

# **Response to the Productivity Commission Draft Report**

## **Into**

### **The Relationship Between the Australian Motor Vehicle Smash Repair Industry and the Motor Vehicle Insurance Industry**

*Prepared  
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## 1. INTRODUCTION

The Productivity Commission (the Commission) should be commended on its ability to accurately assess and identify, in such a compressed timeframe, the fundamental problems that pervade the crash repair industry, particularly the complexity and nuances of the relationship between insurers and crash repairers.

The VACC agrees with many of the Commission's findings and Draft Recommendations, and is particularly heartened by its recommendation for the establishment of an industry code. It is VACC's intention not to dwell on issues where it agrees with the Commission's Draft Recommendations. The intention of this response is to highlight a number of fundamental aspects of the Draft Report with which VACC does not agree, and in doing so, VACC will be encouraging the Commission to reconsider some of the Draft Recommendations, in the interest of consumers and the crash repair industry.

In its original submission, and in this response to the Draft Report, VACC has focused heavily on the activities of two insurers, IAG and AAMI. This focus stems solely from the fact that most of the concerns and issues of crash repairers in Victoria can be directly attributed to the policies and practices of these two insurers.

IAG's influence over the Victorian market is of particular concern due to its disproportionately large market share and its practice of introducing initiatives on a State basis and then taking them nationally through stealth.

## 2. RATIONALISATION

Whereas VACC agrees with the Commission that the crash repair industry will continue to rationalise, it can only reiterate that the size and composition of the industry should be determined by normal economic factors that govern a competitive market.

VACC cannot agree with the Commission's view that Insurers in some way have a direct role to play in the rationalisation process. Whilst it may be true that rationalisation *"reflect actions by insurers to reduce costs as a means of enhancing returns to their shareholders"*, this has been achieved by forcing crash repairers to accept unrealistically low paint and labour rates, something which has been acknowledged by the Commission.

With respect to the notion that direct involvement in the rationalisation process by insurers assists in *"reducing premiums for consumers"*, there is no evidence to substantiate that consumers have received any beneficial flow-on in the form of reduced premiums.

VACC reiterates that a competitive crash repair industry is best achieved by having many participants within the industry engaging in vigorous competition. Who stays in the industry and who exits should be dependent on individual crash repair business efficiency, productivity, quality of repairs and customer service. It should not be dependent on insurance companies restrictive commercial behaviour and policies many of which, when viewed against the

economic definition of competition, are restrictive and in VACC's view, potentially anti-competitive and designed to restructure the industry to suit the big insurers' particular business models.

### **3. MARKET POWER**

The Commission, in its Draft Report, acknowledges that 4 major insurers account for 99% of the motor vehicle insurance market. VACC would like to emphasise the fact that in two of the most populous states, NSW and Victoria (plus SA), the market share of the 4 major insurers varies to the extent that in those markets one insurer, Insurance Australia Group (IAG), has 50% or more market share, which leads to a disproportionate level of market power.

This concentration of market power in the hands of one insurer is a significant issue in Victoria, as the ability of this insurer to dictate and dominate with little competitive reprisal, directly impacts upon a number of fundamental aspects in the industry. This includes aspects such as consumer choice of repairer, concentration of preferred repairers, the ability of crash repairers to effectively negotiate and the speed and shape of industry rationalisation.

Unfortunately the ACCC previously failed to heed the concerns of the industry when it agreed to allow IAG's takeover of CGU, the outcome of which has been to create a juggernaut, which dominates the motor insurance sector in Victoria (and NSW and SA) to a level unprecedented in most other industries.

It would be very unfortunate if the Commission did not take into consideration in its deliberations and final recommendation this disproportionate level of market share, and hence the market power that rests with one organisation.

### **4. PREFERRED SMASH REPAIRER ARRANGEMENTS**

VACC and its members recognise that there is a place for Preferred Smash Repairers (PSR) in the industry, though it steadfastly maintains that repairers with PSR status are not necessarily superior in terms of overall business practices and efficiency than repairers with non PSR status.

