

**Submission
No 70**

MOTOR VEHICLE REPAIR INDUSTRY

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Comment on the Parliamentary Inquiry of the Motor Vehicle Repair Industry in regard to The Smash Repair and Insurance Industry.

Thank you for the opportunity to comment on the Parliamentary Inquiry of the Motor Vehicle Repair Industry in regard to the smash repair and insurance industry.

My Background

I have worked directly and indirectly in the motor vehicle industry for more than 35 years. I am a degree qualified Mechanical Engineer. I am a Fellow of the Institution of Engineers, Australia and a Chartered Professional Engineer. I hold a Tradesman's Certificate as a Motor Mechanic. I have managed a vehicle fleet, trained motor vehicle inspectors, prepared vehicle standards for Australia and acted as expert witness in Court or Coronial Inquests.

I am currently an engineering consultant, however, prior to this, I was employed by the NSW Roads & Traffic Authority (RTA) for 30 years working mainly within the broad area of road safety and automotive engineering. For twelve years I sat on the Transport Liaison Group which is the federal group that prepares the Australian Design Rules for Motor Vehicle Safety better known as the ADRs. I sat on many State and national committees and Chaired Australian Standards committees. Some of those Australian Standards are called up in the ADRs.

Examples of my committee work include the standards for high performance automotive windscreen glass; vehicle tow couplings fitted to motor cars up to heavy road trains; bus door safety; taxi driver safety equipment; the restraint of loads; the design of B-doubles and road trains; vehicle braking standards and crashworthiness standards.

Up until December 2011, I was an RTA Recognised Engineering Signatory which permitted me to assess the safety and compliance of modified vehicles on behalf of the RTA. I voluntarily left the scheme when the RTA discontinued it. However, I am authorised to act as an agent to submit data to the federal department which issues Compliance Plate Approvals for all motor vehicles operated on the Australian road network.

In 2004 I won an Engineering Excellence Award from the Institution of Engineers for a book I co-authored which describes how to safely

restrain a load on a vehicle. Parts of the text and reference to the book have been called up in legislation or used as policy in all States & Territories in Australia as well as being used elsewhere in the world including Canada, the United States of America and Mexico.

For the last seven years I have been a Judge for the Engineering Excellence Awards held by the Institution of Engineers.

For about the last ten years I have been a member of the Committee of Management of the Association of Professional Engineers, Managers and Scientists Association (APESMA). (APESMA changed its name to Professionals Australia late last year). We represent Engineers, Managers and Scientists in an industrial sense.

I am a non-judicial member of the Administrative Decisions Tribunal which is part of the NSW Attorney General's Department.

I am a Member of the Motor Vehicle Industry Advisory Council (MVIAC) as part of the NSW Fair Trading department.

I am a vintage car enthusiast and have a good knowledge of the design and history of motor vehicles.

Disclosure

My comments below are not necessarily directed at any person or company. They are, however, entirely gained from my personal experience. They might not even be correct, across the board, but they do reflect my experience and my impression of the two industries subject of the Inquiry. They are made completely independently of the affiliations mentioned above.

Comments:

(a) Smash repair work and whether it is being carried out to adequate safety and quality standards;

It is my opinion that the quality of smash repair work nowadays is extremely poor. Smash repairers concentrate on the exterior finish which the vehicle owner will see at delivery, rather than repairing the structure behind the surface and replacing parts that can't be seen. If a vehicle is inspected closely possibly on a hoist or after a panel is removed what can be found are items that are not repaired, plastic

components broken and not replaced, wires cut and joined with insulation tape, items joined or attached with large dollops of glue instead of using the correct fixtures; bolts & screws missing; bolts broken and not fixed; the incorrect bolt or screw used and being hard driven in place; internal panels covered with filler or tar paint as camouflage over poorly or non-repaired panels; and, a myriad of similar poor or unrepaired work. In some cases the repair has caused additional damage which is covered up or fixed in an incorrect manner.

