18 March 2025

Standing Committee on Economics, Industry and Recreation
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Via email: LACommitteeEconomics@parliament.act.gov.au

To whom it may concern,

RE: SUBMISSION TO THE INQUIRY INTO INSURANCE COSTS IN THE ACT

The Australian Hotels Association (AHA) ACT is pleased to provide the following submission to the Inquiry into Insurance Costs in the ACT.

Hotels require many insurances to operate, many of which are not directly or indirectly regulated by the ACT Government. As such, the following submission limits discussion and reccomendations to two insurance products where the ACT Govrnment have a meaningful role to play in pricing and regulation – workers compensation insurance and public liability insurance.

AHA ACT are willing to provide further information should the Committee require it. Please do not hesitate to contact me using the details below to discuss any aspect of this submission.

Yours faithfully,

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AUSTRALIAN HOTELS ASSOCIATION ACT

SUBMISSION TO THE STANDING COMMITTEE ON ECONOMICS, INDUSTRY AND RECREATION INQUIRY INTO INSURANCE COSTS IN THE ACT

March 2025

About the Australian Hotels Association

The Australian Hotels Association (AHA) is a leading organisation of employers, comprised of over 5,000 members served by branches in every state and territory and a Canberra-based national office.

AHA ACT is the leading industry representative body in the ACT licensed hospitality, accommodation and tourism industry, representing **accommodation hotels, pubs, bars, nightclubs, taverns, restaurants and cafés**.

AHA ACT advocates for members on tourism, education, liquor licensing, regulation, training, and workplace relations, and works with a wide spectrum of stakeholders in the ACT including Government agencies, political leaders from all sides of politics and other key industry groups.

For more information, visit www.actaha.org.au

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1. Conduct an independent review of the ACT's workers' compensation framework to identify and remove excessive regulatory burdens.
2. Align elements of the ACT scheme with more cost-effective models in NSW or Victoria, including introducing a cap on claims.

▶ Encouraging Greater Market Competition

3. Introduce measures to attract more insurers to the ACT market to enhance competition and drive down costs.
4. Consider options such as allowing ACT businesses to access alternative insurance arrangements, including cross-border coverage from NSW insurers.

▶ Claims Management and Dispute Resolution Reform

5. Streamline claims management to reduce delays and associated legal costs.
6. Implement alternative dispute resolution mechanisms to resolve claims more efficiently and cost-effectively.

▶ Premium Relief and Incentive Programs

7. Introduce standardised premium discounts for businesses that demonstrate strong workplace safety practices.
8. Establish small business assistance programs to help offset the disproportionate burden on SMEs.

Summary of Recommendations: Public Liability

▶ Government-Backed Insurance Scheme

1. The ACT Government could establish a mutual insurance fund specifically for the hospitality sector, providing affordable coverage to businesses at lower premiums. Such a model has been successfully implemented in other industries, such as professional indemnity insurance for medical practitioners.

▶ Facilitating Bulk Purchasing Arrangements

2. Encouraging hospitality businesses to form industry groups that negotiate collective insurance coverage could reduce premiums through bulk purchasing power. The government could assist in coordinating such initiatives in partnership with business associations.

Tax Incentives and Rebates

3. Offering tax deductions or rebates for businesses that implement best-practice risk management measures could help offset the cost of insurance. This could include subsidies for security upgrades, slip-resistant flooring, or staff training in risk mitigation.

Regulatory Reform to Reduce Claims Frequency

4. Implementing clearer legal definitions and thresholds for public liability claims could reduce frivolous lawsuits and discourage excessive litigation. The government could work with the legal sector to introduce reasonable caps on certain types of claims to stabilise insurance costs.

Incentivise Insurers to Provide Hospitality Coverage

5. The ACT Government could provide incentives, such as tax breaks or grants, for insurers that offer competitive public liability insurance policies to hospitality businesses. Encouraging new insurers to enter the market would increase competition and drive down premiums.

Education and Risk Mitigation Programs

6. Establishing government-supported training programs on risk management for hospitality operators could help reduce the likelihood of claims. Such programs could be integrated with licensing requirements for businesses that serve alcohol.

Data Transparency and Industry Benchmarking

7. Requiring insurers to provide more transparency on how public liability insurance premiums are calculated could help businesses better understand and manage their risk factors. Benchmarking Canberra's hospitality insurance costs against other jurisdictions could identify areas for policy improvement.

