



**Submission by ICA in response to
Productivity Commission Inquiry into the
Relationship between the Australian Motor
Vehicle Smash Repair Industry and the
Motor Vehicle Insurance Industry**

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Introduction

The Insurance Council of Australia (ICA) welcomes the opportunity to comment on the relationship between the smash repair industry and motor vehicle insurers on behalf of its members. ICA members account for over 90 per cent of total premium income written by private sector general insurers.

ICA members, both insurance and reinsurance companies, are a significant part of the financial services system. Recently published statistics from the Australian Prudential Regulation Authority (APRA) show that the private sector insurance industry generates direct premium revenue of \$19.8 billion per annum and has assets of \$66.6 billion. The industry employs about 25,000 people.

ICA members issue some 37.8 million insurance policies annually and deal with 3.5 million claims each year.

Executive Summary

There are a number of points that ICA wishes to stress and these include:

- ICA welcomes this independent inquiry and believes that it is important that the many assertions made by the smash repairers must be supported by facts and that it is demonstrated that complaints are not just isolated incidents, which are capable of being resolved between the two parties.
- The smash repair industry continues to be driven by a range of market forces including changes in the manufacture and the way vehicles are repaired. The over capacity of the smash repair industry is compounded by falling motor vehicle claims frequencies.
- Preferred repairer schemes are beneficial to consumers in terms of lowering costs, improving quality and ensuring timely completion of repairs. Consumer groups have acknowledged that preferred repairer schemes have delivered benefits to consumers.
- Not all motor vehicle insurers have preferred smash repairer schemes. There are other ways of managing the relationship with smash repairers depending upon individual insurer requirements.
- The issues between smash repairers and insurers are best dealt with at an individual company level. ICA believes corporate codes and other relationship management approaches by insurers preclude any need for an industry wide business-to-business code or dispute resolution provisions.
- Appropriate disclosure by insurers at the point of sale about the consumers choice of repairer, the insurers policy on the use of OEM, recycled or alternative parts and whether it is the insurer or the repairer who provides the guarantee will allow consumers to make informed choices when purchasing motor vehicle insurance.

Overview of the Smash Repair Industry and its Viability

The approach taken to the smash repair process and other commercial considerations mean individual motor vehicle insurers will be making their own detailed submissions to the Productivity Commission Inquiry. There are 36 ICA members, including Lloyds, in Australia that provide motor vehicle insurance. There are major differences in the approaches taken by individual insurers. The issues related to preferred Smash Repairer Schemes do not apply to many insurers providing motor vehicle insurance.

ICA is concerned that for many decades the insurance industry has been subjected to unsubstantiated accusations and generalised complaints by a few repairers. The majority of these complaints, on closer analysis, do not hold up to objective scrutiny. For example, accusations that repairers are forced to provide guarantees for the repairs where in fact they are only asked to guarantee their own workmanship and accusations that late payments are a widespread problem across the industry. ICA suggested a full and open inquiry by a body such as the Productivity Commission.

ICA has proposed and welcomed this inquiry by the Productivity Commission as it provides an independent and authoritative process by which the complaints of segments of the smash repair industry can be tested. ICA believes that it is important that the assertions must be supported by facts and that it can be demonstrated that any complaints are not just isolated incidents, which are capable of being resolved between the two parties involved. Previous enquiries by the Industry Commission (1994) and the ACCC (2004) have failed to adduce any evidence that requires a solution that may inhibit competition or disadvantage consumers who are the ultimate users and beneficiaries of car insurance.

ICA is also concerned that the effect of collective industry wide proposals may inhibit competition and reduce incentives within the smash repair industry to improve the level of technology, training and productivity.

ICA is conscious of the fact that the insurance industry has not responded to the ACCC recommendation in the issues paper September 2003 that there is scope for the development of a voluntary code of conduct to cover the industry issues on a national basis. The insurance industry is highly competitive and there are strategic differences between insurers. As such, there is no scope for a single industry solution to emerge from discussions between the parties. Insurers have had difficulty in responding to the unsubstantiated claims by smash repairers as referred to above and there is a very clear view from major motor insurers that they wish to address the various issues separately.

The smash repair industry is driven by a range of market forces, including changes in the manufacture of and the way vehicles are repaired. These changes have financial implications for repairers brought about by the need to invest in new technology and the necessary skills. Inevitably some smash repairers are having difficulties in keeping pace with change.