As an example, I once saw some statistics from an insurer which showed that a significant number of vehicles were 'written off' after the repair! What this indicates is that the repair was so poorly done that the cost to bring the vehicle up to the correct standard was not financially viable considering the amount already expended on the unsatisfactory repair. The Inquiry Panel should ask the Insurance Industry representatives how the costs of such unsatisfactory repairs are recouped. For instance, are they spread across the insurance premiums paid by all of us whereby we all suffer from the poor performance of the smash repair industry or they recovered directly from the smash repairer?

Just trying to find a smash repairer who presents in a professional manner is virtually impossible. The impression given is that they intend to 'milk' the vehicle owner or insurance company for every cent they can get and give back a substandard vehicle repair. They assume the customer has no vehicle construction or repair knowledge and will just accept everything they say. Often they make up stories or exaggerate the amount of work required to complete the repair. If you are seeking a quote often they try with great force to get you to sign forms and offer to give you one of their own hire cars on the spot which they then charge to the insurance company.

In regard to the safety of the repair, most of the repairers lack the necessary skills to know what they are doing nor do they have an adequate understanding of vehicle design to know how the safety rules and inbuilt safety features apply to a vehicle.

Notwithstanding this, vehicle manufacturers are not always forthcoming with the necessary vehicle construction data required to safely repair a vehicle. For instance, it was pointed out to me that on one imported vehicle there were fourteen different types of steel in the body. Some of these require special repair and joining techniques which I would consider that some are not feasible or possible for any repairer.

Furthermore, in my career committee work, I had close contact with a number of representatives of vehicle manufacturers. As the Head Offices (HO) of these companies were outside of Australia, at times the Australian representatives were not privy to some of the HO information and were 'as in the dark' as the rest of us. This is one of the reasons why some repair work is beyond the skill level of the average repairer. They are quite happy to attack the job without having the necessary information or even to know what information is required.

(b) The current Motor Vehicle Insurance and Repair Industry Code of Conduct, its governance structure and dispute resolution mechanisms and whether it is effective at regulating the relationship between repairers and insurers, and in serving consumer interests;

In regard to dispute resolution, I understand the NSW Consumer, Trader and Tenancy Tribunal will now hear disputes between repairers and insurance companies. This is an excellent initiative.

It is my experience with Codes of Conduct that they are easily forgotten and most likely have never been heard of by the average repairer or person they cover. However, the insurance industry must answer for itself about its code of conduct and should give examples of how it self regulates for the betterment of the consumer, with examples.

It is important to note that Codes of Conduct are not enforceable and therefore are of little use apart from providing a guideline for those who might want to use it. Even if a person or company is in a severe contradiction of a Code no sanction can be placed on them. The contents of the Code must be called up in legislation in a similar way that Australian Standards are. Australian Standards are not enforceable unless they are referenced in legislation.

(c) Consumer choice, consumer protection and consumer knowledge in respect of contracts and repairs under insurance policies;

(1) The ordinary person would not be aware of the contents of their insurance policies. They are often written in a form that they require

legal opinion. They are written to protect the insurer and remove the 'risk' for which insurance was invented. I've seen one long excerpt from an insurance policy reprinted in the 'gobbledygook' section of the Choice magazine. I think it won the award for the longest sentence.

(2) I think it fair to allow the consumer to choose their own repairer however, I also think that unless you were absolutely sure of that repairer's ability, it would be safer to have the insurers own company or preferred repairer perform the work. The insurer would most likely have better control over the work during its progress using its own or preferred repairers.

(3) The problem with consumer protection is that the average consumer is unable to judge the quality of the repair. What they see is some shiny paint and their vehicle without dents. They can't tell if the paint will last or whether the dents are just covered with filler nor can they see or assess any structural or mechanical repairs because they are hidden by the outside panels or plastic trim.

The issue here is that all the vehicle inspection is carried out by the insurance assessors when the vehicle is in its damaged state. Inspections should be performed during the repair when the structural components are visible and again before the customer collects the vehicle.

