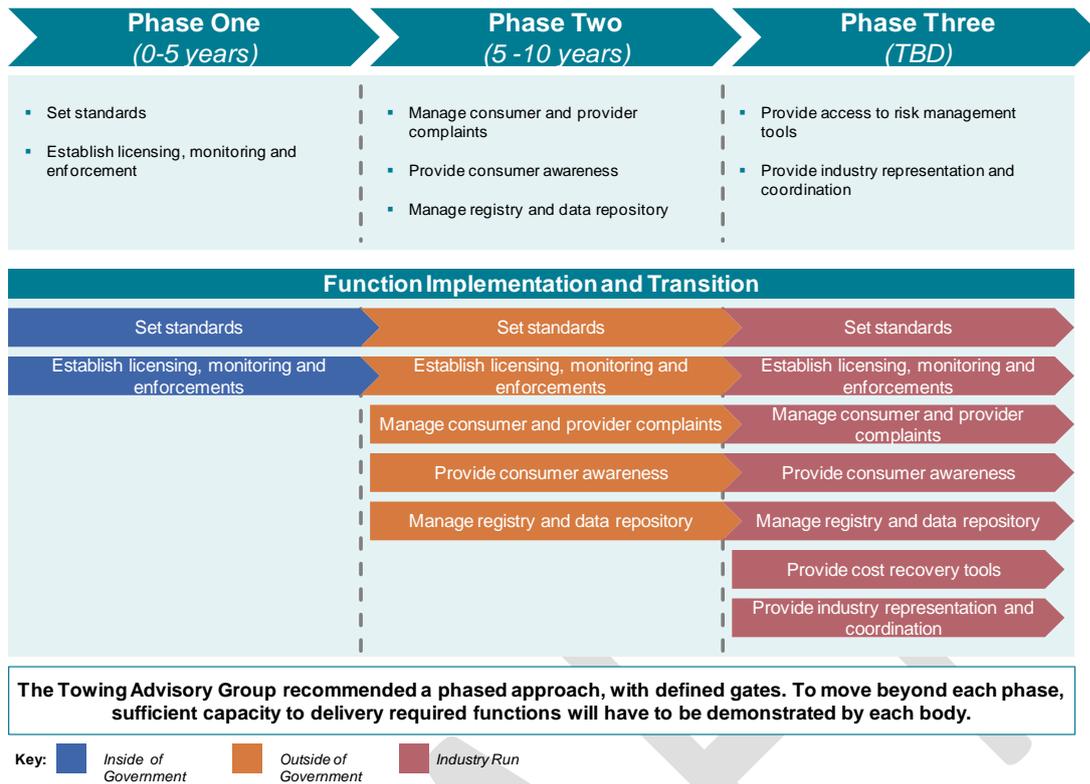
- **Inside of Government:** Government would be accountable for model oversight functions and responsible for delivery.
- **Delegated Administrative Authority (DAA):** Government would establish legislation and regulations, and the DAA would be responsible for ensuring that the legislation and regulations are implemented and enforced.
- **Industry Run:** An industry body, independent of government, could be accountable for the oversight functions and responsible for delivery.

The Advisory Group recommended that the oversight model should begin inside of government and transition into a Delegated Administrative Authority, provided that sufficient capacity exists outside of government. Select members of the Advisory Group raised the consideration that, over time, the model could further transition to an industry-run organization; however this would take place in the future, and require further analysis. The graphic below displays the level of government administrative and financial control over the respective approaches, as well as the potential transition process.



4.3.3 Towing Model Function Prioritization

The Towing Advisory Group provided recommendations regarding the priority with which model functions should be implemented. Functions were prioritized based on perceived urgency, and on the basis of which functions were most likely to result in the most significant impact to the towing industry. Based on this prioritization, the Advisory Group recommended a phased approach to implementing an oversight model. The functions identified in Phase One were deemed to address the most pressing issues.



Phase One

The Advisory Group recommended that the first phase of the oversight model implementation should focus on the following functions:

- set standards (e.g., through regulation); and
- establish licensing, monitoring and enforcement.

The functions in this initial phase should be designed to address the most critical issues in the towing industry, particularly those related to **consumer protection and awareness, unprofessional practices** and **safety**.

