

REPORT OF PROCEEDINGS BEFORE

**SELECT COMMITTEE ON THE MOTOR VEHICLE
REPAIR INDUSTRY**

INQUIRY INTO THE MOTOR VEHICLE REPAIR INDUSTRY

—

At Sydney on Monday 17 March 2014

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The Committee met at 9.15 a.m.

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PRESENT

Mr J Barilaro (Chair)

Mr B. Doyle

Ms T. Mihailuk

Mr G. Piper

Mr R. Williams

MR GREG PATTEN, Chief Executive Officer, Motor Traders' Association of New South Wales, 214 Parramatta Road, Burwood, sworn and examined:

MR GRAHAM ANTHONY JUDGE, Acting Body Repair Division Manager, Motor Traders' Association of New South Wales, 214 Parramatta Road, Burwood, affirmed and examined:

CHAIR: Good morning. I would like to declare the hearing open. Can I first welcome and thank Mr Greg Patten and Mr Graham Judge from the Motor Traders' Association for appearing before the Select Committee on the Motor Vehicle Repair Industry today to give evidence.

Can you please confirm that you have been issued with the Committee's terms of reference, and information about standing orders that relates to the examination of witnesses?

Mr PATTEN: Yes.

Mr JUDGE: Yes.

CHAIR: Do you have any questions about this information?

Mr PATTEN: No.

Mr JUDGE: No.

CHAIR: The Committee has received a submission from your organisation. Do you want the submission to form part of your formal evidence?

Mr PATTEN: Yes.

Mr JUDGE: Yes.

CHAIR: Would you like to make a short opening statement before we commence questions?

Mr PATTEN: Thank you Mr Chairman, I certainly would. I do thank the Committee for taking this time to look at such an important area of the economy of New South Wales and the opportunity to make this presentation with respect to the auto body repair industry.

At the end of the presentation Graham and I will be available for questions and I am sure you may have many of them.

Motor Traders' Association is a not for profit organisation. It was established in 1910 and it is the oldest state-based motoring association in Australia. It represents the interests of over 4,000 businesses, trading at more than 5,000 locations. Those businesses employ some 60,000 people in the New South Wales economy.

The Motor Traders' Association is a registered training organisation and delivers onsite training to some 450 apprentices and an additional 200 trainees in the motor industry.

Motor Traders' Association members agree to be governed by a constitution, rules and a code of ethics which, amongst other things, promote the competitive market place, high quality standards and consumer protection.

In 2013 the auto body repair division published a policy document which provides an invaluable insight into the industry. Motor Traders' Association has identified the following major

problems in the relationship in insurance companies and motor vehicle repair businesses—the lack of transparency in insurance business practices, minimal quality control and standards in the approval process of repair works, unsafe or insufficient repair works for insurance companies, a decrease in consumer choice. Insurers have vehicles repaired to a price, not to a quality standard and insurers are accepting poor quality repairs because of the low costs associated with them.

The Motor Traders' Association's submission details major issues which we see with the current relationship between insurance companies and major repair businesses, and Motor Traders' Association proposes a number of recommendations to alleviate those major issues.

The major one is repairing to a price rather than a quality standard and we believe that this can, in most cases, be relieved by a more transparent repair process. The creation of the public register to name and shame—for want of a better word—as that is seen in the food trade, the restaurant industry, a labour rate calculator developed by an independent body, such as the Small Business Commission of New South Wales, reasonableness in quotations to be defined and the industry adopting a standard time, realistic time to carry out repair works.

Graham will present in few detail a few circumstances which highlight the current deficiencies and this will then lead to our recommendations that a small amount of work is required and a couple of new items introduced but in most cases the standard business practices employed by motor vehicle repairers and insurers today, if they were more regulated and introduced, would actually fix most of the problems that we experience in today's society and will bring about consumer protection through better quality repairs to motor vehicles.

With that, I would like to hand over to Graham. Thank you.

CHAIR: Before that I should have introduced myself as John Barilaro, member for Monaro and the Chairman of the Committee. Members of the Committee are Mr Greg Piper, the member for Lake Macquarie, Mr Ray Williams, member for Hawkesbury and Mr Bryan Doyle, member for Campbelltown. We have also got Ms Tania Mihailuk, who is running late this morning, the member for Bankstown, who will turn up at some stage this morning. Please continue.

Mr JUDGE: As Greg mentioned, we are a repairer association. It is fair to say we do not go looking for consumer complaints but over the last 12 to 18 months we have had a steady flow of consumers ringing the Motor Traders' Association for assistance.

It would be alright if we could just forward those complainants off to Fair Trading officers to cover the problem, but because of the insurance company relationship with the customer, the customer is directed to go to the Financial Ombudsman service, or through the courts if they need to resolve a dispute.

