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**THE MOTOR TRADE ASSOCIATION  
OF SOUTH AUSTRALIA INC.**

**RESPONSE TO THE  
DRAFT REPORT OF  
THE PRODUCTIVITY COMMISSION INQUIRY OF  
NOVEMBER 2004**

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## **1. Overview**

The Motor Trade Association of South Australia and members of the Collision Repair Division have indicated conclusively that the outcome of this Inquiry will shape the future of the Industry for a considerable period of time.

On behalf of the members of the Collision Repair Division the MTA-SA agrees to the findings of the report in principle, but holds reservations with the Commission's ability to fully comprehend some of the issues, particularly the Preferred Smash Repairer (PSR) arrangements and the level to which some insurers intimidate their so called "business partners"- the smash repairers.

Credit must go to the Commission for understanding of the complexity of the issues causing concerns within the industry, and the need to introduce an industry Code to resurrect relations between the insurance and smash repairer sectors.

The main focus of the Draft Report as pointed out in the MTA-SA submission highlights the need for greater transparency from sectors within the industry, ensuring a more comprehensive understanding of terms and conditions of policy entitlements to consumers, the expansion of intricate details of PSR contracts, and the resolution of the delusional charging formate (FT -FM) in the process of repairing vehicles.

Some of the proposed recommendations do equate to some shifting of the pendulum from the current dictatorial conditions insurers impose on repairers, but the overall picture remains clouded until some of the more imposing issues are resolved through the proposed Code.

The MTA - SA recognises the importance of competition and the outcome that translates for the consumer, the importance of business relations and tri - partnerships is measurable by the level of service it provides to the community, and this belief is paramount for the integrity and credibility of the industry.

The Commission must understand that the consumer, although involved in the process, is the link contributing the lowest amount of conflict to the relationship, and therefore it must remain paramount for the Commission to refocus on the task of producing an amicable resolution process between the insurers and smash repairers, and provide equality to both parties.

The MTA-SA also reinforces it's stance on the changes required by the TPA in relation to small business having the right to collectively negotiate, including a right of collective boycott, and the amendments to sections 46 and 51 AC of the TPA as stated in our initial submission to provide fairer trading terms for small business.

The MTA-SA on behalf of its Collision Repair Division members would like to Respond to the report and highlight some areas of concern within the Commission's findings,

## **2. Characteristics of the Insurance and Smash Repair Industry.**

### **Rationalisation.**

In response to the Commissions preliminary findings in the draft report, MTA-SA agrees with the point that rationalization will continue throughout the industry.

However, the rationalization process should be the result of direct market influences,

such as active competition between repairers, the ability for repairers to be challenged equally and the independence of businesses to retain their own clientele.

The suggestion that insurers have a major role in the rationalization process is not completely founded, as some insurers do continue to drive the costs of repairs down for the sake of their shareholders, often to levels below cost (refer appendix A Q6.) but not all insurers have the shallow mindedness of short term gain in mind.

The insurers that gain the most respect in South Australia are the ones planning for the future and encouraging repairers to build clientele and work together to reach the same objectives in satisfying the needs of the community.

Those insurers are benefiting from the upfront approach and the true comprehension of cost infrastructures and it reflects with their growing number of policyholders.

The rationalization process in all industries is based on the competitiveness of participants within that industry sector and no independent organizations should be able to set prices, restrict operators or influence the direction of work to obtain substantial gains. This outcome does not deliver real, long term benefits to the community.

### **3. Preferred Smash Repairer (PSR) Arrangements.**

MTA -SA would like to indicate to the Commission that this particular area of the inquiry is one that requires a very high level of understanding.

The varying degree of PSR arrangements initiated by insurers has a marked influence on the level of acceptance within the smash repair sector (refer appendix A).

The perception that all PSR schemes entail similar traits is totally unrealistic, there are extreme cases of intimidation and dominance from the largest insurer (IAG) that controls 50 - 60% of the motor vehicle insurance market in SA to the basic scheme involving less restricting terms and conditions for repairers.

MTA -SA accepts that there is a place for PSR schemes in the industry, but the degree of intensity and constant "shifting of goal posts" to benefit insurers and restrict the operations of repairers entails constant monitoring by individual state organizations such as the MTA's (refer appendix B).

MTA- SA acknowledges that insurers with PSR schemes have the one objective in mind - to minimize repair costs and control the repair process.

The presumption that lower repair costs equate to lower premiums for policyholders is a skilful act of deception from insurers. The fact remains that there is no evidence supporting reduced premiums for policyholders and the continual escalation of profits by insurers only strengthens the argument that the benefits remain wholly within the inner sanction of the insurer and shareholders.

In relation to the recommendations outlined in the Commission's findings, the MTA and members support the need for a trial / probation period which we believe should span a minimum of 6 months to new owners of businesses, which had previous to sale achieved PSR status. Businesses that hold PSR status must have the opportunity to gain equal rights in respect to future sale prospects.

The recommendation for greater transparency within the foundation of PSR

arrangements is greatly supported by MTA - SA, as having encountered much feedback from participants on the IAG PSR scheme, we actively encourage more disclosure and clarity in respect to PSR selection criteria.

MTA - SA welcomes the recommendation that insurers must clearly explain to new policy holders the specific criteria used on determining replacement parts for vehicles covered in the policy. A distinct lack of disclosure is present once it comes to the process of parts selection on damaged vehicles, as this area is one that the insurer continually hides behind the smash repairers and attempts to avoid, knowing full well of the conflict it causes. The concern over lifetime guarantees has been covered amicably by the preliminary findings, transferring that responsibility in the correct manner.