Introduction

The hospitality sector requires a multitude of insurance products to operate: public liability, workers compensation, plate glass, management liability, machinery breakdown, electronic breakdown, theft and burglary, professional indemnity, business interruption, money, portable items, business building and contents – the list could (and does) go on.

The cost of many of these insurance products have been rising globally, driven by recent inflation, the increasing cost of reinsurance, a lack of underwriters for certain insurances, and more frequent and destructive natural disasters as a result of climate change.

AHA ACT do not propose to make recommendations on how to solve these issues, nor do we expect the ACT Government to solve them.

That said, State and Territory Governments in Australia have some degree of control on the costs of some insurance products through regulation and taxation – and the ACT Government is no exception.

To the Government's credit, the ACT is the only jurisdiction in Australia to have abolished insurance duty, a decision that AHA ACT applaud.

However, in Canberra the cost of Workers Compensation Insurance is significantly higher than in any other jurisdiction in Australia, and this is a direct result of policy decisions that make the ACT an outlier in several respects. This submission makes several recommendations to the Committee and the ACT Government that seek to address these discrepancies.

The cost and difficulty of securing Public Liability Insurance has made it in many respects the most concerning insurance issue faced by some AHA ACT members, particularly those that regularly program live music and entertainment.

AHA ACT acknowledge that the insurance market is complex and that there is no silver bullet for the increased cost of many insurance products, but urge the Committee and the Government to adopt our recommendations as part of a holistic approach to lowering the cost of insurance for businesses.

Workers Compensation

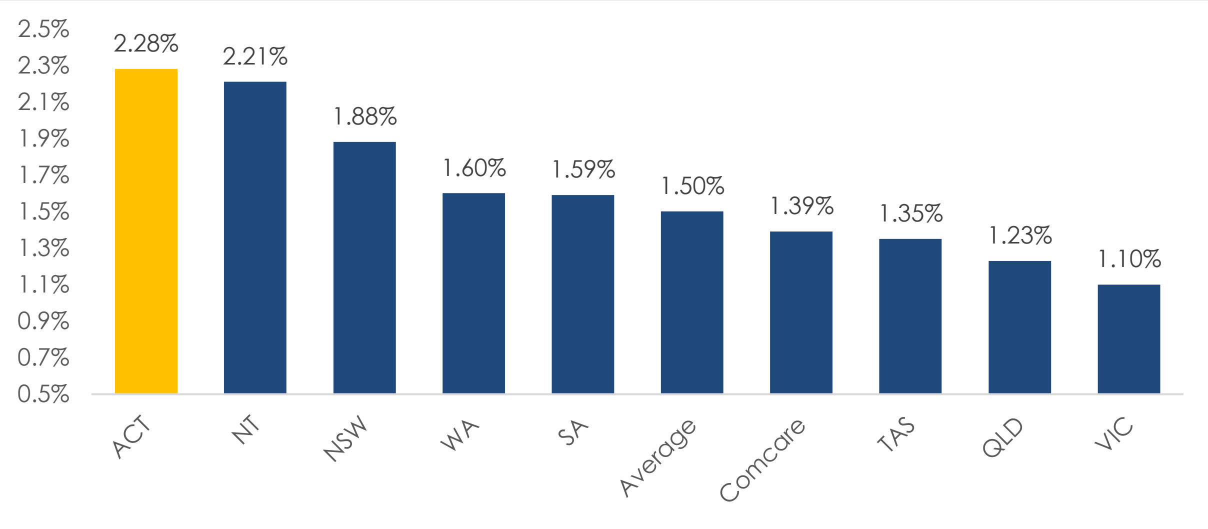
▶ Workers Compensation Insurance Costs in the ACT

The Workers' Compensation Act 1951 (ACT) mandates that all employers in the ACT have a workers' compensation insurance policy in place to cover their workers in the event of a workplace-related injury or illness, including apprentices, subcontractors, and family members who work for the business.

Workers' compensation insurance is a critical component of workplace protections, ensuring that employees receive appropriate support and rehabilitation in the event of work-related injuries. However, in the ACT, the cost of this insurance is disproportionately high when compared to other Australian jurisdictions.

Recent data indicates that the ACT has the highest average workers' compensation insurance premiums for Accommodation and Food Services businesses in Australia. Employers in the hospitality industry pay significantly more in premiums than their counterparts in New South Wales (NSW) or Victoria. Unlike most jurisdictions, in recent years premium rates have been increasing in the ACT.

