ONTARIO
CHAMBER of
COMMERCE

November 5, 2010

Mr. David Marshall
President
Workplace Safety & Insurance Board
200 Front Street West
Toronto Ontario

RE: 2011 Premium Rates and Funding Review

Dear Mr. Marshall:

The Ontario Chamber of Commerce (OCC) is a federation of 160 local chambers of commerce and boards of trade in the Province of Ontario, representing 60,000 businesses of all sizes, in all economic sectors covering every area of the province. The OCC's mandate is to advocate strong and effective policies on issues that affect its membership throughout Ontario's business community.

The OCC welcomes the long-awaited Funding Review announced by the WSIB. The economic downturn has exposed the inherent instability in the existing financing model, which over the years the OCC has been petitioning the government to address. Persistent investment losses have caused the size of the Board's unfunded liability to skyrocket, growing to $13 billion as of June 2010. In order to meet the cost of its claims, the Board has been forced to sell off part of its investments, resulting in decreasing returns on its assets and a steady drain on resources to service the unfunded liability. The Board has largely relied on employers to make up this gap. As a result of WSIB's current financial position, it will be unable to reach its longstanding target of full funding by 2014.

To help put the size of the unfunded liability into perspective, if it were added to the projected 2010-2011 provincial deficit, then the total would balloon from $19.7 billion to $32.7 billion – an increase of 40 percent.

The WSIB has responded to its present financial situation by announcing an increase in employer premium rates for 2011-2012. Under the proposed rate schedule, the average premium rate will rise by 2 percent. However, some sectors will experience a much larger increase in the size of their premiums, with two of the province's largest industries, logging and vehicle assembly, set for increases of 9.1percent and 13.5 percent, respectively.

The OCC agrees that the current workplace safety insurance system is unsustainable, and recognizes the need for immediate action to address the Board's precarious financial situation. However, we fundamentally disagree with the Board's approach. The OCC questions the methodology the Board has used to arrive at the proposed rate schedule (which is one of the issues being addressed by the Funding Review). The government is currently in the midst of a separate but related review of the Occupational Health and Safety System (OHSS). Through this forum, the government has heard from a multitude of stakeholders that the existing indicators for measuring workplace health and safety are

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not an accurate indication of private sector performance. By relying on existing measures to set premium rates, the Board risks penalizing certain sectors of the economy on the basis of inconclusive evidence.

The lack of credible private sector data speaks to a larger issue of accountability at the Board. Employers participating in the OHSS review are in agreement that, as currently structured, the Board is not administered cohesively or effectively. Although the board has spent considerable resources on prevention and incentive programs designed to reduce the overall cost of the system, it has been unable to realize any substantial savings. Part of the problem is that the Board lacks the necessary mechanisms for outreach and consultation to achieve its objectives. Due to a low level of business engagement, the Board's mitigation programs are not well aligned with business practices or culture. The decision to raise premium rates is an example of policy developed without taking into account the input and views of the private sector.

In addition, the Board lacks a clearly defined internal responsibility system. With respect to the prevention mandate alone, administrative responsibility is dispersed between the Board and 12 individual Health and Safety Associations. This results in an overlap of expertise, duplication of programs, and unnecessarily high compliance costs.

The Auditor General reviewed the WSIB in 2009. The AG's report revealed that government intervention in the Board's operations further compromised its independent oversight function. It attributed the Board's poor financial performance in part to a political "balancing act" between employer premiums and worker benefits. It noted that although Ontario already has the highest average premium rates of any province, legislative changes increasing the amount of worker benefits have placed a growing strain on the system. As a result of the WSIB's administrative and operational deficiencies, the AG concluded that significant structural changes are needed to ensure that the Board will be able to adopt the sound financial management practices required to meet its future financial obligations.

The WSIB must take immediate action to address the concerns raised by employers and the Auditor General. However, given the state of the economy, a premium rate increase is an inadvisable option. At a time when market confidence remains fragile, and a soaring Canadian dollar is hurting the competitiveness of Canadian exporters, the proposed payroll tax hike would deal a serious blow to Ontario businesses. In the current climate, the WSIB should be seeking to stimulate, not deter, investment.

