Motor Trades Association of Queensland
Response to Productivity Commission Draft Report – Smash Repair and Insurance

Submitted by: The Motor Trades Association of Queensland

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In response to the Australian Government Productivity Commission's Draft Report into the Smash Repair and Insurance industries, the Motor Trades Association of Queensland wishes to provide further input to the findings of the Productivity Commission.

Preliminary findings of the Commission

Industry Rationalisation

Ongoing rationalisation in the smash repair industry can be expected. This reflects actions by insurers to reduce costs as a means of enhancing returns to their shareholders and reducing premiums for consumers, as well as a range of 'external' factors, including: a possible decline in the number of motor vehicle accidents; increased capital requirements due to changes in vehicle technology; more stringent occupational health and safety, and environmental requirements; and difficulties in attracting skilled labour.

The 'external' factors referred to by the commission should be the only reasons for rationalisation of the smash repair industry (MTA-Q supports natural rationalisation of the industry). Insurers' reducing average repair costs as a means of enhancing returns to shareholders is *not* justification for driving smash repairers out of business. Insurers have the right to mitigate their loss by monitoring average repair costs. However, attempts by insurers to continually decrease average repair costs whilst the cost of the labour and materials required to repair accident damaged vehicles has risen so dramatically is inequitable to repairers. If, as insurers claim, these actions are required to reduce insurance premiums for consumers, why then has there been no reductions in insurance premiums in recent years? In fact the inverse has been the case with premiums steadily rising.

Preferred smash repairer arrangements

The disadvantages of nationally agreed preferred smash repairer (PSR) criteria are likely to significantly outweigh any advantages.

Despite the support of MTA-Q, VACC and IAG for nationally agreed criteria for PSR status, the Commission is of the opinion that the disadvantages outweigh any advantages. MTA-Q disagrees with this finding and believes that there should be a minimum standard in place for repairers wishing to become PSR's – the least of which should be a requirement to adhere to state legislation in relation to operating a business of that nature. MTA-Q does not intend that all insurers should have the same criteria, simply stipulate their own criteria and make such criteria available to repairers that wish to become part of that insurers PSR network.

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.

Selection or non-selection for PSR status and removal or modification of such status can have a significant effect on a repairer's business. Greater transparency from insurers in such aspects as PSR selection criteria and notification of opportunity to apply for PSR status would reduce uncertainty and improve relationships between the two industries.

The MTA-Q supports the Commission's stance on selection and removal of PSR status from smash repairers, however, feels that 'a short trial period' in relation to PSR status upon change of owner of a business needs to be quantified. MTA-Q supports the MTAA's belief that a short trial period should be no less than six (6) months.

When consumers take out a new policy, or make a claim, the provisions about the use of parts should be clearly and objectively explained.

If an insurer specifies the repair method and/or the parts to be used; it should accept responsibility for the quality and safety consequences of those choices.
The repairer should continue to accept responsibility for the quality of its workmanship in response to the insurer's specifications.

The MTA-Q strongly supports the Commission's stance in relation to the use of parts and direction of repair methods by insurers.

There is no clear evidence of a systemic safety issue related to PSR arrangements. While quality is harder to assess, insurers and repairers face strong incentives to ensure that repair quality and safety appropriately meet the needs of their customers.

In the absence of post repair vehicle crash testing or engineers certification of repairs performed it is impossible to determine the extent of inferior quality repairs that are carried out. MTA-Q concedes that the majority of Queensland repairers perform high quality repairs in accordance with manufacturers' specifications.

Although the Commission has not examined national licensing issues in detail — such as the possible national licensing of repairers and assessors — it is far from clear that such requirements would bring net advantages to the community.

