



MOTOR TRADERS ASSOCIATION OF NSW

**SUPPLIMENTRY SUBMISSION TO THE
PRODUCTIVITY COMMISSION**

**Inquiry into the relationship between the
Australian Motor Vehicle Smash Repair Industry
And the Australian Motor Vehicle Insurance Industry**

Draft Report November 2004

12th of January, 2005

Overview

The Association in its supplementary submission will, for the most part, only address the Draft Report dated November 2004. The Association recognizes that the Productivity Commission Inquiry 2004 (P2004) has identified some of the problems faced by the consumer and the Motor Vehicle Smash Repair Industry (MVSRI).

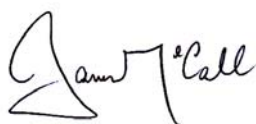
There were very commendable recommendations by the P2004 such as, a Code of Conduct, the abandonment of Funny Money-Funny Time (FMFT), recognition of the fact that there are now only four major Motor Vehicle Insurers in the market place. Also, the Association applauds the Commissions recognition of the fact that for the most part, the PSR schemes are to the benefit of the Insurance Industry (INSI) and not the consumer, and most importantly, the ever diminishing availability of a policy offering freedom of choice to the consumer, with no penalties (further response of these recommendations in our Comment).

The Association will be providing however, further documents in support of issues raised in its original submission.

The P2004 is aware that the Insurance Australia Group (IAG) has recently applied to the Australian Competition and Consumer Commission (ACCC) for, and has, temporary exemption from provisions of the Trade Practice Act (cth) 1974 (TPA) in particular section 47 on matters relating to “**Third Line Forcing**”. This most recent application is for the purpose of introducing a “**Two Tier Policy System**”. The Association will provide, the letter sent to Policyholders by IAG and the letter of objection by the Association, which has been lodged with the ACCC. The P2004 has already received information on this issue from the Motor Trades Association of Australia MTAA.

The Association would like to correct information in the Draft Report of November 2004, in the area relating to vehicle throughput figures for the Australian, United States and the United Kingdom MVSRI's. The figures that we have provided are quoted from the International Bodyshop Industry Symposium (IBIS) report as presented at the International Auto body Congress and Exposition (NACE) in the United States at the 20th annual NACE conference December 2004.

Kind regards,

A handwritten signature in black ink, appearing to read 'James McCall'. The signature is stylized with a large initial 'J' and a cursive 'M'.

James McCall
Chief Executive Officer
Motor Traders Association NSW

Index

Abbreviations

Comment

- 1. Choice of Repairer - Letter from IAG to the Policyholder**
- 2. Association Letters of Objection.**

Summary

Annexure 1: Nathan Russell issues with AAMI

Annexure 2: International Bodyshop Industry Symposium

Abbreviations

ACCC	Australian Competition and Consumer Commission
ASIC	Australian Securities and Investment Commission
ASR	Associate Smash Repairer
FMFT	Funny Money – Funny Time
IAG	Insurance Australia Group
INSI	Insurance Industry (Allianz, IAG, Promina, Suncorp Metway and all Insurers Subsidiaries)
MTA	Motor Traders Association (NSW, South Australia, Western Australia, Queensland and Australian Capital Territory.)
MTAA	Motor Traders Association Australia
MVSRI	Motor Vehicle Smash Repair Industry
PSR	Preferred Smash Repairer
P1995	Productivity Commission Inquiry “Vehicle and Recreational Marine Craft Repair and Insurance Industries” 1995
P2004	Productivity Commission Inquiry “Relationship between Australian Motor Vehicle Repair Industry and the Motor Vehicle Insurance Industry” 2004
RTRM	Real Time – Real Money
TPA	<i>Trad Practices Act 1974</i>
VACC	Victorian Automobile Chamber of Commerce

Comment

The Association and its members are in principal, pleased and not surprised with the findings and recommendations in the **“Draft Report”** dated November 2004.

The Association acknowledges that the findings and recommendations of the P2004 inquiry are not dissimilar to those of the previous Productivity Commission 1995 (P1995) inquiry. The main reason governing the similarity is that the Insurers have continued to denigrate the MVSRI and in part, have misled the community at large.

One of the two major differences in the market place today, compared with P1995, is the reduction of Motor Vehicle Insurers through acquisitions and the other is the reduction in the MVSRI.

Since 1995 some insurers have de-mutualised, and by the acquisition of existing insurers and the retention of the existing insurers' trade name have reduced the available options for consumers to leave one insurer and obtain a policy from another, which is not affiliated with one of the major four insurers.