The Advisory Group observed that government currently has the capacity to deliver these functions, whereas other industry stakeholder would require significant lead time to effectively begin administering an oversight model. As such, the Advisory Group recommended that oversight model begin inside of government. One consideration could be adapting current government programs to meet the needs of a towing oversight model. The Commercial Vehicle Operator's Registration (CVOR) program, the Driver Certification Program (DCP) and the College of Trades were noted as potential existing mechanisms that could meet the needs of the towing industry, with some exceptions or tailoring required. The CVOR is a program to monitor the on-road safety performance of truck and bus companies. Progressive intervention is taken when carriers reach certain levels of non-compliance with on and off-road requirements.

The DCP is a voluntary program which gives organizations authority from the ministry to train and test their employees/students for the purpose of upgrading or renewing driver's licences. The following types of organizations are eligible to participate in the DCP: Community Colleges, safety organizations, government and private business/ industry can all participate in the DCP.

The Ontario College of Trades is an industry-driven body responsible for raising the profile of, and promoting involvement in skilled trades, including regulating apprenticeships. Specifically, the College of Trades currently delivers education, qualifications, standards, registration, and compliance and enforcement functions for registered trades. It is plausible that the towing industry could have access to such services and functions if towing were made a registered trade.

With consideration to the unique requirements of the towing industry, the programs described above could be feasible mechanisms to deliver the functions desired in Phase 1 of the oversight model. Using existing programming and structures will enable the government to respond quickly to the issues faced by the industry, relative to other models. Moreover, Phase 1 will leverage the existing expertise, knowledge and infrastructure of the government. Before proceeding to Phase Two, the Ministry may wish to evaluate the performance of the model and seek to understand remaining gaps in services to be addressed in subsequent phases. Such an evaluation would provide insight into the need and readiness for further evolution of the model.

Phase Two

During this second phase, it is recommended that the oversight model moves from government administration and delivery towards a delegated administrative authority. Depending on the results achieved, the government may wish to reconsider the implementation of other functions. However, if issues are found to persist, the second oversight phase of the oversight model should focus on expanding the functions to include:

- manage of consumer, provider and payer complaints;
- provide consumer awareness; and
- manage a registry and data repository.

Phase Three

Select members of the Towing Advisory Group noted that the government may wish to consider a third implementation phase, wherein the oversight model moves entirely away from government control and legislated oversight. During this third phase, functions to be implemented could include:

- provide access to cost recovery tools;
- provide industry representation and coordination.

These considerations should be further examined after the implementation of the first two phases. Similar to the evaluation conducted following implementation of Phase 1, a similar evaluation conducted during Phase 2 will allude to the need and readiness for further change, potentially including moving the model outside of government. This phase was not unanimously supported by all stakeholders and is presented as a consideration for the long-term future of the model.

4.3.4 Implementation Considerations

The Towing Advisory Group established a number of evaluation principles to help weight the merits of potential options. The Advisory Group recommends that these evaluation principles should be considered by the Ministry during the selection and implementation of an oversight model.