When we started getting these phone calls, in my capacity at the Motor Traders' Association, the phone calls were directed to myself. Over a period of time I thought I better start actually collating where these complaints are coming from and see if we can identify them. Some of the complaints were coming from Motor Traders' Association members. We have a code of ethics; we try and enforce that where we can.

It is pretty evident and as part of our submission there was an Excel spreadsheet sent through detailing there were 130 claims that cover, for the most part, the last 12 to 18 months. From that I think it is pretty obvious there is a systemic quality issue with the way insurance companies and in particular the major two, the Suncorp and the Insurance Australia Group, operate.

The major complaint from our members relates to the steering of customers, the mis-information, where we can have a repair shop that has been in business for 50 years, does rectifications on behalf of insurance companies, but when a customer lodges a claim under a freedom

of choice policy and gets told we may not authorise repairs with that repairer. You may need a second quote. It gets a little bit tough and I do not think there is a level playing field that all the repairers are competing under.

That is the substantial reason why, to resolve the issues that we are identifying, we have come up with the solution for a name and shame. Whether that is an Motor Traders' Association member or it is not an Motor Traders' Association member, consumers, I think, need to be given some sort of protection. You go to a supermarket and there are price comparisons that can be made on a packet of corn flakes, but here we are, we have got evidence of poor quality repairs being done, but we have still got insurance companies recommending that repairer to consumers. Consumers blissfully unaware, all they are told is lifetime guarantee, minimum time to get the car assessed.

As Greg mentioned, it is evident that cars are being repaired to a price, not a standard. We even have examples where a major insurance company, NRMA, actually have contracts with repairers to do just that, repair to a fixed price.

That leaves us with the code of conduct. It has been since 2006. When it was first introduced the repair industry was very happy. We have got to the stage now though where repairers do not even bother lodging disputes under the code of conduct. There are no financial penalties.

A good example would be insurers are required to provide up front and in a prominent position in plain English their policy in relation to choice of repairer. NRMA over the weekend updated their product disclosure statement, it is now found on page 69 of their product disclosure statement, their policy in relation to choice of repairer. Other insurance companies much the same, there are a few exceptions but overall it is very ambiguous as far as some product disclosure statements will say we will choose the repairer, however, you may nominate a repairer. If they do not like the repairer you nominate, well tough. You have to go to the one that they propose.

I think that covers what I have to say and I am happy to take questions.

CHAIR: Thank you both. The Committee has worked through a number of questions that were compiled from the submissions received and we will work through some of those questions this morning. Members may have other questions as we work through the list.

I will start off with the first question if you do not mind, and that would be, your submission indicates that there has been an increase in cash settlement payments by insurers to consumers. This increases the likelihood of poor vehicle repairs. Could you please explain this practice and why you think it promotes poor vehicle repairs?

Mr JUDGE: Well in particular, the NRMA insurance group have three options when they accept a claim. They can authorise repairs, they can total loss the claim or they can cash settle. They have a freedom of choice policy, so the customer can say yes, that is definitely where I want to get the car repaired, but if they cannot negotiate a fair and reasonable price, then written into the product disclosure statement is the need to obtain a second quote.

Let us say there is a quote for \$5,000 from the customer's preferred repairer, they move the car to one of their partner repairers, who writes a quote for \$3,000 and they will cash settle the claim for the \$3,000. The customer says well okay, I still want the car repaired at my repairer's shop, but they are only getting \$3,000. The repairer is left to repair the car for what he can do with that \$3,000.

Attempts to get supplements or additional inspected, there are some shops that NRMA refuse to even go to, so in answer to the question, yes, as the increase in cash settlements occurs, repairers are given an amount of money to repair the car.

CHAIR: What information do you have to prove there is an increase in those cash

settlements?

Mr JUDGE: Just from member feedback. Just from the number of our members who have been relegated from being an authorised repairer to a do not authorise.

Mr RAY WILLIAMS: Thanks Mr Judge. It is easy for someone involved in the industry to understand the complexities but obviously it is difficult for the Committee so I will do my best to try and flesh out in some plain language some of the answers to the questions that we need. But it must be even more difficult on behalf of consumers that have vehicles that are damaged.

Do you believe the majority of owners of insured vehicles on our roads that have been damaged and repaired could make an informed decision about the actual quality of the repair that has been undertaken to their vehicle?

Mr JUDGE: No, I do not believe they could.

Mr PATTEN: To verify Graham, I do not believe that most consumers can even pick up paint differences in many cases and of course a lot of the repairs actually take place under the skin of the car. The outside of the car, the doors may open and close. It might look like a reasonably good job but underneath the more average consumer would not have an idea of what to look for underneath.