The Commission, having recognized that there are only four major Motor Vehicle Insurers in Australia should, in the Associations opinion, review the original finding of P1995, compare those to the current findings, reflect on the Senate Economics Review Committee report, which then would give a clear indication of the problems faced by both the consumer and the MVSRI dating back to 1996. These problems having increased should also clearly identify the Insurance Industry objectives.

The Commission has acknowledged that the MVSRI has a great dependence on the Insurance Industry; the Commission goes on to recognize that the Insurance Industry **“focus on control of cost, driven by a need to improve shareholders returns and contain premium levels to attract and retain customers”** (Page XIII Overview Draft Report), have identified two key points, **“control of cost”**, **“contain premium levels”**. The P2004 in their Draft Report neither did the P1995 in their final report acknowledge that the methods and practices of the Insurance Industry have delivered to the consumer a clear and define benefit in improved quality and service in their product, or for that fact, *the argument of contained premiums!* The then Minister for Small Business and Tourism the Hon. Joe Hockey, launched an inquiry into the unilateral Motor Vehicle Policy Premium increases!

The MVSRI has not received any increase from the Insurance Industry (since 1996); to the maximum the Insurance Industry is prepared to pay per hour, further to that, premiums have still continued to rise! Recognition by the P2004 that the Funny Time- Funny Money (FTFM) scenario is used by the Insurance Industry to impose all and any increases faced by the MVSRI as being **“inclusive in the hourly rate”** is again acknowledged by the Association. The MVSRI has, for the most part, become a very lean and efficient industry, having absorbed for so long increases such as CPI, Petroleum Based Product, Labour Cost, Insurance Premiums, Superannuation requirements, Capitol Expenditure increases to list but a few.

The MVSRI viability is now suffering, the Commission, having acknowledged that the Insurance Industry methods and schemes are for the most part in the favour of the Insurance Industry, being used as **“control of cost”**, must also realize that now MVSRI is losing skilled labour (MTA NSW submission) because of the

inability of the MVSRI to continue to increase salaries or improve conditions, in keeping pace with other industries. Further, no attempt to replace the exodus of skilled labour because of the requirement to maintain efficiencies and productivity, the MVSRI is not in a position of taking on and training apprentices.

The Insurance Industry claims that *rationalisation* of the MVSRI is what is needed and that this will remedy the current situation, being that there will be fewer repairers to share the current availability of work. However, submissions from MTAA, the MTA's the VACC and Manufacturers, clearly identify that it is not market forces for workload deficiencies, rather the Insurance industry directing of such work through their PSR Programs.

The Commission has acknowledged that there has been a considerable decrease in the MVSRI since 1991-1992 from approximately 6500 to 5035 today.

The Commission quoted figures on the throughput per repair shop in Australia, United States and in the United Kingdom; those figures appear to be incorrect.

Australian throughput quoted "2000". (Page XIV Overview Draft Report)

United States throughput quoted "2500" (Page XIV Overview Draft Report)

United Kingdom throughput quoted "5000" (Page XIV Overview Draft Report)

The figures should be amended to read as follows:

Australia: 12,850,000 vehicles on Australian roads 5035 smash repairers, facility throughput availability 3,062 vehicles per year.

United States: 235,381,331 vehicles on United States roads 43,318 smash repairers, facility throughput availability 5,434 vehicles per year. (Ref Ibis)

United Kingdom: 31,874,331 vehicles on United Kingdom roads 7,284 smash repairers, facility throughput availability 4,376 vehicles per year. (Ref Ibis)

With the Australian population increasing and vehicle sales at record highs over the past number of years, what reason could there be to continue to impose such "*methods or schemes*", claiming further industry rationalisation to the benefit of the consumer?

At what expense can and should the Insurance Industry be allowed to continue to impose their corporate and market strengths driven by the need to continue to increase their profits on *small family run operations for ultimately, the Insurance Industry benefit?*

The Commission recommendation for a "**Voluntary Code**" though well accepted by the Associations, is not enough, nor is any period of time to attempt to negotiate such a document. The PC1995 recommended a similar option in its inquiry, the Insurance Industry even with attempts by the ACCC to intervene, have had time to negotiate a document and implement its context; however, all the attempts by the Associations and Chambers have been avoided by the Insurance Industry!

The Association is also of the opinion that anything less than a **“Mandated National Code”** would not be adhered to by either Industry!

The Association strongly suggest that the Commission recommend nothing less than a **Mandated National Code** to Government. The intent of the Insurance Industry, to avoid negotiations of any kind, should be evidence that nothing less than a **Mandated National Code** will be sufficient.