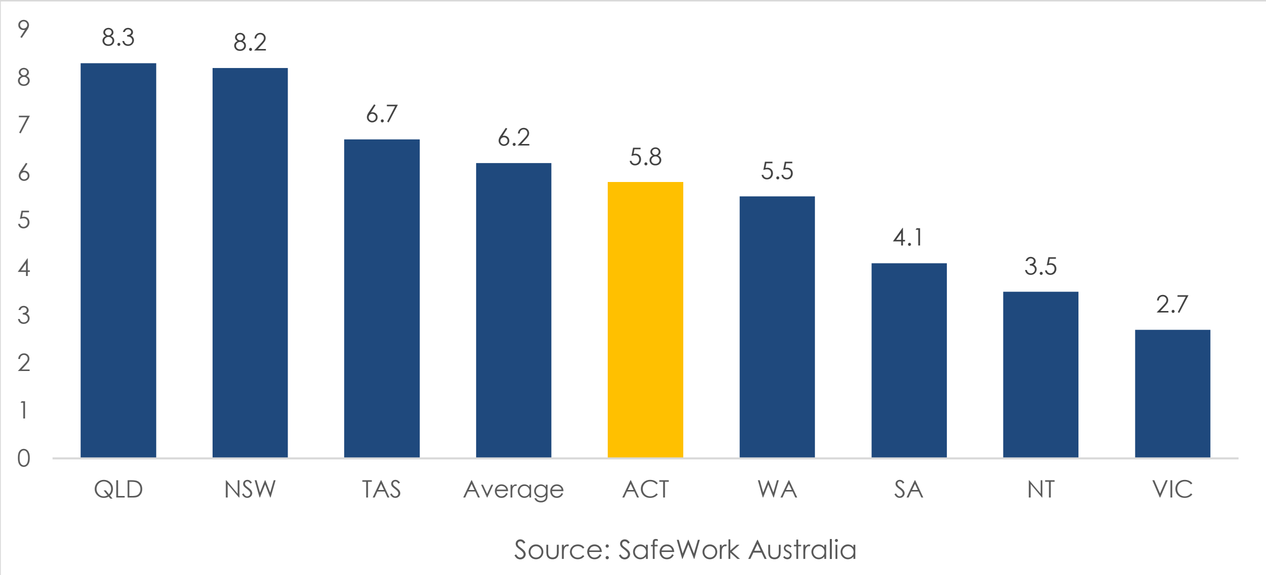
Figure 1. Accommodation and Food Services Industry, Standardised Average Premium Rates (% of Payroll), 2022-23



Source: SafeWork Australia

It should be noted that ACT hospitality businesses are as a whole no less safe than their interstate counterparts – in fact, serious claims per million hours worked in ACT accommodation and food services businesses are below the national average.

Figure 2. Accommodation and Food Services Industry, Frequency of Serious Claims per Million Hours Worked, 2022-23



This discrepancy places ACT-based businesses at a competitive disadvantage, particularly given the proximity to NSW, where many hospitality operators can establish businesses at lower cost. For example, an ACT-based hotel with a payroll of $3 million would pay approximately $12,000 per year in additional workers' compensation premiums compared to an equivalent business in NSW, and $35,400 more than a comparable business in Victoria.

While the average premium rate is significantly higher in the ACT than other jurisdictions, there are significant discrepancies between what individual businesses pay. For example, a survey of AHA ACT members found the actual premium rate paid ranged from a low of 1.9% (notably, still above the NSW average) to a high of 5.12%.

Regulatory and legislative framework

The ACT operates under a more complex and litigious workers' compensation framework than other jurisdictions.

Legislative provisions, including long-tail claims and extensive dispute resolution processes, increase costs for insurers. ACT common law damages for work injuries are uncapped when a worker's Whole Person Impairment is 25% or more.

Even if a common law claim is pursued and damages are awarded, the worker will still be entitled to compensation for lost income and medical expenses under the workers' compensation system. The uncapped nature of Workers Compensation Insurance claims in the ACT forces insurers to provision for larger average claims than other jurisdictions.

These higher per-claim expenses lead to greater overall claims costs, which are then passed on to businesses in the form of high premiums.

▶Legal marketing

A lack of meaningful restrictions on the marketing of legal services has also led to extensive advertising by firms encouraging the public to make a Workers Compensation claim against employers (or separately, a Public Liability claim against hotels). These plaintiff lawyers primarily operate on a 'no win, no fee' basis, and often take a large proportion of any settlement reached.