Mr RAY WILLIAMS: If I could push a little bit further then, what you are suggesting is that if the car is the same colour, it is clean, it is tidy and the doors open and the doors shut, the average person in the street, the average person who has a premium, would pick up their vehicle, look at their vehicle and think everything looks fine because they are not an actual qualified repairer, drive that vehicle away, but there could be serious problems in relation to that vehicle even though on the surface it looks fine?

Mr JUDGE: That is absolutely the case. I would even go further to say, not only would a consumer have trouble but motor vehicle assessors will have trouble and that is borne out in the evidence that has been submitted. I have helped some consumers who have had the vehicle inspected by the partner relationship manager from NRMA, two vehicles on that list; same repairer but one ended up so badly repaired that they total lost the vehicle. This car has been inspected by a manager from NRMA insurance. The customer had their doubts about the shop and then the second claim ended up—same relationship manager—said the car was okay, happy with the repairs. It ends up a \$20,000 rectification.

You are asking can the consumer tell, I would go so far as to say the assessors cannot. One of our recommendations around that was getting repairers to take digital images that actually show how they repaired the car so that consumers, assessors, insurance companies can see exactly what was done.

I am not condoning in any way—we have got some repairers I have been involved in where they have had a new chassis rail authorised and it has been repaired, heated up and repaired, sprayed a bit of proof coat over it and no-one is going to pick that that is what has happened.

Mr RAY WILLIAMS: But what you are suggesting there Mr Judge, can I just go a little bit further and elaborate on that particular chassis rail that you are talking about, if that repaired chassis rail has been placed back on the repaired vehicle and it has not been a new chassis rail, but a repaired chassis rail as you are saying, what could the ramifications be of that vehicle if it subsequently was to have another major accident?

Mr JUDGE: It becomes very much a safety issue. The repairer has applied heat to that chassis rail. If it was involved in another front end collision, the chassis rail will not perform as it was designed to.

Mr PATTEN: In a lot of the materials these days, the heating of them affects their strength, so they may have no strength to be able to activate the crumple zones in the modern vehicles and put the passengers in danger.

Mr RAY WILLIAMS: The current state of play in the repair industry, what would you say, is it delivering safe vehicles back to our roads?

Mr JUDGE: No it is not.

Mr RAY WILLIAMS: The Motor Traders' Association have very kindly provided this Committee, as you suggested Mr Judge, with a list of over 130 individual entries, including identification, registration plates and ownership details from people that have approached your organisation for assistance for vehicles that have provided additional rectification works following an initial repair to a said vehicle. This appears to be a very large number of vehicles in just the last 12 to 18 months, as you have suggested, that have required additional work. Do you believe this is the total amount of vehicles on our roads that require rectification or do you believe there are more?

Mr JUDGE: No, I tend to think it would be the tip of the iceberg. The Motor Traders' Association have never openly advertised and I do not think we are about to.

Mr PATTEN: No.

Mr JUDGE: We do not look for these sorts of problems but it is difficult when you have a mother of six kids ringing to say I do not think my car is safe, there is a wobble in the steering. The insurance company do not want to help me, what can you suggest? We can suggest they go and see a Motor Traders' Association member who can look at the vehicle. They do that. The Motor Traders' Association member says you better come out and have a look at this. We get copies of the quotes to see what was supposed to have been done. We are able to work out what actually has been done. There is a real breakdown in the process.

Mr RAY WILLIAMS: On the list that you provided us of 130 vehicles that you have been made aware of by consumers that required additional rectification, there are 40 vehicles on that list which now have stated next to them T/loss. Could you explain to the Committee what that means to those 40 vehicles?

Mr JUDGE: Of those 130, there are 40 claims where the customer rather than having the car rectified for the poor repairs, it has been deemed not economical, so the insurance company involved have paid out the sum insured or they have bought the customer a new car.

Mr RAY WILLIAMS: Therefore, the vehicles now that you are suggesting are a total loss are actually now listed on what we would know as the written off vehicle register and will never again be driven on our roads, they have been sent to the wrecking yard and they will now only be used for spare parts, even though these vehicles were actually repaired, does that mean that the initial repair to these vehicles was a complete failure?

Mr JUDGE: Yes, that is the only conclusion you could draw. If it was only a minor rectification the vehicle would have been rectified. We have got a car insured for \$100,000 that had a \$40,000 repair done on it, it was done so badly that the insurance company, GIO, decided it was not economical to re-repair the whole car again. In some cases there is a rental vehicle involved in these positions, so if a customer is going to be in a rental car for three months or six months, in the case of that \$100,000 Range Rover, the customer had not driven the car for 12 months.

Mr RAY WILLIAMS: I think that is a sad indictment on the entire industry. But in relation to these vehicles, when they were originally repaired they were given back to the owners?

Mr JUDGE: Correct, yes.