The P2004 is aware the IAG having lodged for an exemption from provisions of the TPA from “activity that could be interpreted” as **“Third line Forcing”** wanting to introduce a **“Choice of Repairer Policy”**, whereby the consumer faces an additional cost on their Insurance Premium to have a choice as to where to take their vehicle at the time of having an accident.

The Association is of the opinion that it should be headed **“Pay for Choice Policy”**; therefore the consumer knows exactly what it means. The Association is supplying in this submission, documents in relation to the IAG application to introduce the new scheme, does so for the purpose of showing the P2004 that while this inquiry is being held, the IAG still persist on imposing their ideas to control the market place, the consumer and the MVSRI to gain a Commercial Advantage on its Competitor (Ref: IAG Application, Sub Clause 5.10).

The Associations nationally have apposed such a scheme and are waiting on the ACCC to respond.

1. Choice of Repair- Letter sent by IAG to their Policyholders:

Choice of Repairer Option

HELP, THROUGH A NETWORK OF QUALITY SMASH REPAIRERS

At NRMA Insurance, we're always looking for ways to improve the service we provide to you.

That's why we created a network of high quality smash repairers, which we call NRMA

- Insurance Preferred Smash Repairers (or PSRs for short).

We regularly assess the work quality and customer service of each of our NRMA Insurance PSRs to ensure they meet the high workmanship and safety standards we expect. We also regularly review repair costs to ensure that we can continue to provide competitive premiums.

WHAT ARE THE BENEFITS OF USING A PREFERRED SMASH REPAIRER?

We want to help by taking as much stress out of the repair process as possible. So when your vehicle is being repaired by an NRMA Insurance PSR, we will provide you with:

- a repairer that has been approved by us
- a dedicated Case Manager responsible for organising repairs with the PSR, and
- a Lifetime Guarantee on the repairs.

We're here to help



CAN I CHOOSE MY OWN REPAIRER?

For renewing policies from the 15th November 2004, we offer a policy option that allows you to choose your own repairer (repairs will still be carried out subject to our approval). However, there is an additional premium payable. If you choose not to take this option, and you need to have repairs carried out, we will select the repairer (normally a PSR) to repair your vehicle. Either way you will still get a dedicated Case Manager and a Lifetime Guarantee on repairs we authorise.

HOW DO I KNOW IF MY REPAIRER IS A PREFERRED SMASH REPAIRER?

You can ask the repairer, who should have a sign at their premises indicating that they are an NRMA Insurance PSR. Please note that the NRMA Insurance PSR network is extensive and continually under review to ensure that it continues to deliver exceptional service and repairs. As a result, the list of NRMA Insurance PSRs undergoes regular changes as some repairers leave the network and others are added. For this reason, we are unable to guarantee that a particular repairer will or will not be an NRMA Insurance Preferred Smash Repairer in the future.

HOW DO I TAKE OUT THE CHOICE OF REPAIRER OPTION?

If you would like your policy to include this option, please contact us on or before your renewal date to make this change.

WHAT IS THE COST OF THE OPTION?

The cost of this option is an additional \$60 per year. This excludes GST and stamp duty.

SHOULD I TAKE OUT THIS OPTION?

It's entirely your choice. This document contains general information only, and may not suit your particular circumstances. So before making decisions about insurance products you should consider the appropriateness of the information having regard to your circumstances, and consider the enclosed Product Disclosure Statement and Policy Booklet.

2. MTA NSW Letter of Objection:

Motor Traders Association of NSW,

Objection to the application by the Insurance Australia Group.

Subject: Form G Notification of Exclusive Dealing Conduct (Third Line Forcing Conduct).

Interest in the Application by IAG:

The Association in representing its members has (after reading the application by the IAG), serious concerns as to the lack of evidence in benefits of such a scheme to consumers/policy holders.

In having read the application, we find serious conflict in a variety of areas throughout the application, in representations made by the IAG to the ACCC. Further, the letter sent to the consumer varies greatly in terminology to that of the application.

The important thing is to clarify the use of the words a “*discounted policy*”, in the “*No choice Policy*” information, when they are actually promoting (in the letter to the consumer), a “*Standard Policy*” with “*Additional Premium*” if the consumer/policy holder wishes to take the option of freedom of choice.

Confidentiality:

The covering letter by BLAKE DAWSON WALDRON is itself misleading. The application lists four (4) of IAG subsidiary companies, one being an employer group.

IMA Pty. Ltd. The first company listed is an employer group, it employs the Tele-Claims and Assessing staff, what purpose for an exemption for this company and what benefits could or do flow onto the consumer/policy holder?