Evaluation Principles

The model helps makes towing an attractive industry and career path

The model adds value for industry stakeholders

The model does not compromise the vital towing network's sustainability

The model is transparent to all stakeholders

Those that participate in the model's benefits also participate in its costs

The model is financially self-sustaining

Collaboration is encouraged and industry cooperation is improved

Implementation timing is realistic and is feasible

The model helps protect consumers and addresses fraud

The model improves safety for all

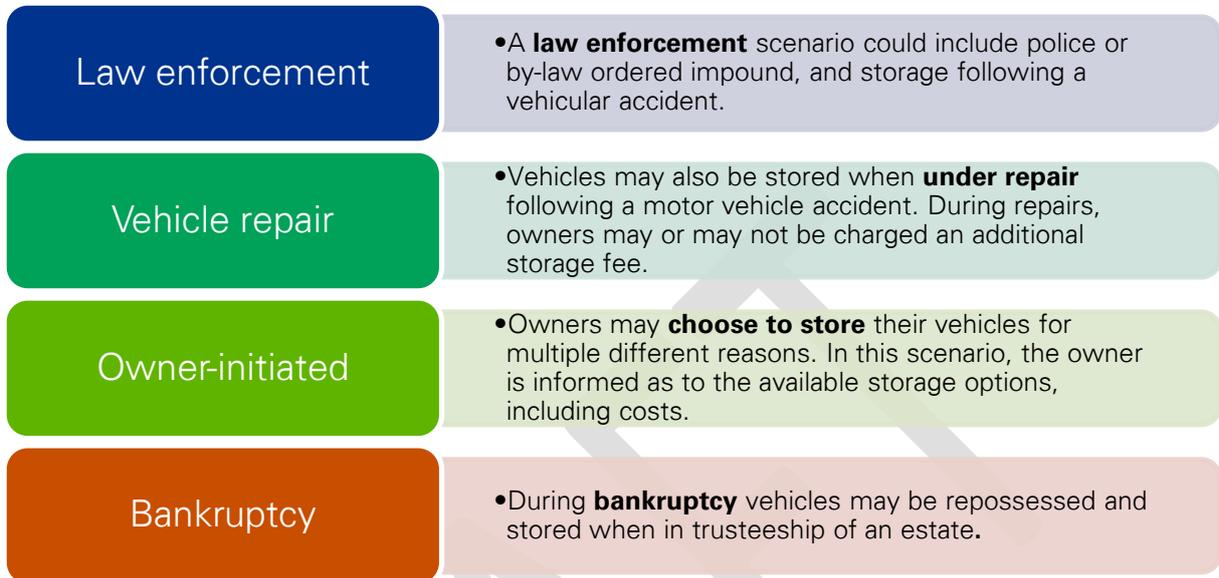
The model has the right level of government oversight and support

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5 Storage

5.1 The Need for Vehicle Storage

The Storage Advisory Group noted four potential scenarios in which a vehicle may be stored. Once identified, the scope of the discussions of the Advisory Group included all four categories of storage.



It should be noted that the Storage Advisory Group focused specifically on *vehicle* storage, as opposed to storage of equipment or other items covered under the RSLA.

5.2 Issues, Root Causes and Potential Solutions

The Storage Advisory Group identified three broad categories of issues; two of the categories represent the perspectives of major stakeholder groups - the consumer and the provider. The diagram below summarizes the key issues identified under each category.



Within each of these categories, root causes of the issues and potential solutions were identified. The three issue categories are described in detail below and the Storage Advisory Group’s key findings are highlighted.

Please note, at the time of this report, no analysis was conducted regarding the scale or scope of the issues noted below; that is, the Advisory Group did not validate whether the issues are true generalizations or isolated incidents.

5.2.1 Consumer Perspective

For the purpose of the consultation discussion and this report, “consumer” was defined as the owner of a vehicle. The Storage Advisory Group identified a number of issues from the consumer perspective related to vehicle storage. Two of the major issues relate to receiving a delayed notice from operators when vehicles are stored, and high storage costs. These two issues became the focus of the Storage Advisory Group’s discussions and recommendations.

5.2.1.1 Delayed notification of vehicle storage

■ Issue

The RSLA stipulates that a storage operator is required to give notice to every person whom the storage operator knows or has reason to believe is the owner or has an interest in the vehicle within 60 days after receiving the vehicle if it is received from a person other than the owner or a person having the owner’s authority. In some instances, owners, insurers, secured creditors or other interested parties perceive that they receive delayed notice from storage operators.

■ Root Cause

A number of root causes were identified by the Storage Advisory Group that may contribute to delayed notification. First, the RSLA does not include a requirement for operators to provide owners or creditors with notice of storage prior to 60 days of storing the vehicle. In fact, notice would only be given after the 60 day mark in order for operators to be able to continue charging for storage or to sell the vehicle. Thus, there is limited incentive among operators to notify interested parties before the 60 day mark. Secondly, storage operators noted taking in numerous vehicles on a daily basis. The constant churn of operations makes it difficult for storage operators to keep track of incoming and outgoing vehicles. Moreover, there was a perception among storage operators that in the vast majority of cases, most vehicles will be located and claimed by the owners prior to notification from the operator; in other words, notification is a non-issue.

Another potential cause for a delay in notification relates to a lack of information. Specifically, operators do not always have immediate or easy access to the information required to notify the owner, especially when they are other interested parties (e.g., leasers/lenders), as will be described in further detail in the following section. Related, while the RSLA stipulates the contents of a notice, there is no consistent or standard mechanism by which to make notification.