Mr RAY WILLIAMS: So therefore we can assume from your list, from your information, that vehicles are being repaired today, returned to their owners and these vehicles may have major structural defects to some degree, 40 of those 130 will never ever be on the road again now they have been re-assessed, they have been completely written off and they are only good for spare parts. Who actually makes the decision that a vehicle has been repaired appropriately? What checks and balances are in place to ensure that vehicle is roadworthy again following the initial repair?

Mr JUDGE: I think the responsibility would lie with the repairer who actually did the repairs.

Mr RAY WILLIAMS: What about the insurance company, does the insurance company have some follow up? Is there some accountability given that they are the ones that paid for the repair?

Mr JUDGE: Well the insurance companies will say they give a lifetime guarantee. We have a code of conduct that says we are repairing cars in line with the manufacturer's recommended procedures. So if everyone does their job properly, then we do not have rectifications. So there is a breakdown in between someone did not follow the recommended procedure or someone has cut a corner or someone working on the car is not competent, they have not set the welder up correctly or they have not got the technical information to do the job properly, but you are right, all of those vehicles, the keys have been given back to the customer, they have been driving around and then they feel that something is not right so they go and get it checked out.

CHAIR: Off the back of that, does the fault lie with the insurance company or does it lie with the industry and the repairer? If the insurance company has agreed to repair with the smash repairer and the smash repairer does not follow up, takes short cuts or whatever he does, the fault is not with the insurance company because the insurance company itself has paid or will be paying the repair bill on that vehicle. The vehicle then is assessed or there is an independent or third party inspection done and they find out that that particular motor vehicle is not suitable on the road. We talk about total loss, are we also talking, not necessarily always structural issues, we are talking about an economic loss, are we not, for the insurance companies it is not economically viable to continue to repair the vehicle?

Mr JUDGE: Yes.

CHAIR: Does that not then mean there is a fault within the industry? Are you also indicating then, is it the environment we have how the insurance companies pay the industry? Is that the environment that is building up an industry that is taking short cuts or what?

Mr PATTEN: I think right at the base of it, the basic level, when there is a motor vehicle accident and the vehicle is taken to a repairer, the repairer puts together an estimate. Depending on the insurance company that is involved, the estimates are calculated in different ways. Some repair allowances are made and some are not, depending on which insurance company it is but the repairers are aware that if the cost of that repair is above a certain price that they will never get it authorised to go ahead with it. So in the back of the repairer's mind is always this ceiling on cost. The assessor, once the estimate is submitted to an insurance company, comes out. That assessor has a look at it and if it is a \$10,000 repair, quite often by the time the assessor walks out of that shop there is an authorisation for something less than \$10,000.

It is at that point perhaps the industry, the repair side, should say no, I cannot do it. We just cannot do that sort of thing, but there are all the impressions, the perceptions that if you do not agree, vehicles will be taken out of your business, therefore your staff, their families, are all affected by those

business decisions and it comes down to a drive to reduce costs in the repair of motor vehicles which creates a problem for the repairer when they put their hand up because they have to cut corners in some instances to be able to deliver the repair for the price. They are not getting paid the proper price, so they cut corners.

CHAIR: In your opening statement you made that comment about we are repairing to price rather than to quality standards.

Mr PATTEN: That is right. In our submission we recommended that the assessors, which are the link between the insurance company, the repairer and the consumer, should all be independent. We make that recommendation because if they are licensed and independent of the repairer, independent of the insurance company, they can have a look at the job and if the job takes 20 hours to fix and needs a chassis rail to be replaced and needs other things to be replaced, they make a decision on the proper time and quality and say, yes that is a fair price, on proper time and quality or no, it is not. If the repairer wants to take advantage they can knock it back, but quality and proper time are the basis of it rather than just this cost reduction.

Mr RAY WILLIAMS: Is that not just the basis of any true market? Coming back to your background, Mr Chairman, as a builder, if I was going to employ a person to put a wardrobe in my home and the person came in and gave me a quote for \$7,000 for the wardrobe and I was happy with the quote but I then turned around and said, but I am only going to give you \$2,000 for it, I can imagine what the builder would probably say. I know what you would say Mr Chairman but a polite builder would more than likely just refuse to do the work.

But I suppose if I just push that a little bit further, that very simple analogy and say that if I said to the builder 90 per cent of the work that you will receive over the next year will be from me providing you with work to provide wardrobes and I am only going to provide you \$2,000 to complete that wardrobe, but you will not get any other work apart from the 90 per cent of the total work you are going to get, I can imagine that that would be fairly tempting to the builder. Is that a similar situation to what we have with most of the motor vehicle repairers today?