To further dissect the other three (3) companies (in this application) infrastructures and what they represent in the market place should be of concern to the ACCC because of market share.

Clause 2.1:

The estimated market shares in Confidential Annexure A are confidential and commercially sensitive. The IAG Insurers request that the Commission treat the information in Annexure A as confidential and that it be excluded from the public register on confidentially grounds.

Why request confidentiality on this information, when it is already in the public domain?

The IAG claims of “*commercial sensitivity to their market share*”. That information is available through ASIC and on the ASX listings and has also been posted in the Productivity Commission Summary Report. The Association not having access to what has been supplied in these documents can only make the comment that the IAG Group has the majority, short of being a Monopoly in the Motor Insurance Sector market place.

It is common knowledge that the IAG Group consists of the following subsidiaries, IMA Pty. Ltd., IAL (NRMA Ins.), CGU (VACC and AIM), SGIO, SGIC, NZI, RACV Ins., Swan Ins. and State Ins in the Motor Insurance Sector. The IAGs application intends to minimise the availability of consumer freedom of choice on more than Fifty percent (50%) of its subsidiary holdings in its Motor Vehicle Insurance sector.

The fact that there are only four (4) major insurers in the Motor Vehicle Insurance sector in Australia should be of concern. With IAGs current application, further diminishing consumer ability of being able to find a “*policy or insurer*” with genuine freedom of choice option. How can this be beneficial to the consumer/policy holder with such limited and exclusive “*policy or insurer*” options?

Clause 2.2:

The NRMA Insurance Product Disclosure Statement and Policy wording booklet which is Confidential Annexure B will not be publicly available to customers until after 10 October 2004.

The IAG Insurers request that the Commission treat the information as confidential and that it be excluded from the public register on confidentiality grounds until 10 October 2004

Product Disclosure Statement (PDS):

This document in the area of “**Claims**” is completely in the favour of the IAG. Headings such as:

Claims Pages 55-63:

Settling claims Pages 64-68:

Things that may put your claim at risk Pages 69-72:

How to make a claim – *if you do not co-operate*

How to make a claim – *if you have the Choice of Repairer Option see page 24*

Your responsibility – *you must, we may*

What you must tell us – *you must, otherwise*

Proof of ownership - *we may ask you, otherwise we may not*

Inspections and quotes - *we may, however*

The Association can continue, for brevity, it may be easier to look at the document itself.

The document is constructed in such a way that it appears that the consumer/policy holders responsibility is to cross all their T's and dot all I's. The insurers' responsibility appears to be to look for those errors or omissions and decline that claim.

This document alone in terminology and phrasing would require the consumer to have it read by a Legal Advisor, with it referencing backward and forwards throughout.

If the IAG through this application genuinely believed that they are offering a benefit to the Policy Holder, why then have such a complex document titled "Product Disclosure Statement" that would only be interesting reading to Lawyers, rather than being ***Informative and in Plain English to the Policy Holder?***

The ACCC has for the past three (3) years attempted to improve the transparency of such documents, having held meeting to improve the relationship between the Insurers, Repairers and Consumer Representative Groups, for the benefit of the Consumer/Policy Holder. This "Product Disclosure Statement" in the Associations opinion, falls a long way short of what the ACCC was attempting to achieve.

Clause 2.3:

The details of the number of PSRs and ASRs by state in Confidential Annexure C are confidential and commercially sensitive. The IAG Insurers request that the Commission treat the information in Annexure C as confidential and that it be excluded from the public register on confidentiality grounds.

The detail of the number of PSRs and ASRs being commercially sensitive is an extraordinary comment! Being that submissions by State Associations to the Productivity Commission and that of the IAG Group themselves, provided that information, which is now public record, all having identified the number of these facilities Nation wide.

Again what purpose does it serves to hide the number of repairers in the PSR and ASR scheme. What if any are the problems to make this list available? After all these are the repairers (according to the application) that will be promoted as being part of the scheme to the Policy Holder that does not wish to pay the **additional premium!**

The Association has looked at this with the following perspective;

If the consumer/policyholder is not aware that the repairer they have used in the past is part of the system, could they or might they pay to have the security of using that repairer again?

The important thing to realise is that in the IAGs PSR, ASR scheme, it is only the PSR that is afforded the opportunity to display a sign if they choose!