In the main the VACC supports the Commission's findings and recommendations with respect to PSR arrangements as identified on page xxxii of its Draft Report. There are a number of aspects though, which VACC believes are worth highlighting.

#### **4.1 Restrictive Numbers and Concentration of PSRs**

Whilst accepting that PSRs have a place in the industry, VACC is very concerned about the restrictive numbers of PSRs and the potential for concentration of ownership within the PSR network, particularly in Victoria.

Currently, IAG has approximately 105 PSRs in their Victorian network, supported by a significant number (approx 500) associated repairers

(ASRs), who do a considerable amount of work for the insurer. However, should IAG succeed in its application to the ACCC and implement its 'choice of repairer policy option', and extend it to Victoria (refer additional comments under section 6 Choice of Repairer), it is VACC's view that the number of ASRs will drop significantly, whilst the number of PSRs will not rise proportionately.

Of further concern is the potential, within the current IAG PSR network in Victoria, for concentration of ownership of crash repair shops, as this could have significant ramifications, not only for the consumer, but also for those operators who potentially could be 100% dependent on IAG for their business.

#### **4.2 Short Trial Period**

VACC has been heartened by the Commission's determination that *"provided probity and prudential requirements are met, PSR status should not be automatically terminated on sale or transfer of a repair business. Allowing a short trial period with the new owner would enhance repairer certainty without undue risk to the insurer"*.

VACC's concerns with regard to this recommendation are twofold. First, is the question of what constitutes a 'short trial period'. Secondly, the concept of a short trial period suggests to the crash repair industry that once such a period has been reached, the insurer is at liberty to terminate the arrangement, regardless of the incoming crash repairer's performance.

If the short trial period is not sufficiently long enough and the insurers can simply terminate the arrangement, without good grounds, the impact on the ability of the existing owner to sell the business at a reasonable price, and the ability of the new owner to prove their ability to perform, is severely constrained.

With these factors in mind VACC's believes that the 'short trial period' should be no less than 6 months. Anything less would be prejudicial against both the seller and the buyer of the business.

In addition, VACC maintains that the existing clauses in PSR contracts covering areas such as performance, reporting and contract breaches, adequately protect the insurers with respect to the required performance standards expected from a new operator, and this should be the basis on which a new owner does/does not remain a PSR.

Moreover, under such an arrangement new business owners would not only have clear guidance as to the standards to be maintained, together with an understanding of the likely outcomes should they fail to meet these requirements, but it also provides an appropriate amount of time for the new operators to familiarise themselves with PSR practices and requirements.

VACC therefore recommends that in its final recommendation, the Commission specifies what it believes an appropriate 'short trial period'

and that this period should be no less than 6 months and that the process for evaluating new business owners is transparent.

#### **4.3 Duty of Care**

Whilst VACC applauds the Commission for recommending that, in instances where an insurer “*specifies a method of repair/or parts to be used, the insurer should accept responsibility for the quality and safety consequences of those choices*”, VACC is concerned that this may in practice not be enforceable, unless the insurer formally and in writing takes full responsibility if it instructs the crash repairer to alter the method of repair.

This concern arises from a legal perspective based on the question of who is regarded as the expert in repairing the vehicle and thus who would a Court of Law find liable should problems arise with the repair or, in a worst case scenario, somebody was injured due to the method of repair undertaken. It is VACC expectation that in all probability a Court would find the crash repairer liable, as being the person who actually conducted work on the vehicle due to the fact the repairer owes a Duty of Care, unless the crash repairer is in some way indemnified.

VACC believes this matter of insurers formally assuming responsibility should be included in the industry code.

#### **4.4 Licensing**

Before the Commission finalises its position on the issue of licensing for this industry, VACC would encourage the Commission to review its current non committal stance, as VACC believes such a regime would be beneficial to raising and maintaining standards in an industry where the nature of crash repair is becoming more complex and challenging. It is worth noting that on the issue of licensing, virtually all stakeholders including insurers, industry associations and crash repairers, are of a similar view.