Mr PATTEN: It is a very similar situation unfortunately. When you are running a small business, it is just in time these days. If you have got a large customer that puts price pressure on you, it is very difficult for you to turn around and say no, I will not do it because if you are geared up to put 90 wardrobes in over a year and that customer says I am taking 85 of them away from you, it means a total restructure of the business.

Mr RAY WILLIAMS: Can I just push that and go a little bit further and ask you a question? Do you believe motor vehicle repairers could survive in the current economic climate in New South Wales without undertaking repairs of vehicles on behalf of insurance companies?

Mr JUDGE: No, I do not think so. They would have to scale down to the point where there would be one or two workers just doing private work.

Mr RAY WILLIAMS: In terms of the total amount of vehicles, if we can believe that, what are the total amount of vehicles or the percentage of the total amount of vehicles that a motor vehicle repair business undertaken in relation to insured vehicles and people walking in off the street just looking for a job to be done and not claiming on insurance?

Mr JUDGE: It is probably above 90 per cent would be insurance work. Some customers might be on a \$1,200 excess, there might be \$600 or \$700 worth of damage, so it is not worth claiming.

Mr RAY WILLIAMS: Which comes back to what you were saying before, that it would be very, very difficult for a motor vehicle repair shop to operate in today's climate without doing repairs

on any insurance motor vehicles?

Mr JUDGE: I do not know too many shops who survive; there might be one or two who just do restoration work, specialists.

Mr RAY WILLIAMS: Just coming back to the quality of repairs, just for a moment before we move further into insurance.

CHAIR: Mr Williams, I am just being mindful of the time, other members might have some questions also. Do you want to come back to that point?

Mr RAY WILLIAMS: Feel free to interrupt me.

CHAIR: I will go with Mr Piper.

Mr GREG PIPER: Thank you Mr Chairman. I would like to come back to the relationship that the Motor Traders' Association might have with the insurers. We are basically talking about two major insurance groups here, they are the major providers of insurance in this market, but Motor Traders' Association has been around for a long time. Have you had a relationship with the insurers? When I say relationship, ongoing discussion with the insurers about the problems over a period of time?

Mr PATTEN: Certainly have, in many cases Motor Traders' Association works for insurance companies on a number of projects. We hope to bring some benefits to the industry. We work co-operatively in areas of apprenticeship training. We have had regular discussions about the repair work and the nature of how repairs are assessed. More recently, I suppose in the last 10 years, it has probably not been as co-operative as it has been prior to that.

The Motor Traders' Association was instrumental in organising marches down Macquarie Street in the early 2000s objecting to the way that insurance companies, NRMA in that case, treat and deal with body repairers.

Mr GREG PIPER: Has the relationship not necessarily with the Motor Traders' Association, but your members with the insurers gotten worse as there have been a reduced number of insurers in the market?

Mr JUDGE: I would say six or seven years ago there were a lot of preferred repairers, particularly with NRMA, even Suncorp had their recommended repairers. If you were not a recommended repairer for someone you were really doing something wrong. Over the last couple of years the number of recommended, preferred partners—whatever you want to call them—has been reduced.

It is a really blunt tool, where you used to have 350 repairers doing 70 per cent of your work and you have now reduced it to 120 repairers. It is not that difficult to work out why you would get a better price if you can reduce the work from 350 down to 120.

Mr GREG PIPER: Can I say the insurers seem to be saying, because of the complexity of the modern motor vehicle, that there is a requirement for a higher standard training, the equipment that is required is much more expensive, smaller repairers cannot compete with the needs or perform with the needs that they have. Have you found that that is the case?

Mr JUDGE: I would agree with that completely, it is getting harder but it is more so with your high end vehicles, Mercedes, Audi, BMW, Porsche, that sort of thing. Your average Holden, Ford, Toyota, Mazda, not every claim is to replace a chassis rail or section a major member of the under body. We are talking about cars that are having front guards replaced and bumper bars and

bonnets; bolt on, bolt off, clip on, pretty straight forward stuff. If something is made of plastic that cannot be welded or repaired, you throw it in the bin and you put a new one on. It is not that difficult to replace four bolts. It is not that difficult to replace some welded panels. It becomes more difficult when you start talking high strength metals.

Mr GREG PIPER: Complex welding?

Mr JUDGE: Yeah, that sort of thing. I would figure that 10 per cent of vehicles that are subject to claims are towed. You have still got 90 per cent that are driving around that just need a bolt on panel to be taken off. There might be a repair on the inner hinge pillar or something like that but we are not talking major complexity. With the written off vehicle law changes that we had, we are now seeing cars being repaired that previously were written off. So we do need to make sure that the technicians who are doing those big jobs are suitably trained.

Mr GREG PIPER: I know Ray started talking about it earlier but this term funny time, funny money, can you give a simple explanation of what that relates to?