■ Solution

The table below summarizes potential solutions that were offered by members of the Storage Advisory Group to address the issue of delayed notification.

| | Potential Solution | Description |
|---|---|--|
| 1 | Reduce the notification period stipulated in the RSLA | A reduction in the notification period from 60 days seeks to curtail storage expenses incurred by owners or secured creditors; correspondingly, operators stand to lose revenue. |
| 2 | Raise consumer awareness regarding storage practices | Consumer awareness regarding storage practices and costs, and consumer rights and obligations could enable consumers to locate their vehicle sooner. |

| | Potential Solution | Description |
|---|--|--|
| 3 | All storage operators become “authorized requestors” of the existing vehicle information systems | Currently, individuals or organizations may become “authorized requestors” of existing information systems within the Ministry of Transportation, providing them with information regarding vehicle liens. |
| 4 | New towing entity becomes an “authorized requestor” of the existing vehicle information systems | As described above, an organization could become an authorized requestor to collect vehicle information on behalf of individual operators. This model would have an impact on the cost per request. |
| 5 | Create centralized/regional impound locations | The use of a select number of vehicle impound locations in each region would enable owners and interested parties to locate their vehicles as the number of options would be limited and known. |
| 6 | Create a centralized vehicle information repository and notification system | A system could be created that addresses the needs of all stakeholders. Specifically, the system could be used by operators to deliver notification of storage, and could be used by interested parties to locate their vehicle. |

Ultimately, the Storage Advisory Group acknowledged that most of the options listed above (i.e., options 2-5), offered partial solutions to deeper or further reaching issues. Thus, it was agreed that the creation of a centralized vehicle information repository was the only potentially viable alternative to the default solution of amending the RSLA. The Recommendations and Conclusion section of this report summarizes the discussion and analysis surrounding these two options in further detail.

5.2.1.2 High storage costs

■ Issue

Under the RSLA, storage operators may charge any daily or maximum rate for storage of a vehicle. Specifically, the RSLA stipulates that the storage operator may charge an amount agreed upon, or when no agreement, the fair value of the storage. Fair value is not defined in the RSLA nor was a formal definition agreed upon during consultation with the Storage Advisory Group. The Storage Advisory Group identified high storage costs as one issue observed by consumers, insurers and secured creditors. This issue then has implications on complex and time consumer arbitration between the interested parties and operator.

■ Root Causes

High storage costs are perceived to be caused by the following:

- **Delayed notice provided to owners** – The longer the notification period, the higher the associated storage costs;
- **Indirect costs from other operations may be built into the storage fee** - Storage operators may also operate repair, towing or other services, the costs of which may indirectly affect or be allocated towards storage fees; and

- **There is no common understanding or benchmark of “fair value” in the storage industry** – The RSLA does not provide guidance on “fair value”. The term is left open to interpretation by stakeholders.
- **Exorbitant rates charged by some storage operators** – There is no regulated rate for storage. As a result, storage operators may charge any rate for storage.

■ Solutions

While addressing the issue of delayed notification would have implications on storage costs and potentially remedy this issue, the Storage Advisory Group also identified two additional solutions to address high storage costs. The solutions are described in the table below.

| | Potential Solution | Description |
|---|---|---|
| 1 | Establish a multi-representative process for the establishment of a methodology to determine “fair value” | A process (such as a committee) could be established that involves representatives from various stakeholder groups affected by or involved in delivering vehicle storage. This process would seek to establish a methodology for fair value of storage. |
| 2 | Government imposed pricing guidelines or schedules | A price schedule or standard storage rate(s) could be legislated by government. A standard rate would address issues of interpretation and negotiation. |

Preliminary feedback from the Ministry of Consumer Services encouraged the Storage Advisory Group to explore an alternative solution to price regulation. Thus, the Storage Advisory Group agreed to focus on the establishment of a fair value methodology. The Recommendations and Conclusions section of this report summarizes the analysis and recommendation regarding this topic in further detail.

5.2.1.3 Other consumer issues

The focus of the Storage Advisory Group’s discussion and recommendations relate to the issues of notification and fair value costs. That said, additional issues from the consumer perspective were noted. For example, members of the Storage Advisory Group have experienced difficulty in accessing their vehicle at the storage site. Specifically, consumers and insurers may not have immediate or easy access to the vehicle due to limited hours of operation, for example. The root cause of this issue was not explored in detail, but could include a disincentive among operators to release the vehicle from storage.