It is noted in the Commission’s preliminary findings that the issue of licensing has not been examined in detail. However, the Commission did state that “...it is far from clear that such requirements would bring net advantages to the community...”.

VACC would argue that licensing of the crash repair industry has the potential to greatly assist in ensuring that crash repair industry participants have the equipment, knowledge and skills to continue to provide high quality crash repairs on motor vehicles that are ever increasing in sophistication of design, manufacture, technology and materials used. Consumers must have confidence that the assessor, assessing damage to their vehicle and the crash repairer undertaking the repairs, have the necessary skills and equipment to do so.

Furthermore, it is VACC’s contention that the provision of a tiered licensing regime, which defines the necessary skills and equipment required to undertake different level of repairs, has the potential to

further protect consumers from unwittingly having repairs undertaken by crash repairers who do not have the necessary equipment and skill to do the job properly and thereby compromising the safety, integrity and value of the repaired vehicle.

VACC also stress the point that with insurance company assessors actively intervening in determining methods of repair, it would enhance the position for all parties if these assessors were also incorporated in any licensing regime.

It is acknowledged that a detailed investigation into the benefits of licensing is not part of the original scope of this Inquiry. However, it is well within the purview of the Commission to make a more positive recommendation with respect to licensing and recommend that a more detailed study be undertaken. VACC would respectfully encourage the Commission to do so, as it would not like to see this opportunity to improve the industry missed.

## **5. FINANCIAL & COMMERCIAL RELATIONSHIPS**

### **5.1 Quotation System**

VACC agrees with the Commission that the current practice of “funny times, funny money” is not conducive to having an open and transparent quotation system. Notwithstanding this, it should be acknowledged that many crash repairers, insurers and independent assessors are reluctant to move away from this system because, it has been part and parcel of the industry for a significant time.

On the other hand, a significant number of industry participants feel it would be beneficial to move to a ‘real time, real money’ scenario. A system based on nationally agreed times guide could be useful, particularly in instances where there is little experience in repairing particular motor vehicles, eg when new models come onto the market.

The real concern for VACC is that any quotation system that prescribes a quotation methodology, irrespective of whether it its ‘funny times funny money’ or ‘real times real money’, is open to manipulation. With this in mind, VACC makes no specific recommendation as to what quotation system should be in place however, it believes the following principles must apply irrespective of the methodology.

- The system must be open and transparent.
- In a two quote situation, competing quotes should be complete and based on an agreed like-for-like scope of repairs.
- Materials should be separately costed and not included in hourly rates (as already recommended by the Commission).
- Once selected, the winning quote should not be regarded by insurers as the starting point to use their disproportionate market power to further reduce the quote.

A final point of concern to crash repairers is the potential cost imposition placed on them by different insurers using different quotation systems and methods. This would be particularly the case if insurers chose different electronic based systems.

## **5.2 Negotiation Power**

The Commission, in its Draft Recommendations, makes a number of references to insurers and crash repairers reaching negotiated outcomes. Though this would always be the preferred approach, it is predicated on the notion that both parties have equal bargaining power. Currently a significant gap exists between the negotiating power of a crash repairer and that of an insurance company, particularly with those insurance companies that have significantly high market share and therefore, market power. In the current environment, the ability of a repairer to negotiate is virtually zero and VACC has already made the point in its original submission that it is common practice for the big insurers to offer contracts based on a 'take or leave it' approach.

The ability for repairers to negotiate, particularly those who are PSRs, is further reduced when they are dependent on insurers for a substantial amount of their work.

VACC can only alert the Commission to this imbalance, and even though the mooted collective bargaining amendments to the Trade Practices Act may be of some benefit, the market power of an IAG and its ability to use that power to divide and conquer the industry through its control over work allocation, is difficult to counterbalance.

What is apparent to VACC is that without some formal requirement on insurers to negotiate fairly with repairers, the likelihood of mutually beneficial, balanced and fair outcomes is limited.