Mr JUDGE: The funny time is the insurance companies and the Motor Traders' Association had a schedule of times, a times guide to take a bumper bar off, change a quarter panel, whatever; so that time was considered funny time. If we said an hour to take a bumper bar off, the insurance company's funny money was they were only paying \$30. Now most shops in Sydney would say we need at least \$90 to survive. It does not take an hour to take that bumper bar off; it probably takes about 15 minutes.

So you get this inflated time with a low value. The opposite being realistic times, is give us a realistic time of 0.25, 15 minutes, but give me the \$90. We have got a situation at the moment, Insurance Australia Group run two schedules. They have realistic times and they operate with a funny time schedule in Western Australia; for one State. A good example would be to weld a hinge pillar on a Toyota Camry. You could have a time of eight hours real time but in the funny time schedule they have only got five hours. So the repairer in Western Australia is getting five hours at \$30 to change a panel that in Sydney today, a repairer would be getting eight hours at the \$90. So the funny time, funny money does not always work to say all the times are inflated, some times are not that inflated. Some times are actually pretty real but you are only getting the \$30 an hour.

Mr RAY WILLIAMS: We have got to arrive at a point in time where it is so difficult for everybody who just listened to that to try and comprehend how an estimate for the repair of a vehicle in the current economic circumstances is calculated. If we currently know exactly how much the paint cost, exactly how much the part costs, depending on whether they are genuine and we will come to that in a moment's time, or whether they are second hand. We know the time it takes to put a vehicle back together, we know what the real time is, what you are suggesting is that when a vehicle drives in to a repair shop and that estimate is given for that vehicle, that that is not the same amount of money that the repairer will receive from the insurance company if and when he receives the job to be repaired. Am I hearing that correctly?

Mr JUDGE: Because there is always someone in the trade who will do the repairs cheaper than you.

Mr RAY WILLIAMS: Mr Judge, if that is the case and that is where we are at the moment, is that a reflection of repairers cutting corners because they are not getting the right amount of money—I am not saying the appropriate, but the right amount of money, to repair a vehicle so they are cutting corners and we are seeing total loss vehicles driven around our streets? Is that the current situation we are at at the moment?

Mr JUDGE: That is pretty much where it is at and bearing in mind, I do not know that that many smash repairers are business trained. They have usually come off the floor, they are good

tradesmen, good hard working and honest, but when it comes to the business side and being able to job cost and accurately say how much money do I need to do that job, that is something that is lacking.

CHAIR: Has the industry done any work in relation to working out the time it takes to do certain repairs on a vehicle and work through what would be the appropriate or what the right amount of labour costs would be?

Mr JUDGE: The Motor Traders' Association have had a time schedule going back to 1974, a funny time. Since 2011 we have moved to having realistic times. That was what I was originally employed at the Motor Traders' Association to do. We have four video cameras rolling constantly capturing that information. But yes, we do prefer to talk realistic times, not perfect times but just something that is fair and reasonable. The difference between the best tradesman in the shop and the worst, you could have a difference of 10, 15, 20 per cent on a job, but we are looking for the average tradesman in a well equipped shop, good equipment, what is a fair and reasonable time to do that job?

Mr BRYAN DOYLE: What does it mean to a customer when I drive in and I see a Motor Traders' Association badge on a repairer's door?

Mr PATTEN: Motor Traders' Association requires members to abide by a code of ethics. There are a number of conditions in the code to act honestly and fairly in your dealings with customers; to provide proper estimates when required; to provide service once the repairs are finished and also as part of the repair process, it is to provide good advice.

The code of ethics was introduced in the early eighties I think. It was a landmark initiative by the association and the association was one of the first to introduce one.

In general, where the customer is the owner of the job, is the person that the repairer is responsible to, this works very, very well. It is not quite that relationship when it comes to smash repairs and insurance work. The owner of that job is the insurance company and this is where a lot of our members actually express a lot of frustration because their customer, that they have seen for a lot of repairs and have a relationship, they have a job that they need to do to give them a good quality for their dollar spent and quite often that quality level will not be achieved by the job—for want of a better description—does not actually belong to the vehicle owner.

Mr BRYAN DOYLE: So having a Motor Traders' Association badge on your business means that you are a member of a professional organisation and if you misbehave I take it you can be struck off from the membership of the Motor Traders' Association?

Mr PATTEN: Certainly can. The association has removed a number of members from their register of membership over the years.

Mr BRYAN DOYLE: A number of your Motor Traders' Association repairers would have lost their preferred repairer status with insurance companies over time. Can you just tell me how many have lost the status and what is the impact on those businesses?

Mr PATTEN: Graham will probably be able to elaborate on the impact.