Prima facie, it appears that there are too many smash repairers for the amount of work available. The number of vehicles per bodyshop in Australia is less than in other countries as the following table from the Australian Competition and Consumer Commission (ACCC) issues paper September 2003 demonstrates:

Country	Number of bodyshops	Total passenger vehicles	Vehicles per bodyshop
USA	53,000	130 million	2,453
UK	5,300	25 million	4,717
Australia	5,038	9.7 million	1,925

ICA believes the over capacity of the smash repair industry is compounded by falling motor vehicle claims frequencies. Insurance Enquiries and Complaints (IEC Limited) research indicates that there has been a reduction of 25% in referrals to the Scheme and a reduction of 15% in claims complaints. A major motor vehicle insurer has had a 14% fall in claims frequency over the past 12 months. An insurer with less than 10% of the market reports a fall of 6,000 claims in 2003 with the trend continuing in 2004. There is no one cause, but claim numbers are down, possibly due to improvements in vehicle design, the recent dry weather conditions, road safety initiatives like drink driving campaigns and better roads, including more freeways. Some of these factors are temporary, for example weather conditions, but some are permanent.

There are efficiencies in consolidated operations which in turn are passed on as savings to customers. If the motor smash repair industry is going through rapid and intense rationalisation, ICA believes that to encourage efficiency in business operations would help achieve real improvements from rationalisation. The smash repair industry is in a position to glean some positive developments arising from the rationalisation that continues to occur in the insurance industry. A benefit of rationalisation has already been that some ICA members are providing management training to smash repairers. The insurance industry and the consumers who insure their vehicles should not have to "pay the price" for the oversupply of smash repairers and be made responsible for the situation. Clearly, it is not a situation that has been created by insurers, but it is the consequences of structural reform.

The Role of Motor Vehicle Insurers

Insurers are focused on offering competitive motor vehicle insurance products to their policyholders. A main concern of insurers is to ensure there is a competitive market and to offer consumers competitively priced premiums and quality repairs carried out in a timely manner.

There are three separate and quite distinct relationships involved. The first is the relationship between the insurer and the customer, the second is between the insurer and the repairer and the third is between the repairer and the customer via the insurer. There are contractual relationships between the insurer and the policyholder and between the insurer and the repairer in the event of a claim. ICA believes that the relationship between the insurer and the customer is of prime importance.

Insurance companies are competing for business with customer satisfaction, efficiency, quality and the timeliness of smash repairs being major factors. Insurers are primarily concerned about offering consumers competitively priced products with a high degree of certainty. For example, in the event of a claim a degree of certainty that the vehicle will be repaired in a timely, cost effective and appropriate manner.

It has previously been suggested that the issues between insurance and motor vehicle repair relate to two sections of the one industry. It must be recognised that these are two very distinct and different industries, one being the insurance industry providing insurance products to consumers and the other the smash repair industry which is quite separate and forms part of the motor traders industry.

(a) Preferred Repairer Schemes Benefit the Customer

Insurers have a variety of models or approaches to ensure that they deliver customer service. One such method is the Preferred Repairer Scheme. ICA believes preferred repairer schemes are beneficial to consumers in terms of lowering costs, improving quality and ensuring timely completion of repairs. Consumers are able to expect that the repair is appropriate and cost effective with recourse to the insurance company if there is a problem. There is an assurance about the capability and competence of the smash repairer. Preferred repairers have been chosen because they have the capability, skills and equipment to carry out quality repairs and for their ability to develop a working relationship with the insurer.

Consumer groups have acknowledged that preferred repairer schemes have delivered benefits to consumers. Despite several investigations of repairers complaints, the ACCC has found no improper conduct by insurers. Both the ACCC and consumer groups have acknowledged that policyholders have benefited from the competitive environment in the motor insurance market, including insurers preferred repairer schemes, which identify those who can do competitive high quality work.

The Insurance Enquiries and Complaints (IEC Limited) Scheme, the independent complaints scheme dealing with complaints by consumers about insurers, received only nine complaints in 2003 about vehicle repairs, despite there being over 1,000,000 motor vehicle claims made to insurers each year.