The OCC strongly recommends that the WSIB reverse its decision to increase premiums and freeze rates at the current level. WSIB should allow the Funding Review to determine the best options on a go forward basis. Given the lack of concrete evidence to support a selective premium increase, the WSIB must rigorously assess the viability of this option alongside all alternative measures available to streamline operations, improve efficiency, and shed costs. In determining the best approach, the government must ensure that it consults extensively with each of the affected sectors and proceeds on the basis of objective evidence.

Through the OHSS review the government has been presented with a number of options for improving the overall performance of the health and safety system. A lack of clarity and leadership with respect to the WSIB's prevention function has been a key theme of the review. One of the proposals being considered by the review panel is the creation of a parallel prevention structure governed by a multi-stakeholder Board of Directors. The aim is to increase stakeholder involvement in the development of prevention programs and consolidate responsibility for prevention standards and performance metrics in one organization. The new functional entity would be aligned with the Ministry's enforcement activities to ensure a co-ordinated approach to prevention in the workplace. Under the new system, responsibility for incentives and insurance provision would remain with the WSIB.

The OCC agrees that greater accountability and streamlining are necessary to achieve improved health and safety outcomes and reduced costs. The principles guiding the proposed changes to the prevention system are a step in the right direction. However, they do not address the biggest cause of inefficiency in the Occupational Health and Safety System, namely, the legislated state monopoly on the provision of workplace safety insurance.

The Ontario experience has shown that the motivations driving government decisions about insurance benefits and premiums are often at odds with the principles of prudent fiscal management. Incentives to keep operational and administrative costs to a minimum are diminished due to a lack of competition in the marketplace. For these reasons, the trend in North America has been to move away from state-owned workers' compensation funds towards privatization and market competition. A growing body of evidence suggests that such policies can have an immediate impact on the size of premiums, range of products, level of claims disputes, and efficiency of claims management. For example, a mere two years after West Virginia moved to privatize its publically funded insurance system, employers had experienced a 30 percent reduction in premium costs, and the unfunded liability had shrunk from $3.2 billion to $1.9 billion. Several other jurisdictions are now moving to emulate the West Virginia model.

In its report, the AG indicated that significant structural changes would be required to ensure that the WSIB is governed in a more efficient and sustainable manner. In light of this observation, the OCC feels that the government, as part of its long-term strategy for building a successful Occupational Health and Safety System, must use the present OHSS and Funding reviews as an opportunity to seriously consider the advantages and disadvantages of creating a competitive market for workplace safety insurance. Along these lines, the government should broaden the scope of the Funding Review to include both the feasibility of privatizing the WSIB as well as giving employers the option to opt out of WSIB and use private insurers where there is equal or better coverage. Moving towards a competitive marketplace for workplace safety insurance would enable the government to improve the system for all stakeholders by promoting greater efficiency and flexibility for employers, and ensuring that employee benefits are managed in accordance with industry standards for transparency, quality and service. In order to make the best choice for the citizens of Ontario, the WSIB must ensure that privatization and market competition are included in the debate.

Thank you for taking the time to review our concerns. If you have any questions or comments, you may direct your staff to contact Stuart Johnston, Vice President Policy and Government Relations at (416)-482-5222, extension 232, or stuartjohnston@occ.on.ca.

Yours sincerely,

Len Crispino
President & CEO

cc: The Hon. Steve Mahoney, Chair, Workplace Safety and Insurance Board
The Hon. Peter Fonseca, Minister of Labour
Randy Hillier, MPP, PC Critic, Labour
Paul Miller, MPP, NDP Critic, WSIB
The Hon. Dalton McGuinty, Premier of Ontario
Tim Hudak, MPP, PC Leader, Leader of the Official Opposition
Andrea Horwath, MPP, NDP Leader
OCC members