



Small Business
Development
Corporation



Western Australia

www.sbdc.com.au

553 Hay Street (Cnr Pier St.)
Perth WA 6000
GPO Box C111, Perth WA 6001
Telephone: (08) 9220 0222
Facsimile: (08) 9325 3981 Toll
Free: 1800 199 125
Email: info@sbdc.com.au

Smash Repair Inquiry
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

PRODUCTIVITY COMMISSION DRAFT REPORT: SMASH REPAIR AND INSURANCE

The Small Business Development Corporation (SBDC) welcomes the opportunity to make further comment on the Commission's draft Smash Repair report.

The Commission's findings broadly support the views put forward by the SBDC in its first submission to the Inquiry in October 2004, namely that smash repairers require urgent assistance to achieve the following principal objectives across their industry:

1. Opportunities for all repairers meeting the necessary standards to join preferred repairer schemes (PSR).
2. Non-discriminatory approaches by insurers to non-PSR repairers.
3. Dispute resolution procedures that allow repairers quick access to an impartial decision making body.

The SBDC concurs with the Commission's finding that there are downsides to PSR arrangements that need to be addressed, in particular:

- lack of clarity for notification by insurers of PSR vacancies and selection criteria;
- notification by insurers of reasons for selection or non-selection as PSR; and
- cancellation by insurers of PSR status if the repair business is sold.

Accordingly, the SBDC supports the Commission's view that insurers could, at little cost, enhance transparency in PSR arrangements and also that PSR status should not be automatically terminated on sale or transfer of a business (subject to probity and prudential requirements being met).

The SBDC is pleased that the Commission's findings regarding repairers guarantees are in line with SBDC's views that:

- some insurers offer 'lifetime' guarantees for repair work and require repairers to carry the cost and risk burden;
- the guarantee period far exceeds that provided by the supplier of the vehicle and the supplier of replacement parts used; and
- insurers often dictate the method of repair but do not accept financial responsibility for the additional work.

The SBDC consequently supports the Commission's recommendations that:

- the repairer should only be required to guarantee the work it actually performs and only for an agreed reasonable time; and
- the repairer should not be required to guarantee parts for a period longer than the manufacturer's own warranty.

The SBDC is, however, concerned that the Commission was unable to support its (SBDC) views in two key areas:

1. Payment to repairers within 30 days.
2. A mandatory code of conduct for the industry.

Although the Commission found that payments to repairers are in line with acceptable commercial practices and there was no justification to impose minimum terms of payment on insurers, the SBDC believes that in Western Australia there is anecdotal evidence suggesting that payments to non-PSR firms in particular can be delayed more than 30 days and beyond acceptable commercial practices.

Delayed payment practices in this industry are also out of step with State and Federal Government procurement policies requiring payment to suppliers for all goods and services within 30 days. Small firms across all industry sectors have become accustomed to 30 day payment as being the 'norm' and it would be seen as an anomaly for the repair industry not to broadly adopt a similar payment regime.

The SBDC believes that small repairers are particularly vulnerable to the impacts of delayed payments by insurers on their cash flows and trading positions, particularly where an insurer chooses to exercise its power in this way as a means of 'discouraging' non-PSR from undertaking repairs for consumers. In some instances, insurers could also use delayed payments to 'discipline' their own PSR operators. It is currently relatively simple for a large insurer to adversely impact on small businesses by imposing extended payment terms and this is unacceptable.

The SBDC believes that the problem could be resolved if a 30 day minimum payment term was mandated under a code of conduct, with discretion provided for the parties to negotiate in good faith for a term beyond 30 days if that was fair and reasonable in all the circumstances.

Accordingly, the SBDC urges the Commission to reconsider its view and recommend minimum payment terms of 30 days to be included in a code of conduct to ensure that all qualified repairers can participate in insurance smash repair work without discrimination.

The SBDC is disappointed that the Commission found that a voluntary code of conduct would be preferable initially to a mandatory code, albeit backed up by a mandatory code if the industry could not reach agreement in a reasonable period of time.

The SBDC believes that a mandatory code is necessary and that a voluntary code is unlikely to work because:

1. There is an overwhelming bargaining imbalance between the four corporate insurance groups and the over 5000 smash repair businesses in Australia (most of which are small) which is unlikely to be overcome.
2. A voluntary code could not be successful unless each of the four main insurers was to join and there are suggestions that some of these may prefer to stay with their own corporate codes of practice and in-house dispute resolution procedures.
3. The Australian Competition and Consumer Commission facilitated a national round table process with insurers and repairers in 2002-03 to try and develop an industry-wide code but little success was achieved.
4. The industry in Western Australia has essentially been in dispute for 20 years. A voluntary code is unlikely to have the force to overcome significantly entrenched attitudes and positions among both sides, but more particularly the insurers, and could also be open to manipulation by powerful sectional interests.

For those reasons, the SBDC recommends that the Commission reconsider moving immediately towards a mandatory industry code rather than attempting to gain consensus on a voluntary code, which is likely to take several years and may not reach agreement anyway, thereby leaving the industry no better off than it was when the Commission's Inquiry began. Any further delays in the establishment of an independent dispute resolution mechanism under a code could have significant adverse impacts for small businesses.

The SBDC appreciates the opportunity for further input into the draft report and looks forward to the Commission's report to the Government at the conclusion of its public consultation process. Should you have any queries or wish to discuss these issues further please contact Bruce Macfarlane, Director Policy and Business Liaison, on (08) 9220 260.



George Etrelezis
MANAGING DIRECTOR

7 February 2005

P:\Policy Files\Motor Vehicle\Reports & Submissions\Smash repair inquiry
response to PC report.doc