Due to the complex and time-consuming nature of dealing with a claim, and the uncapped nature of common law claims, many operators receive advice to settle a claim rather than challenge its validity.

▶Lack of competition

The ACT's workers' compensation scheme is fully commercialised, whereas Governments in most other States and Territories play an active role (for example, iCare in New South Wales).

Despite this, the ACT has a small, uncompetitive insurance market. Few insurers offer workers' compensation policies, leading to upward pressure on premium prices.

The recent exit from the market of several insurers is indicative of a system that insurers are reluctant to participate in, and the higher premiums offered by those who remain reflect both the higher risk profile of the jurisdiction and the limited competition in the market.

▶Case Study: Accommodation Hotel

Even when successfully challenged or withdrawn, a Workers Compensation claim will invariably result in higher premiums for the hotel in question.

In a recent example, an accommodation hotel in the inner South of Canberra received a claim that was later proven to be demonstrably false and dismissed. However, their insurer responded by increasing their premiums by 68%, and refused any movement given unlimited common law rule in ACT and the potential for the worker to challenge the declinature.

AHA ACT are happy to provide details of this case on a confidential basis.

Small Business Impacts and Relief Mechanisms

Many ACT hospitality businesses are small-to-medium enterprises that do not have the scale to absorb high insurance costs.

In NSW, standardised premium discounts and incentive programs encourage better workplace safety practices. The ACT lacks such standardised premium-relief mechanisms due to the privatised nature of the sector, which provides a perverse disincentive to improve practices and worker safety in workplaces.

Mechanism	NSW	ACT
Small Business Premium Discounts	No universal discount, but icare provides targeted premium adjustments.	*Some* private insurers *may* offer discounts based on risk profiles.
Early Intervention Incentives	Employers with good return-to-work programs may receive lower premiums.	*Some* private insurers *may* offer premium reductions for strong injury management practices.
Claims Experience Adjustments	Employers' claims history directly impacts their premiums.	Premiums are influenced by past claims, but insurers may apply different models.
Industry-Based Rate Adjustments	Premiums are set based on industry risk and employer claims performance.	Industry-based pricing applies, but insurers set their own rates.
Workplace Safety Incentives	Discounts or reduced premiums for accredited safe workplaces.	*Some* insurers provide discounts for strong WHS programs.
Flexible Payment Options	icare allows instalment payments for eligible businesses.	Payment flexibility depends on insurer policies.

Some examples of Workplace Safety Incentives that could lead to workers' compensation premium discounts include:

SafeWork NSW's "Safe Business Rebates"

- Small and medium businesses that implement approved safety improvements can receive rebates of up to $1,000.
- While this is not a direct premium discount, it helps businesses invest in preventative safety measures, reducing workplace injuries and future premiums.

SafeWork NSW's Mentoring and Accreditation Programs

- Some industries (e.g., construction, manufacturing) can access mentoring and accreditation programs.

- Businesses that demonstrate strong safety management systems and maintain accreditation may negotiate lower workers' compensation premiums with icare.

icare's "Safety Coach Program"

- Provides free workplace safety training and support.
- Employers who proactively engage in safety training and reduce incidents over time can benefit from lower premium adjustments.

Return to Work (RTW) Programs & Premium Discounts

- icare rewards employers who implement early intervention programs and return-to-work (RTW) plans for injured workers.
- Employers who successfully return injured workers within 4 weeks may see lower future premium rates.
- Participation in icare's Recovery at Work Program can indirectly reduce premiums by lowering claim costs.

► Workers Compensation Insurance Recommendations

To address the excessive cost of workers' compensation insurance in the ACT, AHA ACT propose the following reforms:

Regulatory Review and Reform

1. Conduct an independent review of the ACT's workers' compensation framework to identify and remove excessive regulatory burdens.
2. Align elements of the ACT scheme with more cost-effective models in NSW or Victoria, including introducing a cap on claims.

Encouraging Greater Market Competition

3. Introduce measures to attract more insurers to the ACT market to enhance competition and drive down costs.
4. Consider options such as allowing ACT businesses to access alternative insurance arrangements, including cross-border coverage from NSW insurers.

Claims Management and Dispute Resolution Reform

5. Streamline claims management to reduce delays and associated legal costs.
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Premium Relief and Incentive Programs

7. Introduce standardised premium discounts for businesses that demonstrate strong workplace safety practices.
8. Establish small business assistance programs to help offset the disproportionate burden on SMEs.