## **5.3 Terms of Payment**

VACC accepts the Commission's reluctance to prescribe minimum payment terms within the industry. Given the improvement in the payment record by most insurers, since this matter was first raised publicly by VACC there seems, on the surface, no need to prescribe minimum payment terms. This is provided, of course, that insurers continue to maintain their current payment terms.

Notwithstanding the above, VACC contends that all insurers should specify their terms of trade to crash repairers, particularly if contracts are entered into, and that the requirement to do so should be specified in the industry code of conduct.

What remains as a concern to VACC are the delays that occur in payment made to those repairers who are non PSR businesses and with whom the insurer will only deal on a basis that involves 'cash settling' the consumer.



## 6. CHOICE FOR CONSUMERS

VACC is extremely disappointed that the Commission has not recognised the fundamental economic principle of unrestricted consumer choice and in doing so VACC believes the Commission has also failed to fully understand the pivotal nature of unrestricted choice of repairer, to the crash repair industry.

The Commission's finding that, "*consumers have restricted, but reasonable, choice of repairer*", may well be technically correct, however in reality, choice for consumers, particularly in Victoria is limited by a series of factors.

For real choice to exist there needs to be transitivity between insurance policies. Unfortunately, due to market practices by the insurers, such transitivity does not exist. Few consumers at the time of policy purchase or renewal are fully aware of all motor vehicle insurance policies, the options available within those policies and the applicable terms and conditions. For most consumers in the absence of full knowledge, price becomes the single indicator by which they choose their motor vehicle insurance policies.

Added to this lack of knowledge, is the notion of 'consumer inertia', which needs to be taken into account as this factor significantly restricts the switching, by consumers, between insurance companies. It is a characteristic of consumer behaviour well known to, and used by, all companies to ensure consumers remain their clients.

'Consumer inertia' as it applies to motor vehicle insurance has a number of elements:

- The belief by the consumer that 'it will not happen to them' and therefore price is the only relevant factor.
- Brand loyalty and the unwillingness of consumers to embrace change.
- Institutional reliance whereby consumers place their trust in the company with whom they are dealing and therefore rarely scrutinise insurance company's offerings, because of a belief that their insurance company will advise them of any material change in their policy. Add to this the fact that many consumers are time-poor and provided the insurance premium is relatively close to the previous year's premium, the consumer will, in most cases, accept the renewal.
- Clever marketing techniques used by the big insurers, designed to either keep the issue of choice in the background or minimise its importance. This has been achieved by some insurers removing choice by stealth and 'hiding' the lack of choice and other pertinent factors towards the back of product Disclosure Statements (PDS) and by convincing consumers, at the time of an accident claim, to give up their right of choice by using questionable steering methods.

An example of this is in AAMI's current PDS, who after constantly espousing the benefits of their 'valet' system and steadfast assurances that consumers are not interested in choice, wait until

page 36 before informing the consumer that they do not have choice, and even then it is cloaked it in 'weasel speak' rather than in plain simple and direct English. Contrast this to AAMI's advice, in the same booklet, to consumer on their policy on parts, which can be found in big bold type on page 12.

The Consumers Federation of Australia (CFA) representative at the first ACCC Round Table Conference, on the crash repair industry, held in July 2002, raised this very issue of the wording used by insurers in their insurance policies is designed to reduce choice. The CFA advocated that insurers should not hide the fact that the consumer is giving up fundamental rights.

In addition, there is the factor of market power, particularly by those insurers who have significant market share and make it difficult for the minor players, who are prepared to offer unfettered choice, to compete head-on with the industry titans who offer no choice.

The outcome of all these factors is that consumers have significantly less choice than the insurers would like us to believe. The Commission seems to have accepted this.