Another major issue from the consumer perspective is that consumers may not always have a choice in where their vehicle is stored. For example, a vehicle seized by law enforcement without the owner’s knowledge will not be consulted as to their preferred storage location. It is reasonable to conclude that some of the solutions proposed by the Storage Advisory Group related to notification and fair value could also remedy this issue (e.g., consumer awareness initiatives, establishing a fair value methodology, etc.).

5.2.2 Operator Perspective

Although not the original focus of the consultation sessions, a number of issues were identified from the storage operator’s perspective with respect to vehicle storage.

5.2.2.1 Abandoned vehicles

■ Issue

One major issue from the operator perspective is that some vehicles are abandoned at storage facilities by owners. As a result, operators do not recover payment for the storage service.

■ Root Causes

This issue relates to high storage costs noted in the previous section. For example, in some cases, storage costs may exceed the value of the vehicle. The cost to dispose of the vehicle may also exceed the value of the vehicle. This issue is primarily observed among consumers who lease their vehicles, and therefore have limited interest in reclaiming the capital value of the vehicle. That said, instances where insurers or secured creditors have abandoned their vehicles were also noted.

In addition, operators noted instances where they are ordered by the police to collect and store low value or unwanted vehicles. These vehicles are unlikely to be recovered by their owners and are therefore left abandoned and unpaid in storage facilities.

■ Solutions

To address this issue, the Ministry may first address the issue of high storage costs, which is perceived to be the root cause. In addition, the Storage Advisory Group recommended that the Ministry also consider supporting a mechanism to assist operators to recover their fees when invoices are unpaid, at no fault of the operator. This solution is described in further detail in the Recommendations and Conclusions section of the report. The Advisory Committee also recommended that operators seek to recover a portion of the unpaid storage costs by selling abandoned vehicles to recycling companies.

5.2.2.2 Lack of owner information

■ Issue

Secondly, the Storage Advisory Group noted that storage operators do not always have the information they require to notify owners or interested parties, in some instances.

■ Root Causes

Storage operators do not always receive requisite information from tow truck drivers or owners. The lack of information is perceived by the Advisory Group to be caused by laws that prohibit access (e.g., the Police Services Act, privacy legislation, etc.), or an unwillingness among some customers to disclose their personal information. Lastly, in some instances, information is not requested or provided by tow operators who bring the vehicle to the storage facility; this issue relates to others noted in the towing section of the report.

Secondly, operators may not be aware of or are unwilling to access existing information repositories. Currently, anyone from the public can use the Personal Property Security Act (PPSA) website (ppsa.ca) to search for and register liens. In addition, Service Ontario provides Used Vehicle Information Packages (UVIP) to the public upon request at a cost of \$20. Both of these systems provide a storage operator with the information required to identify the vehicle owner or interested parties, such as secured creditors.

However, these processes are perceived to be time consuming and potentially cost prohibitive. Moreover, it requires that the operator be certified as an authorized requestor, a process that is perceived to be arduous or unattainable for some operators.

■ Solutions

The proposed solution of a central vehicle information repository and notification system could address this issue.

5.2.2.3 Other operator issues

The following issues were also noted by the Storage Advisory Group, but not explored in detail:

- **Inconsistent practices regarding record of interactions with insurers or owners** – Some operators do not practice prudent bookkeeping and administration. As a result, operators are challenged to make a case for the recovery of storage fees when in negotiations with insurers or in arbitration.
- **Confusion or inconsistency regarding environmental obligations and practices** – When storing vehicles, operators are faced with mechanical and environmental issues, such as leaking fluids. The Advisory Group noted inconsistency and confusion among some operators regarding appropriate safety and environmental practices.
- **Confusion over what should be done with material items in the vehicle** – Personal possessions may be left in the vehicle during storage. The Advisory Group noted some confusion and inconsistency among operators regarding the appropriate approach to handling or disposing of personal articles.

5.2.3 Other Issues

The Storage Advisory Group identified a number of issues that could not be categorized from either the consumer or operator perspective.