For more than a decade the MTA-Q has been lobbying the Queensland State Government for the introduction of a licensing scheme for the vehicle repair sector. Net advantages to the community would include:

- **Assurance that the person carrying out the repairs is qualified**
- **Assurance that the assessor directing repair methods is also qualified**
- **Assurance that the repairer has the equipment necessary to perform the repairs**

- **Assurance that the repairer is complying with relevant local, state and federal laws in relation to environmental, WH&S (OH&S) and fair trading legislation**
- **Avenues for recourse should the consumer be unsatisfied with the service / repairs performed by the repairer**

MTA-Q firmly believes the advantages to the wider community would outweigh any disadvantages of a licensing scheme for repairers and assessors. With support from many organisations that made submissions to the Productivity Commission Inquiry (IAG, MTA-Q, VACC, Victorian Government etc.), the Association is perplexed that the Commission can dismiss such a scheme as unbeneficial to the community. The Commission identified that such a scheme could provide a "barrier for entry" into the industry but has ignored the obvious consumer benefits that would flow from a licensed regime. These benefits would include the consumer confidence of dealing with repairers who abide by a set of identified standards, knowledge that the repairer possesses the equipment necessary to perform such necessary repairs, knowledge that the tradespersons working on damaged vehicles have the necessary technical skills and confident the integrity of any manufacturers warranty is not compromised.

A licensing scheme prevents unprofessional operators (or 'backyarders') from carrying out a business or undertaking in a field in which they have limited knowledge. It would not be a barrier to legitimate operators, as any number of provisional entry approvals could be granted, under which close scrutiny could be kept on work quality and performance. The scheme would set and maintain a set of minimum standards which any reputable and competent tradesperson would support and strive to exceed.

Financial and commercial relationships

Viewed in isolation, the hourly rates currently paid by insurers for repair work do not reflect repairers' costs. However, they need to be examined in conjunction with the broader basis of quotation and payment of which they represent only part.

The 'funny time, funny money' system of quotation has severe drawbacks compared with an efficient and transparent system of pricing and costing and should be abandoned.

– If times and hourly rates are used in any of the cost elements specified in quotes, they should reflect realistic times and rates applicable to the particular job and particular repairer.

– If a PSR agreement specifies an hourly rate, that too should be an agreed shop rate applicable to the repairer involved, rather than a fictitious industry standard rate.

– Materials should be separately costed and not included in hourly rates.

The MTA-Q strongly agrees with the Commission's view that the current 'funny time, funny money' method of quotation should be abandoned. MTA-Q has also been advocating the removal of materials from the labour rate. The

Commission's support of this point vindicates the stance taken by the Association and enables MTA-Q, with the assistance of its members to rigorously pursue the abolition of 'funny time, funny money' and the removal of materials from the labour rate with insurers. The Association also believes that the material content (once removed from the labour rate) should be linked to CPI to ensure that further price rises to materials are 'passed on' and not absorbed by repairers as they have been for the last decade.

Where used, competitive quoting processes should be procedurally fair and transparent.

Taking the broader consumer and community interest into account, little further prescriptive action to address cost pressures on repairers is justified.

– In particular, there is no justification for regulating for an industry standard hourly rate or for imposing industry standard hours.

The MTA-Q is satisfied with the Commission's stance on the regulation of an hourly rate and standard repair times. However, in relation to competitive quoting, the quotes received by insurers should be compared on a 'like for like' basis. Once the tendering process has been completed insurers should not be allowed to further adjust the winning quote. To do so is allowing insurers to mitigate their loss twice, once by tendering the job and secondly by then adjusting the winning quote to a lesser amount again. Insurers should not be allowed to have it both ways, either use a fair and transparent competitive quoting system without adjusting the winning quote <u>or</u> use a one quote system and assess (or adjust) that quote.

The nature of any guarantee of repair quality offered to consumers, and the shares of the resultant costs, are matters for commercial negotiation between individual insurers and repairers.

– But a repairer should only be required to guarantee the work it actually performs and then only for an agreed reasonable time. Further, it should not be required to guarantee parts for a period longer than the part manufacturer's own warranty.