The Commission also stated that mandating choice *".....would have significant costs for insurers generally and ... depending on the arrangements for passing on the costs for greater choice, many consumers could also be disadvantaged"*. VACC challenges this assertion of increased cost as there is no real independent and conclusive evidence to suggest that repairs undertaken by non-PSRs are necessarily dearer, when compared on a like-for-like basis. This notion that costs, and therefore premiums, will increase significantly if unfettered choice was mandated, is purely an oft repeated insurance company mantra based more on marketing hubris than fact, and is designed to influence the consumer at their weakest point, price.

LAG, in their notification to the ACCC, seeking to charge a premium for choice of repairer, has identified the real cost of choice as being a maximum of \$70. Whilst this is a significant amount in terms of premium increase and clearly designed to influence the consumer away from selecting the choice of repairer option, in terms of overall average repair costs (approx. \$4,000) it is not a significant amount. Nowhere did LAG argue that by providing choice there would be a significant increase in the cost of repair. VACC also maintains that the \$70 fee would not unduly disadvantage the consumer if such an option was presented to consumers at the time of accident (VACC makes further comment on the LAG scheme later in this Paper).

Therefore, to argue that in offering choice of repairer to the consumer is in some way prohibitive is clearly not the case by LAG's own evidence. In addition, if an open and transparent quotation system were put in place, based on a like-for-like scope of works, genuine competition between the numerous crash repairers in the industry, would ensure that prices were kept under control.

### **IAG Proposed 'Choice of Repairer Option'**

Whilst on the issue of choice of repairer, it is perhaps pertinent to review the proposed IAG option of charging for choice of repairer and expose it for the cynical approach to the consumer's fundamental right to choose.

First and foremost, it must be understood that purchasing any insurance is for most consumers a 'grudge purchase'. Under such circumstances, the best that any insurer can achieve is to make the purchase less unpopular. Price therefore is very significant, and as explained previously for most consumers, price is the single decision-making determinant. Add to this the general human condition that, 'it will never happen to me', and the importance of price in the consumer's decision making process increases further. ("Why pay more for something I will probably not use?") Taking these factors into consideration, it is clear that IAG's initiative in seeking to impose a premium for choice, serves no other purpose than to drive consumers to the cheapest option, which is the 'no choice of repairer' option.

Secondly, if IAG was serious in offering choice, it would charge for the choice option after the accident and not before. That is, if IAG is to be believed and the additional cost of choice is around \$70, then this cost should be recouped at the time the consumer makes their claim, much in the same way as the insurers charge an excess fees. To charge the consumer \$70 per annum knowing full-well that statistically the average consumer has an accident every 7-8 years, is purely a mechanism to deter consumers from taking that option and needlessly generating increased revenue from those consumers who are more particular about who repairs their motor vehicle.

If there is an additional cost, (VACC does not accept that there should be an additional cost), then VACC maintains that this cost should only be borne by the consumer at the time of the accident, and only if they elect to choose their own repairer. Any other mechanism, particularly by the market leader, can only be viewed as a cleverly planned mechanism to steer consumer to the 'no choice' of repairer option.

One of the most concerning aspects of this proposal is that this has the ability to significantly restructure the market place, without allowing for the influence of normal economic factors. As already indicated, IAG has in the vicinity of 105 PSRs and approximately 500 associated repairers (ASRs) in Victoria. If this scheme was allowed to proceed in Victoria, it would see a dramatic reduction in the numbers of ASRs, with a less than proportional increase in the number of PSRs to take up the volume of work. Such a decision could see many highly effective, efficient repairers doing high quality work being starved out of the market place, and after most of them have outlaid thousands of dollars satisfying individual insurers' requirements, eg provision of digital imaging equipment.

### **Mandating of Choice**

The Commission's assessment of choice of repairer in this industry may be relevant if the issue of choice is looked at in isolation. However, when looked at within the context of the total crash repair industry and the relative market power of the four major insurers, the issue of choice becomes far more

significant to those insurers wishing to control the total crash repair process. Two additional factors also need to be considered:

- It is often touted by some insurers that consumers are not interested in whether or not they have the ability to choose their repairer. On the surface this may well be the case because most consumers are only interested in who will repair their vehicle after they have had an accident, and not before. Anecdotal evidence from crash repairers indicate that consumers are interested in who repairs their vehicle and many are surprised when advised that they have no choice, or when the insurer endeavours to steer the consumer to the insurers nominated PSR.
- Market forces alone cannot overcome entrenched market power generated by large market share. Smaller insurers, who do offer choice, face a difficult task to effectively combat the marketing initiatives and the market power that comes with a competitor having substantial share of the market place. In Victoria after IAG and AAMI the next largest insurer, who also happens to offer unfettered choice of repairer is Allianz with 9% market share.