IAG Insurers network Repairers Scheme:

Clause 3.5:

The IAG Insurers maintain a network of repairers who have been appointed to undertake smash repair work for the IAG Insurers. Repairers may be appointed as either a Preferred Smash Repairer (PSR) or an Associate Smash Repairer (ASR). The IAG Insurers will give preference to PSRs over ASRs in the allocation of work, but, with respect to the matters relevant to this notice, the two categories of repairers are otherwise identical!

The IAG in this clause identifies their two tiered repair scheme and that both are included in this application and that the PSR is promoted over the ASR, then, they go on to say that the “***two categories are otherwise the same***”.

For the purpose of this application IAG identify to the ACCC that both tiers of this network are to participate as recipients of work through the directing of consumers/policy holders. However, as the “Choice of Repair Option” document (already submitted to the ACCC) shows that the ASR is not mentioned to the consumer/policy holder as being available at no additional premium (further comments on the ASR in our Summary)! .

The Associations concern is that the consumer/policy holder might not, in the first instance, recognise or know that their repair choice (ASR) has no additional premium requirements!

Standard Policy:

Clause 4.3:

Under the terms of the Standard Policy, when a claim is made and the IAG Insurer decides to have the vehicle repaired, the insured will not have a right to nominate the repairer to undertake the repairs. Instead, which repairer will repair the vehicle will be at the sole discretion of the IAG Insurer. The IAG Insurers propose to select a repairer in these circumstances from the pool of PSRs and (if no suitable PSR is available) ASRs. In WA, SA & QLD Metropolitan Areas, this may involve the insured attending a Repair Management Centre. Once the IAG Insurer has determined the repairer to repair the vehicle, the IAG Insurer will organise for the vehicle to be towed to the repairer or ask the insured to deliver the vehicle to the repairer, as appropriate. The IAG Insurer will ask the repairer to provide the IAG Insurer with a quote for the repair of the vehicle. Once the IAG Insurer and the repairer have agreed on the amount of the quote, the IAG Insurer will engage the repairer to repair the vehicle. The IAG Insurer will pay the repairer directly for the repair work. If IAG does not authorise the repairs it may cash settle with the insured for the reasonable cost of repair or replacement of the vehicle.

In this clause IAG clearly identify the process in which they will deal with a claim made under the “**No Choice**” procedure.

Some issues that arise in this clause are;

- “IAG will select from the pool of PSR the repairer or an ASR if no suitable PSR is available.” (Consumer letter does not refer to the ASR) as a “**Standard Policy**” option.
- “IAG will organise for the vehicle to be towed to the repairer or ask for the insured to deliver the vehicle to the repairer, as appropriate.” The percentage of vehicles that require towing from the scene of an accident is approximately 10% of all claims lodged. Does this mean that the consumer/policy holder will be driving for the purpose of delivery, a vehicle that would not comply with most State Legislated Roadworthy Certificate Inspection (because of broken Headlamps or Tail lamps etc)?
- “IAG will request a quote from the repairer once the IAG and the repairer have agreed on the amount of the quote; IAG will engage the repairer to repair the vehicle”. IAG reserve the right to assess and vet all quotes before commencement of repairs (as is current procedure).
- “If IAG does not authorise repairs they will cash settle”. Why would the IAG cash settle if the policy holder has already relinquished their freedom of choice and the IAG has chosen the repairer? What could justify a cash settlement? They either accept the claim or they deny the claim!

Choice of Repairer Policy:

Clause 4.4

Under the terms of the Choice of Repairer Policy, the insured, and not the IAG Insurer, selects the repairer to undertake repairs to the vehicle. When a claim is made and the IAG Insurer decides to have the vehicle repaired, the IAG Insurer will ask the insured to nominate the repairer to undertake the repairs. The IAG Insurer will not recommend or suggest a repairer unless the insured requests the assistance of the IAG Insurer in nominating a repairer. The insured may select any properly qualified and licensed smash repairer within a reasonable distance of the location of the vehicle to undertake the repair work, whether or not that repairer is a PSR or ASR.

In this clause IAG basically state their own disclaimer, where the customer exercises a freedom of choice. The IAG clearly identify what they will or will not do, therefore is distancing itself from all liability.

Clause 4.5:

Once the insured has selected a repairer, the IAG Insurer will organise for the vehicle to be towed to the repairer or ask the insured to deliver the vehicle to the repairer, as appropriate. The IAG Insurer will then ask the repairer to provide the IAG Insurer with a quote for the repair of the vehicle. Once the IAG Insurer and the repairer have agreed on the amount of the quote, the IAG Insurer will engage the repairer to repair the vehicle. The IAG Insurer will pay the repairer directly for the repair work. If IAG does not authorise or cannot agree the quote it will cash settle with the insured for the reasonable cost of repair or replacement of the vehicle or use one of the other cash settlement options for the relevant incident as described in pages 6 to 15 of the Product Disclosure Statement.