Mr JUDGE: I do not have a hard number. The Motor Traders' Association do not get involved in the business and financial decisions made by a repairer. When it comes to these agreements, if it is a case of a repair shop agreeing to fix cars for a certain price or a targeted price, we are not there to advise a repairer to sign or not sign. That is a decision totally for them. So, we would have many members who used to be a preferred for NRMA who are no longer but the reason for that is because they could not agree on a price.

Mr BRYAN DOYLE: It is not in respect of the quality of the work or they could not meet the price limits?

Mr JUDGE: No. There might be a handful who were struck off being a partner repairer with NRMA due to quality. I think on our spreadsheet we have highlighted that as well. That is a decision for the insurance company to make, to say are the repairs so bad coming from this shop that we will not offer them or we will terminate the repairer agreement we have. I think it gets a bit tough when an insurance company can send a quality issue warning letter for paint imperfection to a repairer and at the same time they continue authorising repairs with a repairer who has committed fraud against them.

Mr RAY WILLIAMS: Just on that, can I take up that particular point. Understanding the complexities of the industry and we will go through that in some more detail, but is it not in the consumers' and the insurance companies and obviously the Motor Traders' Association's interests that there be some fine or some way of identifying a particular repairer if they have carried out inappropriate work which is a term under the Act? What would the Motor Traders' Association like to see in relation to those repairers?

Mr JUDGE: That is the reason in our submission to the Motor Dealers and Repairers Bill, the name and shame. It was interesting NRMA also had a public register on their submission. Here we are, we have got the Motor Traders' Association actually asking the Government to introduce a name and shame website to identify these shonky repairers and we have not got any support from the insurance companies.

Mr RAY WILLIAMS: To do that?

Mr JUDGE: To do that.

Mr RAY WILLIAMS: What you are suggesting then, if I can read into that Mr Judge, and tell me if this is correct or not correct, that there would be some repairers who have repaired vehicles that are on your list that you have provided us, the 130 vehicles requiring rectification, and some of those vehicles that were a total loss, and you are suggesting that insurance companies would still be using those repairers as their preferred repairers? Is that correct?

Mr JUDGE: They are.

Mr RAY WILLIAMS: Would they be notifying their customers, their premium holders and their consumers of the fact that those repairers have undertaken to do that sort of work? Is that not in the interests of public safety, that consumers should know that?

Mr JUDGE: I agree with you but I am not aware that any insurance company would be telling their consumers that we are recommending you go to this shop, despite the fact that in one of those shops there are 13 rectifications out of the 130, seven of those cars were written off from that one shop but that shop is still doing 100 cars a week.

Mr RAY WILLIAMS: I find that very, very dangerous. I just want to explore something, if I could Mr Chairman and then I will pull up for a moment. The Committee has evidence that shows 65 per cent of all insured motor vehicles in New South Wales are either insured by a Suncorp Bank affiliated insurance group or an Insurance Australia Group/NRMA affiliated insurance group. Just for the record I would like to state that those two affiliated groups, the Suncorp Group Limited, which are the second largest general insurance group in New South Wales with almost 30 per cent of the market, insure the brands of Suncorp Insurance, AAMI, GIO, Apia, Vero, Just Car, Bingle, InsureMyRide, Shannons, CIL Insurance and Resilium.

The other affiliated Insurance Australia Group/NRMA operates some of Australia's largest general insurance brands with over 30 per cent of the market and they include NRMA Insurance,

CGU, Swann Insurance, SGIO, Allianz and QBE we believe make up another 10 per cent of the particular market.

Is it therefore reasonable for this Committee to assume that the two largest insurance companies, being the Suncorp Bank and Insurance Australia Group/NRMA and their different affiliated insurance companies currently insure the majority of vehicles that are being repaired in New South Wales and therefore these two insurance companies actually provide the main source of income to motor vehicle repair businesses in New South Wales?

Mr JUDGE: Yes, that is correct.

CHAIR: I just want to go back to that previous comment in relation to name and shame register. That may be a way forward. It is quite reactive. I would like to stop these particular smash repairers doing shonky works in the first place. In relation to assessors and you spoke about earlier, independent assessors, what about the idea of licensing our assessors because I understand they are not licensed at this stage. Do you have any comment on that?

Mr PATTEN: The association would strongly recommend that the assessors need a certification for the individuals and that the businesses that run an assessing business be licensed. We have put that in the Motor Dealers and Repairers Act as a recommendation and we believe that the regulations to give effect to the Act will be released in the next three to four weeks for stakeholder comment.

Yes, it is a goal of the organisation for probably some years now to have assessors licensed. They were licensed, we believe, around 15 years or so ago, there was a licence category under the Motor Vehicle Repair Act as it was then. That seems to have disappeared and since that time there has been a change in the insurance world and assessors have not been required to have any individual certification so that they can keep performing their work in this industry.