(b) The Quality of Repairs and Quality Repairers

ICA members believe preferred repairer schemes and other relationship management arrangements improve the quality of repairs. This means that any problems related to repair quality or the need for re-work are resolved between the consumer, the insurer and the repairer. For example, concerns about the quality of paintwork or the repair. ICA members with preferred repairer schemes maintain that the quality of repairs is enhanced by the fact that the repairers have met the criteria set to gain preferred repairer status.

The assurance of quality of repairs is enhanced by guarantees. Insurers have previously stated to the ACCC that guarantees assure the policyholder that if the work is of substandard quality it will be rectified; also that the guarantee is provided by the insurer to the policyholder.

(c) Repair Cost Models and Hourly Rates

It is important to recognise that hourly rates are not universal and it is the final cost of the job that determines the cost of the repair. Insurers use a variety of repair cost models in evaluating the total cost of repairs and these are determined by individual insurers in line with their own business requirements and practices. ICA believes that this is a further demonstration of a very competitive insurance market.

Hourly rates have been raised as an issue by repairers. Hourly rates differ between repairers and insurers, and are a competitive factor. There are differences between repairers efficiencies and skills that lead to variations, for example, a repairer with the latest equipment may take a shorter time than one with older equipment or technology. Hourly rates cannot be looked at in isolation, as relatively low hourly rates are offset by relatively generous times allowed to undertake repairs. The term used by insurers is “funny time, funny money”. Hourly rates and job times reflect the uncertainty involved in accurately assessing in advance the amount of repair time and work that might be required.

There are obvious Trade Practices Act issues. For example, there are varying degrees of skills in managing repair shops, some are more efficient than others and rates will vary in each shop. The suggestion that agreed hourly rates would solve the repair industry's problems borders on a proposal for price fixing.

ICA continues to oppose calls by smash repairers for agreed or mandated hourly labour rates and job times. Rather it is the total cost of the repair that is important and this is reflected in the final quote for the job by the repairer. The ACCC has already noted that in the absence of any authorisation any evidence of agreement on prices between competitors or associations could raise restrictive trade practices concerns under the Trade Practices Act.

(d) Payments to Repairers

Insurers have previously advised the ACCC that payments to the majority of repairers are on 30 day terms or less and many repairers incorporated into preferred repairer schemes receive payments by electronic funds transfer. In the past acquisitions and mergers of insurance companies did mean that some insurers were faced with the difficulties associated with having a number of payment systems. Insurers now report payment methods and systems that deliver payment times ranging from within seven days, 14 days or within 30 days of the receipt of invoices.

Although the Victorian Automobile Chamber of Commerce (VACC) Survey Report June 2003 has some shortcomings, in many aspects it favours insurers. It says 75% of payments are within 30 days. At page 13 it says, "the mean duration taken by insurance companies to settle Body Repair invoices was 24 days, with a mean of 18 days". Insurers report that where there are delays, this most often results from difficulties related to changes in invoices. For example, the inclusion of additional items other than those agreed to by the insurer.

The issue of alleged late payments prompted a Private Members Bill in the Federal Parliament. The Late Payment of Commercial Debts (Interest) Bill 2003 was examined by a Joint Parliamentary Committee, which, whilst recognising some of the issues that might prevail in business-to-business generally, did not believe that this proposed legislation would provide a solution. The Bill did not go forward.

(e) The use of Alternative Parts

Parts are one of the largest components of the repair process and repairers contend that insurers promote the use of alternative or second-hand parts to lower the cost of repairs. The policy on the use of parts varies between insurers and this will be evident from submissions by insurers.

The use of Original Equipment Manufacturers (OEM), alternative parts and second hand or recycled parts is a complex issue. The terminology differs and the position is complicated by the recognition of parallel parts and non-badged OEM parts that are claimed to be OEM quality but do not carry the vehicle manufacturers brand.

The Industry Commission Report 1995 did not express any concern about the safety of non-OEM parts although it did say these might sometimes be of lower quality. The use of OEM parts is not a guarantee of quality itself. It is worth noting that currently there are over 350 vehicles on the Federal Government's recall list and this may be accessed at www.recalls.gov.au. This suggests manufacturers do not have a monopoly on quality.

Under the insurance contract the insurer must satisfy the demands of the customer and this includes providing the appropriate repair of the vehicle. For example, second-hand or reconditioned parts may be considered appropriate if the condition and age of the vehicle warrants their use. The ACCC has already noted that insurers parts policies vary. For example some insurers require the use of OEM parts only regardless of the age of the vehicle, while others do not.