This, the Association found interesting because it describes the process that will be used if the consumer has a **“Choice of Repairer Option”**. In reading this clause and referring back to clause 4.3 in the **“Standard Policy”** both processes are identical, except the consumer in this case has paid \$69.00 additional premium (further comment on additional premium charge in our Summary).

Third line forcing:

Clauses 4.8 and 4.9:

(4.8) It is the view of the IAG Insurers that the notified conduct described above does not constitute conduct within the meaning of sections 47(6) or 47(7) of the Trade Practices Act 1974(cth)(TPA). This is because (amongst other things) where, under the Standard Policy, a PSR or ASR repairs the vehicle, the services of the PSR or ASR is acquired by the IAG Insurer, not the policyholder. The PSR or ASR undertakes the repair work for the IAG Insurer; the IAG Insurer is liable to the PSR or ASR for the cost of the repairs. The policyholder in turn acquires a repaired vehicle from the IAG Insurer. It is the view of the IAG Insurers that the IAG Insurers are not providing any good or service, or offering any discount, allowance, rebate or credit in relation to the supply or proposed supply of any goods or services, on condition that the policyholder also acquires goods or services from a repairer. Instead, the policyholder acquires goods and services only from the IAG Insurer.

(4.9) Notwithstanding the view of the IAG Insurers outlined in the previous paragraph, the IAG Insurers lodge these notifications for the avoidance of doubt.

The IAG in their comments in clause 4.8 are correct in what they are saying if you look at the IAG as being the **“work provider”** however, remove the vertical contracts imposed on repairers by IAG, in the Associations opinion breach the Trades Practices Act 1974(cth).

The IAG claim that they are “**liable to the PSR and the ASR for the cost of repairs.**” is that not acceptable when you choose to undertake to insure risk. The word “**liable**” is and can be changed to the word “**indemnify**” which is what an insurer is in the business of doing. The IAG claim that they are “**liable**” is correct, however, are they liable, or do they have a Duty of Care to “**Indemnify**” the consumer/policy holder under the Insurance Act?

The IAG claim that the consumer/policy holder only acquires goods and services from the IAG Insurer. The Association's opinion is they (consumer/policy holder) have purchased a policy (goods) and affectively paid for that one year in advance, with no indication of a delivery date. They (consumer/policy holder) require their vehicle repaired (service) from the repairer.

Notwithstanding the opinion of the Association, as to breaches of the TPA. This application for exemption should be closely scrutinised as it does not clearly identify in its context a true, proper and clear benefit to the consumer/policy holder.

Public Benefit of the Proposed Conduct:

Clause 5.1

The proposed conduct is likely to enhance efficiency and consumer choice in the motor vehicle insurance and smash repair markets. The IAG Insurers refer to the following extract from an ACCC Issues Paper which notes that Repairer Groups have been calling for a two tiered pricing system (to which the Choice of Repairer policy option responds):*

“Repairer Groups have called for consideration of a two tiered pricing system. This price system will offer consumers the choice of paying two separate prices for motor vehicle insurance. One price will enable the consumer to choose any repairer to perform insurance related repairs to the vehicle. The other price will enable the consumer to go through the insurers normal method which may or may not include a preferred repairer scheme. Insurers believe that if this were to be introduced then the policy which enables full choice will be more expensive.”

The IAG in extracting verbatim, paragraph 3 page 17 from the “ISSUES PAPER” September 2003, ACCC, was raised by the Insurers.

This was initially raised for discussion at the first round table meeting July 2002. The IAGs PSR representative Mr. Gregory Henson voiced the possibility of such a scheme that was then further explained by Mr. Wayne Burns the IAGs in-house Legal Advisor. Whilst there was certainly discussion of a “**Two Tier System**”, it was at all times an Insurer initiative and not the Association's. In fact the Association's position is exactly the opposite.