In relation to licensing of the smash repair industry, the MTA -SA and it's members would support any move in the direction of national licensing, any initiative to strengthen the industry with a nationally recognized repair standard, ensuring repairers meet equipment and skill levels, would greatly improve the industry and provide a valuable service to the community nationally.

The suggestion of national licensing of assessors is one that requires further investigation, as there appears to be no set standard by insurers and in some cases, judgment is purely on cost manipulation methods from individuals to obtain company endorsed bonuses.

#### **4. Financial and Commercial Relationships.**

##### **Quotation Process.**

MTA-SA agrees with the Commissions recommendations that the concept of "funny time - funny money" has severe drawbacks and should be abandoned.

The structure that needs to replace this model must be transparent and efficient and capture the true costs of the repairers business.

The solution to this long-standing issue requires much thought and requires input from all sectors of the industry. Many of our members have accepted the current format and continue to manipulate the system, attempting to reach some type of pricing model that meets their business needs. Although this approach may solve the issue temporarily, a more transparent disclosure of costs and materials is required to provide more accountability within the process.

The major concern in relation to hourly rates is centred on the dominance of insurers over repairers. The fact that 80% of work for smash repairers in SA is insurance work places the repairers to the mercy of insurers, and leaves them vulnerable to accept the terms and conditions presented to them. The fact that the TPA limits small businesses from collective negotiation / collective boycott is an injustice to the system that clearly protects the power players and disables the small independents.

The power for associations to represent their members in contractual negotiations is also an area that requires further development, and must be seen as some type of balancing of power,

The acceptance from the Commission that a regulatory Code is required to improve the relationship between insurers and smash repairers, will hopefully encourage a stronger avenue of support for the repairer.

## **5. Choice for Consumers.**

In response to Commissions preliminary findings on Choice for Consumers, the MTA - SA has major reservations with the Commissions overall assessment of the issues and the implications these have to both the consumer and the repairer.

The inability or lack of understanding from new / or existing policy holders is certainly being exploited by insurers in relation to the terms for choice of repairer options. The new IAG policy for SGIC, NRMA, and SGIO policy holders is further proof that the insurer is attempting to offer misleading information.

The policy holder if taking up the offer to pursue their own choice of repairer and pay the added premium which actually agrees to terms that limits the ability of their (own) selected repairer to quote (to an industry standard), and must content with restrictive quoting criteria that relates to PSR repairers that are in many cases quoting and performing work below profitable levels (refer appendix A.Q6) or else receive a cash settlement. The policy holder must be informed up front of all the terms and conditions prior to renewal.

In relation to the repairers, the removal of choice from consumers severely negates the reason for remaining in a "competitive" market and the objective of retaining and building a clientele base, thus being in business.

The MTA-SA supports the actions that have proceeded in the United States, in relation to the "anti - steering" legislation and believes that for a country to engage in such legislation there must be unanimous support and influence by consumer groups.

Although our views don't deny the opportunity for insurers to enlist PSR's per se, we strongly object to the point of directing consumers to repair shops against the selected choice of the consumer. The current practice by some insurers to refuse the offer of repair guarantees if policy holders resort to alternative sources, is also an area that requires action within a Code of Conduct.

The MTA -SA believes that in regards to consumer's rights, they must retain the freedom of choice and it should be mandated.

## **6. Disputes Resolution and Codes of Conduct.**

### **Dispute Resolution.**

MTA -SA is pleased with the Commissions preliminary findings that the serious issues of dispute between insurers and repairers be resolved through an industry-wide Code of Conduct.

The dispute resolution process currently involving the IEC is one that although thorough doesn't account for sufficient timeframes to satisfy the needs of participating parties.

### **Code of Conduct.**

MTA -SA must congratulate the Commissions findings that a Code of Conduct is required to manage the problems plaguing the relationship between insurers and smash repair sectors.

The MIA - SA is concerned that an initial voluntary Code will lack support from the

insurance sector and the concept may prove too difficult to administer therefore disappear into the archives with the other proposed codes dating back 10 years. Our recommendation is to mandate the Code from the beginning as the previous three decades has proven there is undeniable tension amongst repairers and insurers, creating a less than desirable environment for the community and tarnishing the reputation of the industry.

The lack of support from insurers for the introduction of a code has been highlighted in the most recent submissions presented to this inquiry. The insurers' constant denial of problems has indicated a level of reservation to partake in such a proposal, with the fearful reality of succumbing to guidelines a major threat.

In regards to the proposed content of the Code, the recommendations outlined in the Commissions preliminary findings form a good foundation, but the code must act on the insurers to present more transparent terms and conditions directly affecting the business relationship with repairers and consumers.

In summary the MTA- SA and its members believe this inquiry has the momentum to carry through with the results that are desperately needed to curb the issues segregating the insurance and smash repair sectors. The onus is entirely up to the configuration, structure and mandating of the industry Code, and the acceptance the industry requires stability and accountability within all sectors.

## **7. Summary.**

In summary the MTA- SA and its members believe this inquiry has the momentum to carry through with the results that are desperately needed to curb the issues segregating the insurance and smash repair sectors. The onus is entirely up to the configuration, structure and mandating of the industry Code, and the acceptance the industry requires stability and accountability within all sectors.