Public Liability Insurance

Public liability insurance is a critical requirement for hospitality businesses in Canberra, providing protection against claims for personal injury or property damage occurring on business premises.

For some businesses with outdoor dining, holding a $20 million public liability insurance policy is mandatory.

However, the rising cost of public liability insurance is placing significant financial strain on small and medium-sized enterprises in the hospitality sector, affecting their sustainability and growth.

The Insurance Council of Australia's *Advancing Australia's Resilience* report specifically identifies the increasing cost of Public Liability Insurance as a challenge for the hospitality industry;

> *Rising claims costs continue to increase the cost of public liability insurance premiums, particularly for small businesses and not-for-profit organisations, threatening their ongoing financial viability.*
>
> *APRA National Claims and Policies Database statistics have identified social inflation (higher plaintiff demands for compensation) and increasing prevalence of claims seeking compensation for psychological injury, as a significant cause of increasing claims costs.*
>
> *Insurers have had to significantly increase insurance premiums and reduce the amount of insurance they offer in the market to address these increasing claims costs which have led to multiple years of unsustainable losses. Consequently, many small businesses and not-for-profit organisations operating in the amusement, tourism, leisure, live music, and hospitality sectors have experienced two- to four-fold increases in the cost of their public liability insurance. As a result, some operators in these sectors continue to struggle to obtain cover which is threatening their ongoing viability.*
>
> *The inability to source public liability insurance has contributed to the pressures on some tourism operators and live music venues. It is forecast that these sectors will continue to experience further premium increases and limited coverage appetite from insurers, adding to pressures on these businesses and sectors.*
>
> *Tort reform remains a powerful policy tool available to government that can directly impact insurance underwriting risk and the availability of public liability insurance. Tort reform was previously undertaken in 2001–02 and was*

immediately successful in addressing the insurance availability problems at that time.

To address the current public liability insurance constraints, a review of and, where necessary, reform to current civil liability settings is required to ensure they remain fit-for-purpose and support a sustainable public liability insurance market in Australia.

There are several areas of potential reforms that should be considered that would help increase insurance capacity in the market. These could include use of statutory defined benefit frameworks for personal injury claims (similar to those used in CTP and workers compensation schemes) and the use of thresholds in relation to compensation for non-economic loss and gratuitous (informal) care.

Reforms in these areas would provide greater underwriting certainty, reduce claims costs and durations, improve health outcomes for injured people and increase the affordability and availability of public liability insurance for businesses.

►The rising cost of public liability insurance

Over the past decade, public liability insurance premiums have risen significantly across Australia, with hospitality businesses facing some of the highest increases (up to 1,000% for some live music venues). Several factors contribute to these rising costs:

Increased Claims and Litigation

A rise in public liability claims, including slip-and-fall incidents and alcohol-related injuries, has led to higher payouts by insurers, which in turn increases premiums.

The litigious nature of modern society has contributed to a greater number of claims being pursued, even in cases where liability may be questionable.

Higher Risk Perception for Hospitality Businesses

Hospitality venues, including restaurants, bars, cafes, and nightclubs, are considered by the insurance industry to be high-risk environments due to alcohol service, high foot traffic, and late operating hours.

This classification leads insurers to charge higher premiums or impose restrictive conditions on coverage.

Lack of Competition in the Insurance Market

The Australian insurance industry has a relatively small number of insurers offering public liability coverage, limiting competitive pricing. Many insurers have withdrawn from offering hospitality-related coverage due to perceived high risks, further reducing competition and increasing costs.

Regulatory and Compliance Burdens

Stringent compliance requirements for workplace health and safety, responsible service of alcohol, and (mercifully now removed) COVID-19-related regulations increase operational costs. Businesses that fail to meet certain safety standards may face even higher premiums or denial of coverage.

Impact of Natural Disasters and Pandemics

Recent natural disasters and the COVID-19 pandemic have led to greater claims-related expenses for insurers, driving overall premium increases. While Canberra is less affected by some extreme weather events, insurers assess risk at a national level, impacting local businesses.

► Live entertainment

Live music venues are drivers of Caberra's social and cultural capital, and offer important employment opportunities to artists, DJs, crew, and other entertainment professionals. However, these venues are also particularly exposed to large increases in public liability premiums.