If an owner does reject the vehicle at the time of collection, they can expect a fight as this is one of the tactics used by the smash repair industry. Any extra time required to bring the vehicle up to an acceptable standard cuts into their profit particularly if parts have to be removed or panels repainted.

(d) The business practices of insurers and repairers, including vertical integration in the market, the transparency of those business practices and implications for consumers;

As mentioned above, the business practice of smash repairers is abysmal. They treat their customer as a new revenue source as soon as they walk in the door seeking a quote. They over-rate their skills and the extent of work required for the repair process. The competition of those in the industry and the general lack of care to repair in a tradesperson like way is what lowers the standard and brings the industry into disrepute. It is full of persons who lack the proper understanding of how to repair a vehicle without damaging it.

They don't and can't have all of the required knowledge to repair every type of modern vehicle but still attempt to do so. They should specialise on particular vehicle brands and build their knowledge up on those.

In regard to the business practices of insurers, the service that I have received does not reflect that shown in their television commercials and advertising literature. They can even become quite 'heavy handed' if they consider you are the one at fault.

For example, in a recent incident involving a family member parking my car, the tail light of the car in front was broken. I checked the new price of the tail light and it was around \$220. We left our contact details on the other vehicle as the owner was not present. About 8 to 10 months later we received a letter of demand from the other owner's insurer for \$2500. The demand said that if the money was not paid within seven days they would take legal action against us.

The insurer also sent a copy of the repair quote and fortunately I had taken photographs of the other vehicle. The quote included a lot of repair of pre-existing damage including some on the side of the vehicle when our point of impact was on one tail light.

I tried many times to discuss this with the insurer and that I had photographs to show I was correct but they just flatly refused to talk to me or see the photos. I was surprised at this response because I live only a short distance from the insurer's Head Office and I could meet with them at any time. Their response was they were experts and they could not be wrong. If I didn't pay the money they would take me to Court and for me to go ahead with it if that's what I wanted to do. I would lose and then have to also pay costs.

However, somehow I ended up speaking to an Insurance Ombudsman. I explained what had happened and provided my details. I was then told that if the insurer did not make contact with me within 24 hours to resolve the matter to call the Ombudsman's office again.

I did receive a call from the insurer but their initial response was that the \$2500 was a small amount of money and as I was insured I should just claim on my insurance and forget it. The caller did not want to see my photos.

My argument was that I wasn't saying we were innocent but was I was not responsible for \$2500 damage. I wanted the bill pro-rated so that

I would pay for the damage we caused and the other vehicle owner should claim on their insurance for the pre-existing damage. I explained that basically I wanted the records for us to reflect a \$220 accident and not a \$2500 accident.

I kept pushing this point with the insurer until they finally gave in to my repeated requests to look at the photos but they wanted them only by email and not presented by me in person in their office.

The end result was that they dropped the value down to \$550. I sent a cheque for this amount but interestingly I did not fill out any forms or accept responsibility for the remainder of the accident value.

The insurer involved would be known to every person on the Inquiry Panel as they advertise every night on television.

Similarly, on this point the State Government Treasury Management Fund (TMF) self insurer leaves a lot to be desired. They appear to operate on a single telephone number which is for most of the time linked to a telephone answering machine. The TMF only started to function for me after I contacted a Treasury Director whose telephone number was the only one I could find in the Government telephone directory. I raised the problem that either they don't answer the phone or return telephone messages. The TMF only started to work for me after I spoke to the Director and then I was treated as a customer.

(e) Alternative models of regulation, including in other jurisdictions.

At the time of the last State election the new Government said that it would make the 'hard decisions'. What I propose below, if accepted, would be one of those hard decisions.

Firstly, the smash repair industry and the insurance industry associated with it must be at least a billion dollar industry. However it is an industry that requires the most stringent regulation because it fails to give the customer the best value for money. 99.99% of the customers served by it would be unable to make their own assessment that a repair is safe and performed to a satisfactory standard. The insurance companies are not risk managers and demonstrate a lack of interest if their customer is the one at fault. It appears they are happy to load unwarranted repair work onto unwitting customers or spread it

across their full customer base rather than apportioning it to the true cause. Their service level is not what they advertise.