If the Commission maintains its position and chooses not to recommend the mandating of choice, it is VACC's belief that the Commission is missing an opportunity to allow genuine market forces to determine market reform and thus allow the consumer to be 'king'. Theoretically, if the starting point for the best competitive outcome is perfect competition, then any reduction in the number of industry participants must lessen competition.

This industry has already progressed down this path due to substantial rationalisation in the number of insurers providing motor vehicle insurance. Given that 75% of repairers' work comes from the insurance industry, the number of significant 'buyers' of body repairer services are notionally four (4). Currently, the only factor stopping the significant reduction in the number of suppliers (crash repairers) is the consumer having the ability (though heavily restricted) to choose their crash repairer. Once choice of repairer is removed, it raises an impediment to keeping the supply side open and vibrant, as should be the case in a competitive market.

In conclusion, the VACC can only stress that given the current market conditions, particularly in Victoria (and NSW and SA), should the Commission not recommend the mandating of choice of repairer, then there will be significant destruction of economic value as productive and efficient businesses close down, whilst providing no real and tangible benefits to the consumer in terms of lower costs nor better service or quality of repairs. The only beneficiaries will be the market leading insurance companies' shareholders.

VACC is somewhat puzzled as to how in one sector of the economy, the Superannuation Industry, Government has legislated to ensure that the consumer has unfettered choice, yet in the crash repair industry, the Commission is advocating a contrary position, despite there being similar circumstances. VACC's contention is that if it is deemed important to allow employees to choose their superannuation fund, as this money rightfully

belongs to the employee, rather than have the fund determined by their employer, who merely makes the contribution on their behalf, it is just as important and equally fundamental that consumers who own their motor vehicles have the right to choose their repairer and not be dictated to by their insurer whose responsibility is to have it properly repaired.

To this end, VACC respectfully recommends that the Commission, in its final recommendations, accepts the need for mandatory and unfettered choice.

It should be noted that choice of repairer should also include the right of the consumer to request the insurer to manage the whole crash repair process (valet service), including nomination of a repairer. Mandated choice should also bring with it provisions that prohibit the insurers, in cases where the consumer has elected their own crash repairer, from using direct, indirect, overt or covert methods to steer the consumer away from their decision.

Perhaps the final word on choice should go the CFA whose representative at the second ACCC Round Table Conference, on the crash repair industry, held in October 2002, commented that although the Federation was in favour of preferred repairer schemes and valet services, the Federation had serious concerns over the removal of choice and the unilateral manner in which it is being removed, and regards it as unacceptable.

## **7. CODE OF CONDUCT AND DISPUTE RESOLUTION**

### **7.1 A Code of Conduct**

VACC welcomes the Commission's recommendation in its Draft Report for the establishment of an industry code. VACC has some reservations however, with regard to the recommendation for this code to be voluntary though it understands the Commission's preference for such a code.

VACC's concern is that although it may be possible to negotiate the terms and conditions of an industry-wide code, for a voluntary code to work, it would require a substantial amount of goodwill from all parties to ensure that the principles are adhered to. Given the insurance industry's stated objection to such a code in the past, and its reluctance to engage in establishing such a code, VACC has concerns as to the genuine level of commitment of the insurance companies.

The Commission in its recommendations indicated that a reasonable time be allowed for a code to be negotiated and failing an agreed outcome, the code should be mandated. VACC agrees wholeheartedly with the Commission's recommendation and would offer a suggestion that the reasonable amount of time for the negotiation of the code should be no longer than 6 months, from the date the Commission makes its final recommendations public.

