

SUBMISSION

AUSTRALIAN GOVERNMENT
PRODUCTIVITY COMMISSION
INQUIRY INTO
THE SMASH REPAIR AND INSURANCE

FROM

RECOVERY ASSOCIATION OF WA INC.

Fremantle WA 6162

OCTOBER 2004

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Introduction

The Recovery Association of WA Inc. representing concerned tow truck owners and operators, respectfully table the following Submission to the Australian Government Productivity Commission inquiry into the smash repair and insurance industry.

The Towing Industry plays an important role within the industry and it is pertinent to this inquiry that our views are understood and considered.

Over the years Insurance Companies have manipulated towing companies and employed bullying tactics to reduce rates which has resulted in corruption, bankruptcies and compromised health and safety issues.

The following points will give you a brief outline and general understanding of the towing industry problems and may assist you to bring about some positive recommendations or regulations for change within the smash repair and insurance industry.

- The service we provide to the public as tow truck owners and operators.
- Costs now associated with tow truck owners/operators providing towing services.
- Work safe and Duty of Care.
- Problems that exist within our industry which may coincide with some of the smash repair issues.
- Documentary evidence which will demonstrate the heavy handed tactics of insurance companies and their desire to control and manipulate the industry.
- Our willingness to welcome an industry disputes council.

SERVICE PROVIDED BY TOW TRUCK OWNERS AND OPERATORS.

As tow truck operators are usually the first to arrive at an accident the following points are reminiscent of what may be required of them depending on circumstances at the scene.

An accident scene is classified as a crime scene when there are injuries involved.

What is expected of a tow truck operator.

- Place their vehicle in an appropriate position to protect the accident scene and ensure the safety of other road users.
- Evaluate the accident scene.
- Determine if it is a crime scene by the extent of injuries.
- Crowd control (keep people at a distance from the accident scene)
- Render assistance to injured and distressed parties until the appropriate services arrive i.e. Police, Ambulance etc
- Approach drivers of vehicles wherever possible to obtain authorisation to remove their vehicle and tow away. An 'authority to tow' document (legal document) must be completed before a vehicle is removed from the scene.
- Assist with traffic control
- Assist in removing persons from entangled wrecks.
- Assist in collection of human body parts that may be strewn around the accident scene.
- Clear the road of debris i.e. glass, metal, vegetation, oil, throw sand on blood soaked areas of road etc
- Wait for Police officers to take statements from owners, mark and measure the area, photograph the scene prior to giving the OK for removal of the vehicle.
- First to arrive last to leave

NB. The procedures listed above are the unofficial Code of Conduct used by experienced Tow truck drivers on a daily basis.

COSTS NOW ASSOCIATED WITH TOW TRUCK OWNERS/OPERATORS PROVIDING TOWING SERVICES.

Prior to the 90's the majority of tow trucks were owned by panel shops and the costs of running these vehicles and maintaining them was absorbed in their overall business. Since that time this policy has changed and now the vehicles are owned and operated by independent people who rely solely on the income derived from the business of towing vehicles.

The expenses associated with owning and operating a tow truck.

VEHICLE

- Purchase of vehicle and accessories (jinkers chains straps tools etc etc)
- Full comprehensive cost of Insurance plus towing extension
- Public Liability Insurance
- Fuel
- Repairs and maintenance
- Registration of vehicle
- Two-way/Radio's

OPERATOR

- Sickness/accident insurance
- Reasonable wage for being available **24 x 7**
- Annual leave
- Superannuation
- Workers compensation for relief staff

MISCELLANEOUS ITEMS FOR RUNNING A SELF EMPLOYED BUSINESS

- Holding Yard (Associated costs i.e. security, insurance etc)
- Accountant
- Business stationery
- Office Equipment including, but not limited to (computers telephones etc)

TOWING RATES

Copy of towing rates from 2001 Transport Forum WA Inc.

See appendix 1

Copy of towing rates from 2002 from AAAC

See appendix 2

As a result of GST being introduced this has added a significant amount to the total costs, however, this is certainly not for the benefit of the tow truck operator.

Towing rates currently being charged have not increased in line with CPI or GDP over the past two years and with the ever increasing cost of fuel it is becoming evident that prices need to be reviewed as a matter of priority.

WORKSAFE AND DUTY OF CARE

Of recent times work safe and duty of care issues have become more important and attract penalties if they are not observed.

It is now important more than ever for tow truck owner/operators to ensure that their plant and equipment is well maintained to avoid any serious accidents, which may leave them open to litigation.

PROBLEMS THAT EXIST WITHIN OUR INDUSTRY WHICH MAY COINCIDE WITH SOME OF THE SMASH REPAIR ISSUES.