The only group that can protect the customer is the Government. The value of the industry is so high and so much money is at stake that drastic steps must be taken to protect the consumer. The Government should take over the industry and regionalize the smash repairs under the guidance or management of centralised agency. For instance, Sydney might have say six regions where each region has the management control over the total repair. A vehicle owner approaches the regional office and the work is either allocated or bid for by a repairer. However, the bid process must include a personal inspection and not one by photos over the internet as can happen now.

Country regions would be set up in the same way. They cannot take on any insurance repair work without firstly going through the regionalised office. The regionalised office becomes responsible to make inspections throughout the repair and certifies that the final work meets all industry acceptable and legislated standards.

This type of suggested allocation process is not new as this is how the government regulated the tow truck industry. Similarly, the regionalised business base is not new because this is how the government planned to set up the annual pink slip registration inspections.

(2) Even if my suggestion above is not acted on, there should be mandatory inspections of smashed vehicles during and at the end of the repair process. As mentioned above, currently if an assessment is made it is normally at the very beginning of the process and only to assess the value of the repair work. At present, the vehicle is just handed back to the owner to drive away yet the majority of the population is incapable making any assessment at all.

In addition, at least the final assessment should be made by someone who is independent of the insurance company or be employed by an autonomous company, even if it is owned by the insurer, so that it is free of any management pressure that might be exerted on it.

Please add the following as an addendum to my previous submission:

Grading of Smash Repair Businesses.

One way to improve the quality and skill of the smash repair industry is to grade all the businesses in it. The grading would be made known on a publically available list.

The grading should be in a range say one to ten but not a star system or letters (A, B, C etc.). Ten would be the most competent grade and one the lowest.

However, for such a grading system to work as intended, it must be a 'live' system that has dedicated full-time persons involved in the assessment/inspection procedure. This suggestion is not intended to mean that someone will assess every repair throughout the process but there should be a regular inspection regime that could operate at random or when particularly difficult jobs are undertaken such as a 'repairable write off'. However, random inspections of the simplest jobs should also be performed, as they are the jobs that are the easiest to perform poorly.

A traditional system that relies only on customer complaints will not work and is a waste of time. As I said earlier in my submission, 99.99% of persons are incapable of making an assessment of a smash repaired vehicle hence a traditional system that just logs complaints is worthless.

The Inquiry panel need not be hesitant about making a recommendation about a grading system because I would think that the good smash repairers would jump at this idea and want to be first on the list and the poor smash repairers would want to stay away from it. The public could then choose who they want which would most likely be a business with a high rating. This would have the effect of driving those with a lower rating to improve their business, their skill and their grading.

Such a live system would require resources but it could be self-funding by way of a fee or if not, it could also be leased out to an independent organisation. In any event, the saving to the consumer would be immense, as this would, in time, improve the quality of repair; reduce the cost of the repair, and; insurance premiums should reduce.

In addition, such a grading system could extend to the insurance companies. A grading system could be set up using proven complaints and using the results of the hearings from the CTTT. This would improve the performance of the insurance companies as the consumer would then have the opportunity to better assess the performance of all the insurers on offer.

The safety of vehicles which have undergone a serious front or side collision and then repaired.

The government owned Crashlab operated by the Roads & Maritime Services undertook a series of crash tests of repaired vehicles.

The results showed that it was possible to repair a vehicle which had suffered a major frontal accident. The repaired vehicle was tested to the Australian Design Rule (ADR) for frontal impact and it passed.

However, when a vehicle which had suffered a side accident was repaired, it failed the ADR side impact test.

The crash tests were recorded on video and I think it would be beneficial for the Inquiry Panel to obtain these from the RMS. It would then be worthwhile to ask the Industry representatives at the Inquiry Hearings to explain how they handle side impact repairs in light of the ADR testing.

It would be worthwhile to also investigate what requirements exist across the smash repair industry to stop such accident vehicles from being repaired – especially those where the owner is uninsured and therefore free to make whatever decision suits.