One such issue relates to variability in standards and service offerings observed among vehicle storage facilities. This issue has implications on storage costs, as variable services will ultimately result in variable costs. Specifically, the Storage Advisory Group has observed inconsistencies in the following areas:

- **Services provided** – For example, some operators offer 24/7 operations, while others keep conventional business hours. Additional services could include: vehicle maintenance, environmental clean-up, and services required to support police investigations.
- **Infrastructure** - Differences in infrastructure and facilities could include indoor versus outdoor facilities, and security features.
- **Municipal standards** - Standards across municipalities regarding licensing, zoning and the definition of storage were noted by the Advisory Group.

A methodology to inform fair value was recommended by the Advisory Group to address this issue. Specifically, the methodology must account for the variable noted above.

5.3 Conclusions and Recommendations

5.3.1.1 Core recommendations

The Storage Advisory Group reached agreement and produced recommendations in a number of areas. The following section describes the recommendations developed by the Storage Advisory Group relating to two core issues: notification timelines and fair value for vehicle storage.

Fair value for vehicle storage

As noted in section 4.2, high storage costs were noted to be an issue among some consumers, insurers and secured creditors. The first recommendation of the Storage Advisory group seeks to

address this issue. The recommendation achieved consensus within the Advisory Group and is summarized below.

The Storage Advisory Group recommends that the Ministry undertake a review of possible ways to determine fair value.

The desired components of the fair value methodology are described below. Specifically, the **output** of the process is envisioned to be criteria, formula or check-list to establish fair value.

The **intended audience** of the methodology is storage operators, municipalities, owners, insurers and the judiciary, who may use the methodology to inform their pricing, or to resolve vehicle storage cost disputes between operators, owners, insurers or secured creditors.

The process to establish a fair value methodology should include involvement from **representatives of a number of relevant stakeholder groups**, potentially including: storage operators, vehicle finance and leasing companies, insurance companies, financial institutions, the judiciary, auto body repair operators, consumers, and other qualified professionals, as required.

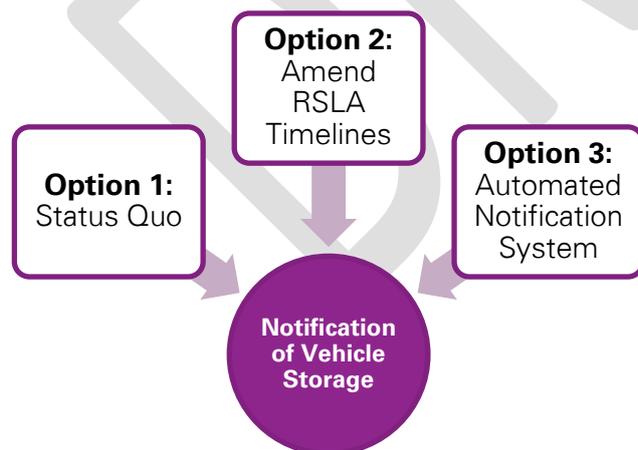
In establishing the methodology, the process should be guided by the following **principles**. The methodology should:

- Account for variations in operations
- Be responsive and easily adaptable to evolving industry conditions
- Account for outliers in the industry, in some manner
- Be developed in a transparent and inclusive manner

Notification timelines

Following extensive discussions, the Storage Advisory Group determined that a single consensus recommendation could not be formed relating to the issue of delayed notification.

Instead, three potential solutions were proposed and are summarized below for the Ministry's consideration.



Option 1: Continue with the status quo

This solution proposes to maintain the existing notification period outlined in the RSLA (60 days).

The majority of the storage and towing operators support this option. They believe that the 60 day notification period is fair, and that notification issues and related costs only occur in a select number of cases. While this option does not address the issue of delayed notification, it could be

supplemented by other solutions, such as implementing consumer awareness initiatives to increase awareness of consumer responsibility and practices in the storage sector.