Clauses 5.2 through to and including 5.9:

- 5.2** *Most policyholders, in contrast to the IAG Insurers, are not regular consumers of smash repair services. They are, therefore, generally not well-informed consumers of smash repair services. Given the cost of acquiring information, as infrequent consumers there is unlikely to be an incentive for policyholders to become well-informed. In particular, as under a policy of insurance the cost of the repair will be borne by the insurer and not the policyholder, there is little incentive for the policyholder to take any steps to minimise the cost of repair. As a result, where the insured has the choice of repairer, the average cost of repair is likely to be above the competitive level. Higher repair costs, all else equal, will in turn result in higher insurance premiums.*
- 5.3** *More generally, the asymmetry of information between the policyholders as consumers and the suppliers is likely to cause market inefficiencies. It allows inefficient suppliers, who would exit the market or take steps to become more efficient but for the information asymmetry, to remain in the market. This has implications for both the productive and allocative efficiency of the smash repair market.*
- 5.4** *The Standard Policy allows policyholders to take advantage of the IAG Insurers' market knowledge and scale efficiencies. Policyholders get the benefit both in quality of repair and customer service received, and in the form of premiums being lower than they otherwise would be (see further paragraph [5.10]).*
- 5.5** *The IAG Insurers are frequent and comparatively well-informed purchasers of smash repair services. The motivation of the IAG Insurers in establishing the PSR and ASR programs was to realise improvements in customer service and repair quality and reduce average repair costs by using their knowledge of the smash repair market to identify those repairers who performed high quality work at a competitive cost, and then deal primarily with those repairers.*
- 5.6** *The experience of the IAG Insurers is that the average cost of repairs undertaken by PSRs is lower than the average cost of repairs undertaken by other repairers.*
- 5.7** *However, the IAG Insurers recognise that some policyholders place significant value on the right to choose which repairer will undertake repairs to their vehicle. Giving this right to policyholders creates additional costs for the IAG Insurers. These costs include:*

** Discussion on the relationship between the Australian motor body / smash repair industry and the general insurance sector, Issues Paper, September 2003, Australian Competition and Consumer Commission at P17.*

- (a) *higher average repair costs – as discussed at paragraphs [5.2 and 5.6], the average cost of repairs undertaken by non-PSR repairers exceeds the average for PSRs;*
- (b) *increased operational costs (including towing costs) associated with the IAG Insurers having to deal with a larger number of repairers, some of whom the IAG Insurers deal with only occasionally.*

5.8 *Under the current system, these costs are borne by all policyholders, whether or not they value the right to choose a repairer. Policyholders who actively wish to select a repairer do not pay any added premium or higher excess. In short, policyholders who, if given a choice would not pay to have a right to select a repairer (because the value to them of such a right is less than its true cost) are cross-subsidising those policyholders for whom the value of the choice is greater than or equal to its true cost.*

5.9 *A significant advantage of the new policy is that it removes the cross-subsidy referred to in the preceding paragraph and allocates the cost of having a choice of repairer to those policyholders who value the right to have such choice at or above its cost.*

Cost savings passed on to policyholders

Through this entire section IAG refer to the cost of repair being significantly lower at their nominated repairer as oppose to that chosen by the consumer/policy holder. This PSR Scheme has been in the market place since, February 2000.

The IAG has not provided any statistics to show how many claims currently go through this system. Mr. P. Pemberton stated in minutes of meeting dating back as early as 2001 to the PSRs (evidence under oath and in document form - AARA v IAG Federal Court February 2004), that **“65% of claims are now being repaired through the PSR program”**; There has been no reduction of PREMIUM to the consumer in this time!

The Associations concern! What benefit this “Two Tier Policy” application has? Already with the volume of work completed through the PSRs program, benefits could have and yet have not been passed onto the Consumer/Policy Holder?

The IAG have clearly and unreservedly stated in clause 4.3 “Standard Policy” and in clause 4.5 “Choice of Repair Option Policy” where the IAG describe the processes undertaken in dealing with respective claims, that they (IAG), “will inspect all claims and if cost is agreed to, will pay the repairer direct or otherwise cash settle where agreement can not be reached”.

This complete section is contradictory as to the reasons the IAG state that they require to introduce this **“Two Tier Policy”**. The Standard Policy remains the same in its processes as it is today, except for further eroding choice. The Choice of Repairer Option Policy in its processes is the same as the Standard Policy, so where and how does this application benefit the consumer/policy holder.

Summary:

The Association has carefully read the application for exemption as submitted and is public record to the ACCC. Not without knowledge of any information in items marked “Confidential” can the Association recognise or acknowledge any evidence of real benefit to the consumer/policy holder.

The processes listed between “**Standard Policy**” and “**Choice of Repairer Option Policy**” appear to have little to no difference apart from a further additional cost to the consumer/policy holder who *genuinely* wishes to exercise *freedom of choice*.

The IAG argue that there is significant differences in the average cost of repairs between that of their nominated repairer and that of the consumer nominated repairer. However, the Association again must reinforce to the ACCC that the IAG clearly state in their PDS that they “**will inspect all claims**”, so how could there be any difference in average cost.