- a. It has become a common practice of Insurance Companies to try and control the industry by dictating to us some of the following
 - i. At the accident scene Insurance Companies want tow truck drivers to ask owners whom they are insured with and then take the vehicles to their insurance companies preferred smash repairer or insurance companies impound yard.

We do not agree with this for a number of reasons

1. Owners are under duress/injured.
2. Owners confused on which insurance company.
3. Person driving may not be the owner of vehicle.
4. Person driving may be under the influence of alcohol or have no licence thus not covered.
5. Owners insurance may be expired.
6. Insurance company declines claim due to underage driver.
- Insurance company declines claim for other reasons after investigations.
8. Insurance companies have incorrect registration numbers recorded on policy holder's vehicle therefore are unable to quote claim numbers and are not very forthcoming in assisting due to the privacy act.

- Ii. Insurance Companies do not want us to take vehicles to our holding yards, as they do not want to incur holding yard fees.

Advantages of holding yards

1. *Owners are able to go home knowing they have 72 business hours to confirm whom and if they have insurance and lodge their claim.*
2. *Owners have access to remove personal property from vehicles*
3. *Insurance companies are able to attend yards to assess vehicles and confirm if they are accepting liability and provide a claim number to cover costs of towage.*
4. *By vehicles being held in holding yards Insurance Assessors are able to distribute work fairly between smash repairers. (We feel this assists in minimizing any accusations of corruption between tow truck operators and smash repairers or insurance assessor and smash repairer.*
5. *If owner or insurance company advise that there will be no insurance claim, the responsibility then falls on the owner to cover the towage costs.*
6. *If the owner has no insurance claim the towing operator may offer assistance to the owner by either returning the vehicle to the owners home address, obtain smash repair quotes, seek wreckers prices or dispose of vehicle.*
7. *Render assistance to owner on third party claims.*
8. *Guarantees payment to tow truck operator.*

- b. Insurance companies try and dictate to towing companies what they feel in their view is a 'fair and reasonable' cost for the towing and salvage of vehicles from accident scenes.

Copies of letters received from Insurance Companies itemizing their towing rates support this.

See Appendix 3-7

It is obvious from Insurance Companies towing rates that they have not taken into consideration all the overheads and expenses relevant to costs associated with operating a towing service.

We believe this is indicative of the way Insurance Companies try and control the hourly rate paid to smash repairers.

**DOCUMENTARY EVIDENCE WHICH WILL
DEMONSTRATE THE HEAVY HANDED TACTICS OF
INSURANCE COMPANIES AND THEIR DESIRE TO
CONTROL AND MANIPULATE THE INDUSTRY.**

Letter from GIO Australia

(May 2000)

see appendix 3

Insurance Company dictating the price they are prepared to pay and also where to take vehicles.

Letter from Fortron Insurance

(December 2002)

see appendix 4

Insurance Company dictating the price they are prepared to pay and also where to take vehicles.

Letter from RAC Insurance Pty. Limited

(October 1990 / February 2003)

see appendix 5

Insurance Company dictating the price they are prepared to pay and also where to take vehicles.

Letter from HBF Insurance Pty. Ltd.

(September 2003)

see appendix 6

Insurance Company dictating the price they are prepared to pay and also where to take vehicles.

Letter from Zurich Australia Limited

(March 2004)

see appendix 7

Insurance Company advising that yard administration fee is unacceptable and require the towing operator to explain in full details the cost of the account to the driver at the scene of an accident. (Remembering that drivers are under considerable stress and the 72 hours cooling off period that is included in the yard administration fee gives them time to make an informed decision)

INDUSTRY DISPUTES COUNCIL.

We support the idea of a Industry Disputes Council independently operated to enable disputes to be resolved between Insurance Companies, owners of vehicles, towing owner/operators and smash repairers.

At the present time it is a one on one fight trying to get disputes resolved with no independent mediator.

SUMMARY

Insurance Companies should respect the fact that Towing owner operators play a significant role in dealing with smashed vehicles belonging to their clients and accept that they are responsible for paying for that service.

Towing owner operators have a duty to provide that service with safe plant and equipment in a professional manner and safety should not be compromised in any way whatsoever.

Towing owner operators should be entitled to receive sufficient remuneration to enable them to adequately cover their expenses, service/upgrade their plant and equipment on a regular basis, not be forced to compromise safety and be able to enjoy a monetary reward for their efforts of operating a 24 x 7 service.

Current policies and demands by Insurance Companies are having a negative impact within the industry and we trust this inquiry will highlight the problems and bring about change for the future wellbeing of the industry.

If any further information is required or if your inquiry team members wish to meet in Western Australia with representatives of our organization please do not hesitate to contact us.