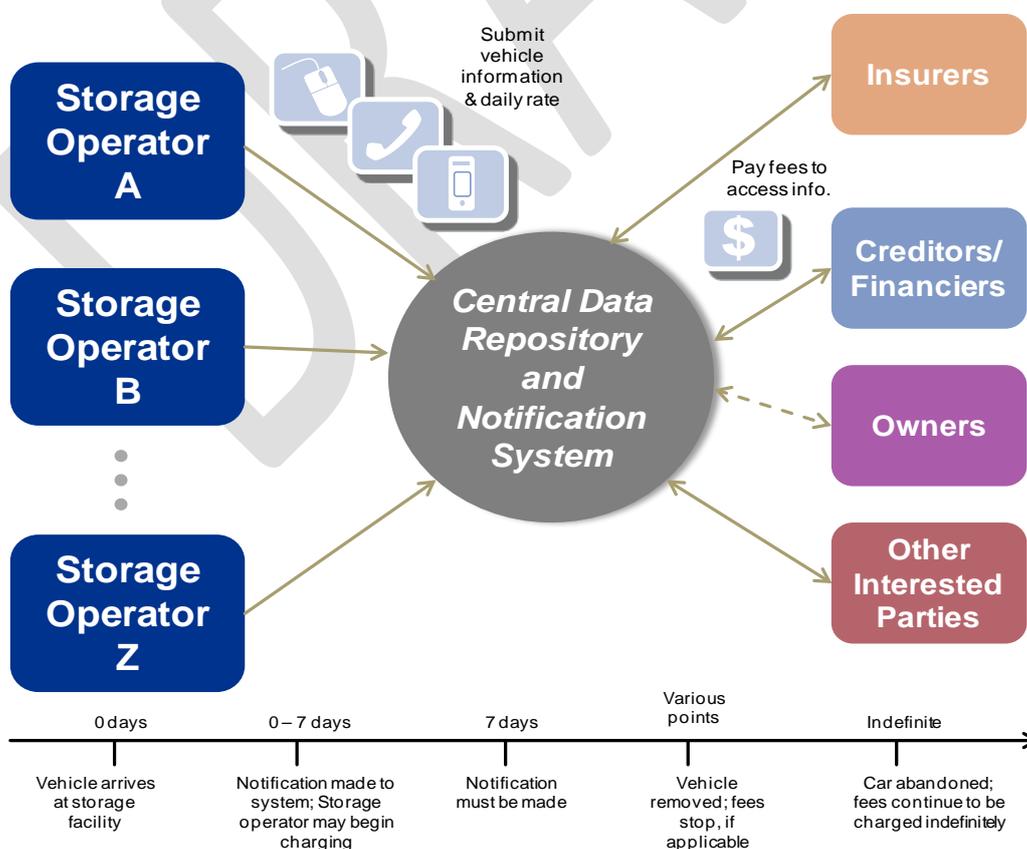
Option 2: Amend the notice period referenced in the RSLA

This option is perceived to be the default alternative to the status quo; that is, without a viable alternative such as a notification system, amending the notice period may be the only option available to the Ministry. If no feasible alternative option is found, this option is supported by insurers, financing companies, consumers and large vehicle fleet companies. This option is not supported by operators, who believe the current notification period is fair.

The Advisory Group did not reach agreement on the length of an appropriate notification period.

Option 3: Implement an automated notification system

A conceptual model was presented during the final consultation session for reaction and commentary from the Storage Advisory Group. The model proposes that storage operators would be required to register stored vehicles in a central repository and notification system. In addition, a timeline (e.g., 7 days) could be set to stipulate when a vehicle must be registered by the operator. Storage operators could also enter their storage fees such that when notification is made to interested parties, they also receive information regarding daily storage rates. At the point that storage operators register the vehicle in the system, they may begin charging for storage. Once the operator has entered the vehicle information into the system, the operator has effectively completed all of their duties related to notification; the notification system could replace existing notification mechanisms and information sources. At this point, interested parties (e.g., consumers, insurers, etc.) could access the system to locate their vehicles. Different interfaces and functionality could potentially be available for different users (e.g., vehicle owner versus insurer). Finally, the model proposed that no upper limit would be placed on the number of days or value charged for storage. A graphical depiction of the conceptual model is presented below for illustrative purposes:



There was tentative support to explore the option among Advisory Group members representing insurers, financing companies, large vehicle fleet companies, and consumers. These Advisory Group members were tentative to recommend the model as the investment required to establish and operate this system is unknown at this time. Without an understanding of the scale of the notification issue (i.e., average storage cost, average duration in storage, etc.) and the cost associated with implementing and operating the notification system, stakeholders could not recommend the option.

Storage operators were not in support of this option as it is perceived that the solution is not commensurate with the scale of the delayed notification issue. Moreover, operators expressed concerns that by having to register vehicles, the system would result in increased administrative work and associated costs for operators. Lastly, it is worth noting that this model may require amendments to the RSLA. That said, the model is designed to enable changes in operations associated with a reduced notification timeline by providing operators with a standard tool to make notification.