The argument by the IAG, that those who allow IAG to handle repairs to their vehicle through their network of repairers subsidise those who exercise freedom of choice appears to be a fallacy. The IAG do not provide evidence or information in any part of their application to the ACCC in support of such a statement.

The Association would further like to inform the ACCC, though not in Images Application, that currently in Queensland, South Australia and in Western Australia the IAG has introduced **Accident Management Centres**. These centres are used for the purpose of received the damaged vehicle from the consumer/policy holder; the assessor prepares a scope of works, takes photos and posts that information on the web-site.

The Pars (only) by way of **PIN NUMBER** access this site, then accesses the photo of the vehicle reads the scope of works and submits a tender. The ASR has no access to this site.

The IAG is currently promoting that the ASR is part of the process. For how much longer will this occur and what will be the outcome for the ASR when they no longer have access to work because of this Exemption?

The Association has knowledge that IAG will be introducing this program into NSW in 2005. How long will this application be in place before IAG re-applies for further Exemptions, further eroding choice and restricting trading opportunities?

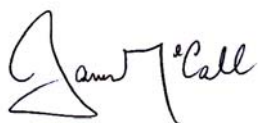
The Association would further like to bring to the Cacks' attention, the insurers own statistics. Through the Insurance Council of Australia the insurers claim that the average policy holder has an accident “*once in every 7.3 years*”. Does this mean that for 7.3 years the IAG will collect, for freedom of choice (at the current charge of \$69.00 without any further increases) *Five Hundred and Three Dollars and Seventy cents (\$503.70)*, before the consumer actually relies on that option?

If the IAG is genuine about the added costs in nominated repairer differences or the subsidising between one policy holder and another, why not impose that \$69.00 fee to the excess at the time the policy holder exercises their option?

The Association strongly urges the ACCC to decline the application for **“Exemption from Third Line Forcing”**, as should have been evident in our meeting. The use of terminology in the application to achieve their goal of controlling cost to their benefit, and not being a benefit to the consumer/policy holders’ hip pocket, should be apparent and overwhelming, adding to that the consumer/policy holder already has at ***NO CHARGE*** a freedom of choice!

The Association is available to discuss or supply any further information in support of our objection to this IAG application!

Kind regards,

A handwritten signature in black ink, appearing to read 'James McCall'. The signature is stylized with a large initial 'J' and a cursive 'McCall'.

James McCall.
Chief Executive Officer.
Motor Traders Association NSW.

Summary

The Association in conclusion would like to request that even though this is a different inquiry, and the Commissioner (allowing for his recent illness) and the staff have been very involved and are very well versed in the Terms of Reference, that they might take the opportunity to revisit the Productivity Commission Inquiry of 1995 and its recommendations.

The Productivity Commission of 2004 will then have the opportunity to reflect on those findings, along with the finding and recommendations of the Dawson Report which subsequently led to the Senate Economics Review Committee and their Report, both of which are now being taken into consideration by the Government for review and possible amendments to the Trade Practices Act.

The Associations, having had the opportunity to have read all of these reports and their recommendations, welcome in principle the similarities in the Draft Report November 2004, however, has concerns that the realization of these similarities in the Commissions Final Report might not be recognized by Government.

The Associations and its members recognize that the Insurance Industry and the Motor Vehicle Smash Repair Industry both deal in Motor Vehicle Accidents, and also share a mutual client base. However, *the Associations members repair cars, that which is their expertise; the Insurer's is to underwrite risk by insuring the asset, which is their expertise.*

Whilst the Insurers believe that they are in the business of repairing cars and not the Smash Repair Industry, no Voluntary Code would or could be attained. They continue to implement schemes, further apply for exemptions from the TPA all of which appear to be for the purpose of controlling the market place. This will directly lead to controlling the Smash Repair Industry, which will only lead to further diminishing the viability of the Smash Repair Industry nation wide, which ultimately will lead to Industry numbers declining, the effect being, delays in the consumer getting their vehicles repaired.

The Association again states that a **Mandated Code** will be the only solution to this ever recurring problem. To have another inquiry again in another five years, to revisit the same two Industries with the same issues, would be the outcome if the current recommendations (and all previous recommendations) are not recognized by Government on this occasion.

The Association is looking forward to the Public Forum on the 31st January 2005, where we will have the opportunity to present these concerns. The Association has supplied a large volume of document of evidence that has been given to the Association. This Consumer has requested us to present his disappointment with the current Insurance Industry methods, under the Association's umbrella. The Association has supplied the documents to the Commission at the consumer's request.

Motor Traders' Association of NSW.