Recent increases in public liability premiums of up to 1,000% have been a contributing factor behind several high-profile venue closures in the ACT (and more broadly across Australia). These premium increases do not reflect a rise in risky business practices on the part of live music venues; rather, the insurance industry has increasingly taken the view that live music environments are too risky to insure, resulting in a highly concentrated, inefficient market dominated by one particular underwriter.

As a result, live music venue operators are challenged in accessing public liability insurance, and when it is offered, the premiums are prohibitively expensive.

Venues are rarely (if ever) offered the opportunity to adopt risk-mitigation strategies to facilitate lower premiums, and little distinction is made by insurers between venues with obviously differing risk profiles.

Live entertainment in licensed establishments is at a crossroads, and any further rises in the cost of public liability insurance will force operators to make difficult decisions. For those venues that do not specialise in live music per se, a decision to cut back or cease programming live entertainment may have to be made. For specialised live music venues and nightclubs, the question is far more existential.

AHA ACT note the ACT Government submission to the Federal Government Standing Committee on Communications and the Arts Inquiry into the challenges and opportunities within the Australian live music industry, which we support. The Report of that Inquiry made recommendations on public liability insurance, including:

> *4.40 The Committee recommends the Australian Government partner with relevant stakeholders to undertake research into the viability of a self-insurance or mutual insurance model for the music industry and investigate other reforms and initiatives for insuring live music activities that could result in lower premiums for presenters.*
>
> *4.41 Further, the Committee recommends the Australian Government provide information on best practice management of live music venues and events with a view to reducing both risk to insurers and premiums for presenters.*
>
> *4.42 The Committee recommends Music Australia partner with the Live Music Business Council and the Insurance Council of Australia to develop a self-assessment app to provide a more accurate prediction of risk and a more customised insurance premium to reflect the main drivers of risk (outdoor events, multi-day events, late events, etc).*

AHA ACT support these recommendations and the submission of the ACT Government and would commit to a shared advocacy approach should the ACT Government wish to pursue one.

► Impact on the hospitality industry

The increasing costs of public liability insurance are having several negative effects on Canberra's hospitality businesses:

- Barriers to Entry: New hospitality businesses face significant upfront costs, and high insurance premiums act as a deterrent for new entrants.
- Financial Strain: Higher insurance premiums reduce profitability, making it difficult for businesses to reinvest in their operations, hire staff, or expand.
- Reduced Service Offerings: Some businesses are forced to scale back services, such as outdoor dining or live entertainment, due to increased insurance costs.
- Potential Business Closures: Smaller businesses, particularly independent cafes and restaurants are at risk of closure if insurance becomes unaffordable.

► Public Liability Insurance Recommendations

To address these challenges, the ACT Government could explore several strategies to help lower public liability insurance costs for hospitality businesses.

Introduce a Government-Backed Insurance Scheme

1. The ACT Government could establish a mutual insurance fund specifically for the hospitality sector, providing affordable coverage to businesses at lower premiums. Such a model has been successfully implemented in other industries, such as professional indemnity insurance for medical practitioners.

Facilitating Bulk Purchasing Arrangements

2. Encouraging hospitality businesses to form industry groups that negotiate collective insurance coverage could reduce premiums through bulk purchasing power. The government could assist in coordinating such initiatives in partnership with business associations.

Tax Incentives and Rebates

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5. The ACT Government could provide incentives, such as tax breaks or grants, for insurers that offer competitive public liability insurance policies to hospitality businesses. Encouraging new insurers to enter the market would increase competition and drive down premiums.

Education and Risk Mitigation Programs

6. Establishing government-supported training programs on risk management for hospitality operators could help reduce the likelihood of claims. Such programs could be integrated with licensing requirements for businesses that serve alcohol.

Data Transparency and Industry Benchmarking

7. Requiring insurers to provide more transparency on how public liability insurance premiums are calculated could help businesses better understand and manage their risk factors. Benchmarking Canberra's hospitality insurance costs against other jurisdictions could identify areas for policy improvement.

Conclusion

The rising cost of insurance is a growing concern for Canberra's hospitality businesses, affecting their financial viability and ability to provide services to the community.

Without intervention, these rising costs will lead to further financial stress, less live music, reduced employment opportunities, and potential business closures in the sector.

The ACT Government has an opportunity to play a proactive role in addressing these challenges.

We urge the ACT Government to engage with industry stakeholders, insurers, and legal experts to develop a comprehensive strategy that ensures fair and affordable access to insurance for the hospitality sector.