It should be noted that members representing police and enforcement functions were not present in the Advisory Group consultation session at the time of gauging interest in the above options.

5.3.1.2 Additional recommendations for consideration

While the consultation process was intended to focus on issues and recommendations noted by the Ontario Auto Insurance Anti-Fraud Task Force relating to enhancing consumer protection and combating insurance fraud, the Advisory Group also identified issues and solutions affecting storage operators (as discussed in section 5.2.2).

The recommendations noted below are in response to issues that affect storage operators and are presented for the Ministry's consideration.

Consider establishing or supporting a mechanism by which operators may recover costs for unpaid storage invoices.

Work with the industry to set standards for storage operations.

Lead consumer awareness initiatives focused on increasing consumer awareness of storage practices and costs.

Appendix

5.4 Towing Advisory Group Members

1. **Doug Nelson**, Provincial Towing Association of Ontario/ Ontario Recovery Groups
2. **Steve Rainey**, Ontario Federation of Independent Towing
3. **Daniel Sanderson**, NAAAP Towing Division
4. **Aris Marinis**, NAAAP Towing Division
5. **Randy Krieger**, Currie Heavy Towing
6. **Doug Chadwick**, Chadwick's Towing and Repairs
7. **Elliot Silverstein**, Canadian Automobile Association of South-Central Ontario
8. **James Bisson**, City of Brampton
9. **Intiaz Ruffudeen**, City of Toronto
10. **Lorraine Chua**, City of Toronto
11. **Pete Karageorgos**, Insurance Bureau of Canada
12. **Mark Lockwood**, RBC Insurance
13. **Matthew Poirier**, Canadian Finance and Leasing Association
14. **John Norris**, Collision Industry Information Assistance
15. **Brian Patterson**, Ontario Safety League
16. **Howard Deane**, Consumers Council of Canada
17. **John Winter**, Ontario Association of Chiefs of Police
18. **Dara Carpenter**, Intact Insurance

5.5 Storage Advisory Group Members

1. **Doug Nelson**, Provincial Towing Association of Ontario/ Ontario Recovery Groups
2. **Doug Chadwick**, Chadwick's Towing and Repairs
3. **Elliott Silverstein**, Canadian Automobile Association South Central Ontario
4. **James Bisson**, City of Brampton
5. **Intiaz Ruffudeen**, City of Toronto
6. **Lorraine Chua**, City of Toronto
7. **Pete Karageorgos**, Insurance Bureau of Canada
8. **Mark Lockwood**, RBC Insurance
9. **Matthew Poirier**, Canadian Finance and Leasing Association
10. **John Norris**, Collision Industry Information Assistance
11. **Brian Patterson**, Ontario Safety League

12. **Howard Deane**, Consumers Council of Canada
13. **John Winter**, Ontario Association of Chiefs of Police
14. **Dara Carpenter**, Intact Insurance
15. **Lawrence Gold**, Fair Value Committee
16. **Warren Barnard**, Used Car Dealers Association of Canada
17. **Craig Hirota**, Associated Canadian Car Rental Operators
18. **Megan Stefani**, Canadian Automobile Association South Central Ontario

5.6 Government Participants

1. **David Brezer, Director**, Ministry of Consumer Services
2. **Robert Bonofiglio**, Ministry of Consumer Services
3. **Dawn Stevely**, Ministry of Transportation
4. **Marilyn Marshall**, Senior Counsel, Ministry of Consumer Services
5. **Scott Parker**, Dangerous Goods/Commercial Motor Vehicle/HET Coordinator, Ontario Provincial Police
6. **Chris Davies**, Ministry of Transportation
7. **Joanne Gort**, Ministry of Consumer Services
8. **Richard Frank**, Ministry of Consumer Services
9. **Rick Pereira**, Ministry of Community Safety and Correctional Services
10. **Wesley Dutcher-Walls**, Ministry of Municipal Affairs and Housing
11. **Faith Waldron**, Ministry of Consumer Services
12. **David McLean**, Ministry of Finance
13. **Jennifer Lee**, Ministry of Consumer Services
14. **Joe O'Grady**, Ministry of Labour
15. **Nadia Hawkins**, Ministry of Labour

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