(f) Dispute Resolution

ICA believes that an industry wide business-to-business Code of Conduct or other provisions would conceivably interfere with normal business arrangements and affect the benefits of a competitive market. A Code or other provisions would not be in the public interests as it would have the potential to adversely affect a competitive market.

The General Insurance Code of Practice was introduced in 1994 and now stands as a model Code. It has Government approval and includes claims handling and dispute resolution procedures. It is updated every three years in consultation with consumer representatives, the insurance industry and the Australian Securities and Investments Commission (ASIC). The Code is currently under review and a wide range of comments have been received on the consultation draft.

The Code establishes standards of practice and service for the general insurance industry and aims at improving the relationship of insurers with their customers. As a consumer protection measure the General Insurance Code of Practice is approved by ASIC and subject to regular review. ICA believes that the General Insurance Code of Practice, which includes dispute resolution procedures, already protects customers who have motor insurance claims.

The Insurance Enquiries and Complaints Scheme operates in conjunction with the General Insurance Code of Practice. It is highly regarded and acknowledged within Australia and overseas as a leader in the field of dispute resolution. The Enquiries and Complaints Scheme is aimed at resolving disputes between consumers and their insurance company. This Scheme is a national scheme free to consumers. The ACCC has noted that the Insurance Enquiries and Complaints Scheme can be effective in resolving disputes that may arise between consumers and insurers.

The General Insurance Industry Code of Practice, the Insurance Enquiries and Complaints Scheme and existing legislative provisions already deliver the desired protection to consumers, which must be the principal objective.

It should be noted that the General Insurance Code of Practice is not contractual. It does not in any sense apply to the regulation of prices or products. It provides no consumer remedies and is inappropriate as an instrument for business-to-business regulation or dispute resolution. ICA believes corporate codes and other relationship management approaches by insurers preclude any need for an industry wide business-to-business code or dispute resolution provisions.

(g) Application for Accreditation by Repairers

All smash repairers are able to apply for accreditation to gain approved repairer status with those insurers that have preferred repairers schemes or networks. Insurers believe they are ultimately entitled to determine the repairers with whom they wish to conduct business. Insurers assess the applications they receive and measure these against their individual acceptance criteria. The following comments in the ACCC issues paper September 2003 on the relationship between the Australian Motor body/smash repair industry and the general insurance sector are relevant:

"The ACCC believes that the establishment of the preferred repairers schemes has introduced a number of significant benefits for consumers. The ACCC recognises that insurers have a commercial right to limit membership of these schemes depending upon each insurers' needs and requirements".

Customers of Insurance Companies

(a) The Consumers Choice of Repairer

ICA members advise that a high percentage of consumers ask their insurance company for advice on where to take their vehicle to be repaired. This suggests that most consumers do not have a fundamental concern about choice of repairer.

The ACCC issues paper September 2003 confirms that "Consumer groups have stated that the predominant concern of most consumers is that the vehicle is repaired quickly, efficiently and to a high standard. Consumers are also concerned about the cost of motor vehicle insurance premiums." Mr Peter Kell, CEO of the Australian Consumers Association, has told ICA that the ACA supports efforts to improve the efficiency of the smash repair industry. It is important that consumers have choice but it also important that costs are kept down.

There is an argument by smash repairers that suggests consumers may have a favourite repairer. ICA members report that on average accident frequencies are in the order of one accident for a policyholder in seven years, and therefore the average policyholder is unlikely to have a relationship with a repairer. Even so it is recognised that consumers may have a particular family or other relationship with a repairer of their choice.

ICA believes that as the degree of choice of repairer differs between insurance companies information on choice of repairer should be disclosed to consumers at the point of sale and in the contract with the consumer.

(b) Disclosure to Consumers

ICA believes appropriate disclosure at the point of sale will allow consumers to make informed choices when purchasing motor vehicle insurance. This also means insurers business models will result in competition and differentiation between insurers. ICA believes that it is essential for insurers to disclose the following to consumers at the point of sale:

- Information about the consumers choice of repairers,
- The insurers policy on the use of Original Equipment Manufacturers (OEM), alternative parts and recycled parts in the repair process, and
- Whether it is the insurer or the repairer who provides the guarantee for the repairs.