## 7.2 Characteristics of a Code of Conduct

In general terms the VACC believes that the parameters the Commission has placed around the characteristics of the code, as outlined on page xxix of the Draft Report, are too restrictive. In VACC's view, following characteristics should be included:

- **Obligations for Insurers to provide full disclosure to consumers on:**
  - The type of parts to be used (OEM, recycled, parallel etc) in the crash repair before the repair is undertaken. VACC agrees with the Commission that it would be inappropriate to specify parts to be used in a repair in a code. However, VACC considers it imperative that the consumer be advised, prior to the commencement of repairs, either directly by the insurer or by the repairer, of the type of parts that will be used to restore their vehicle, to its pre accident condition.
  - Individual insurers position on choice of repairer. To ensure that consumers are fully informed about their policy options, VACC believes that an individual insurer's position on choice of repairer should be clearly and openly stated in plain English. This should requirement should cover all promotional material and advertising, including the electronic media. In any product disclosure document this information should also be at the front and consumers should also be reminded at time of their policy renewal.
  - Who determines the method of repair? As per VACC's comments on parts above, consumers should also be advised as to who determines the method of repair.
- **Warranty liabilities imposed on crash repairers by insurers are not to exceed those offered by the original parts and paint manufacturers.** VACC is of the view that the code should specify that warranties offered by insurers cannot exceed a manufacturers or parts supplier's warranty. If an insurer wishes to offer an extended warranty then the cost of this should be borne by the insurer and not, either directly or indirectly, by the crash repairer.
- **Code to include a requirement for insurers to disclose their payment terms.** VACC accepts that trading terms are generally not a matter for inclusion in a code. However, given the importance of cash flow to small business operators, VACC believes that insurers should declare their payment terms as part of any contractual arrangement.
- **Requirement to disclose to interested crash repairers PSR criteria including weightings.** Whilst not wishing to specify the criteria for PSR status in the code, the requirement to disclose the criteria to all repairers should be included, as a means of making the whole process more transparent.
- **A cooling-off period for all PSR contracts.** Whilst some PSR contracts contain easy exit clauses, this may not be available in all PSR contracts. Therefore, repairers should be afforded the

opportunity to “cool-off” in a similar manner as is provided via the Franchising Code of Conduct.

- **Requirement for insurers to accept formally responsibility for Duty of Care, when they specify the method of repair.** Given VACC’s concerns regarding Duty of Care matters, it believe that it is important to protect the crash repairer in instances where the repairer is instructed by the insurer to vary a method of repair or parts to be used. The insurer must indemnify the repairer in writing.
- **Quotation disputes process.** Whilst the Commission has been clear in stating that disputes over quotation should be a matter of negotiation between the parties, given that it is inevitable such a dispute will arise and the disparity in market power between the parties, VACC believe it would be appropriate to include a process in the code which defines the procedure to be undertaken when a dispute arises.

### 7.3 **Disputes Resolution**

With respect to the Commission’s comments on disputes resolution and the IAC, VACC is happy to accept that the existing arrangements adequately cater for disputes between consumers and the insurers; though VACC still has some concerns about the length of time it takes for these disputes to be resolved.

However, VACC does not believe that the existing disputes resolution procedures of the individual insurers are neither adequate nor sufficiently impartial to address disputes between the insurers and the repairers. It is VACC’s belief that it is imperative that as part of an industry code of conduct, a disputes resolution mechanism be established to resolve any disputes that may occur between insurers and repairers, including quotation disputes, and that this process be able to handle such disputes in an expedient manner.

Inevitably, under such an arrangement, a question of funding arises and VACC’s recommendation would be that this mechanism be self-funding and includes the establishment of a lodgement fee to minimise frivolous actions. A detailed explanation of the disputes resolution procedure, as proposed and agreed by the Australian Motor Body Repairers Association (AMBRA) has been provided to the Commission as part of that association proposed industry code.