The MTA-Q strongly agrees with warranty terms suggested by the Productivity Commission, in particular that a repairer's guarantee should not have to exceed that of the part manufacturer's warranty.

There is little evidence to suggest that the current arrangements in relation to timeframes for quoting are creating problems in the commercial interactions between repairers and insurers.

The Association is satisfied with the current timeframes allowed for quotation of work by insurers.

There is no justification to impose regulated minimum terms of payment on insurers. These should continue to be matters for negotiation between insurers and repairers (as they are between firms and suppliers in most industries).

The MTA-Q is in agreement with the Commissions view on regulated payment terms; however a late payment fee or interest on the overdue amount should be able to be charged by repairers for insurers that are tardy with account payment.

Choice for consumers

Consumers wanting choice of repairer can choose to insure with one of the several insurers offering that choice. On this basis, consumers have restricted, but reasonable, choice of repairer.
– Consumer choice of repairer should not be mandated.

The MTA-Q understands the stance taken by the Commission in relation to freedom of choice of repairer and accepts that the insurance market in Queensland that is dominated by Suncorp and RACQ Insurance does allow for choice of repairer. However this is markedly different to the case in southern states that is dominated by insurers that do not allow for such choice. Rather than speculate on the situation in Victoria, New South Wales, South Australia, the ACT and Western Australia, MTA-Q will support the stance taken by the Associations, Chambers and the parent organisation MTAA, for these states and territories.

Insurers should enhance their operating procedures to ensure that available options for choice of repairer are clearly and objectively explained to consumers when taking out policies and making claims.
– Insurers should not attempt to dissuade consumers exercising their available choice options by making inaccurate or unjustified comments about the quality or timeliness of repair of non-preferred repairers.

The Association strongly agrees that consumers should be made aware of 'choice' implications of their respective policy. In the absence of 'anti-steering' legislation or mandated consumer choice, this is the next best alternative, provided this is addressed in an industry code of conduct. A form of redress should be offered to repairers who discover that an insurer has attempted to 'steer' a consumer away from their business to a PSR.

Dispute resolution and codes of conduct

The existing internal consumer dispute resolution systems of the individual insurers appear to be working adequately. Further, while the Commission has not assessed the IEC's administrative arrangements, there is no evidence that the IEC's systems are not broadly appropriate, nor that the IEC is not sufficiently independent.
There is no evidence of any significant deficiencies in the procedures for resolving disputes that arise directly between consumers and repairers.
The nature of the many serious issues of dispute between insurers and repairers varies: some concern efficiency, some transparency and some fair trading. Many are either industry-wide in nature or concern matters that individual insurers have been

reluctant to address in corporate codes of conduct. They may only be capable of cost effective resolution through an industry-wide code.

The advantages of an industry-wide code are likely to outweigh the disadvantages provided that it were to:

– focus on specifying 'minimum standards' in matters of process, transparency and dispute resolution;

– not interfere in insurer-consumer or consumer-repairer relationships;

– not cover matters that normally are commercially negotiated between individual insurers and repairers; and

– not prevent individual insurers developing their own codes consistent with, or building on, the industry-wide code.

Dispute resolution procedures under an industry-wide code should avoid undue interference in the commercial relationship between insurers and repairers and, in particular, avoid provisions that could have anticompetitive consequences.

Provided that the scope and content of a code follow principles outlined above, the benefits for the community as a whole are likely to outweigh the costs.

– If insurers and repairers cannot voluntarily agree on an industry-wide code within a specified reasonable time, the Commission's preliminary view is that a code should be mandated under the provisions of the Trade Practices Act.

The MTA-Q is satisfied with the Commissions recommendation for an industry code of conduct, however is sceptical that all parties will agree to a voluntary code. Therefore the Association is pleased that the Commission has recommended a code be mandated under provisions of the TPA should a voluntary code fail to be agreed upon by all parties within a specified reasonable time. MTA-Q supports the timeframes that MTAA has specified within their response to the Productivity Commission.