Mr JUDGE: Mr Chair, I would go so far to say the name and shame can also apply to the assessors. I am aware that you have submissions from consumers where one consumer in particular ran into the back of a taxi. The taxi driver stopped on the Harbour Bridge for no good reason, the consumer ran into the back of the taxi and she received a bill for \$12,000. An independent assessor decided that was a fair and reasonable price. When we investigated, the car was off the road for two shifts and the pricing of the repair could not be justified.

We have got these independent assessors just claiming to be independent, doing third party recoveries, there is your consumer who forgot to renew her policy, stuck with a \$12,000 bill; rings the Motor Traders' Association to complain about a Motor Traders' Association member ripping her off. No longer a Motor Traders' Association member and in the end, happy to report, did not pay a cent.

We were able to get Fair Trading involved in that one because it was not an insurance claim but certainly assessors doing the wrong thing would be in the same category as the repairers doing the wrong thing.

Mr BRYAN DOYLE: Do you have any comment on how the industry code of conduct was working in relation to arbitrating disputes between parties, and if so, how can it be improved?

Mr JUDGE: It is a failure, because there is no—

Mr BRYAN DOYLE: Straight up, it is a failure?

Mr JUDGE: Straight up. A good example would be, I mentioned before the insurance companies are supposed to provide in an upfront prominent position, clear, plain English about repairer of choice. We find it on page 45, 55, now 69 of product disclosure statements. I am yet to find

one person who actually admits that they have read the product disclosure statement. Another good one is section 8.3, payment terms. Insurers are supposed to disclose the payment terms that they make to repairers. If you are a partner repairer and you are getting paid within 24 hours and then you have got a non-partner repairer who has to wait 30 days. Then you might have another category of repairer who is on a fixed price who gets paid a lump sum, \$50,000 at the end of the month. The code says they are supposed to do certain things, but no-one is policing it and there are no fines.

I have got repairers who are complaining about not being paid within 30 days and two weeks ago I received an email from NRMA to say they had a training issue because someone in claims decided to count 30 business days, not 30 calendar days. This code has been in force since 2006 and we have got a training issue at one of the largest insurance companies in this State? So, maybe if there was a \$10,000 fine every time they did not pay within 30 days, we would not have that sort of complaint coming through.

Mr BRYAN DOYLE: With the current conciliation process, is that working when it is taken before the code?

Mr PATTEN: No, the current mediation disputes when there is an insurance repair problem, we have got a couple of examples of taking in excess of 12 months to resolve.

Mr BRYAN DOYLE: Twelve months, that is extraordinary.

Mr PATTEN: It is extraordinarily long to be without your motor vehicle. It appears that to further a complaint under the code it goes to the Financial Ombudsman. They do not have any skills to be able to go out and assess a repair to say it is okay or it is not okay and get it fixed. We believe that the code should be re-worked so that complaints are taken up firstly with the Department of Fair Trading and then if the mediation process through that does not work, go to the Claims Tribunals of New South Wales. That way at least consumers will get a result in a reasonable amount of time rather than over an extended period of time.

We have also got examples where insurers have attended mediation and they have just said their interpretation of the code is not whatever the complaint is about and they believe that they have no obligation and that is the end of the story; that is it.

Mr RAY WILLIAMS: Either the code needs strengthening or legislation needs to be put in place to regulate the interpretation of the code to strengthen the code?

Mr JUDGE: Yes, we need someone to arbitrate, make a decision and say if you do not comply—and this works both ways, for repairers as well. The repairer who does not fix the car using the correct procedure, there has got to be a penalty for them as well. I would have thought the name and shame would take care of that, but where you have got an insurance company who are just not complying with the code—we have got to the stage now where we advise our members to contact the Small Business Commissioner. Going through the code and lodging an internal dispute resolution with them does not get a result.

Mr RAY WILLIAMS: Even though the code is mandatory in New South Wales?

Mr JUDGE: Yes. We figured if we tell our members to at least go through the Small Business Commissioner, the Small Business Commissioner can report to the Minister for Small Business and the politicians will hear of it that way. If we were to actively promote that to all our members, the Small Business Commissioner would be reporting a lot of smash repairers contacting their office. Over the last two months since we have been doing that, lo and behold, NRMA, who would not reply to correspondence, the Small Business Commissioner gets involved, does not contact NRMA claims and assessing, contacts NRMA government relations. Government relations say I think we need to review this one.

We have now at least got the door open where we have got NRMA prepared to have a look at some of these cases where they have got rid of a repairer for what appears to be pretty minor reasons and they are reviewing it now. Going through the code with an internal dispute resolution, through that process, it is a waste of time.

CHAIR: Happy to take your next question, I just want to remind you; we are running a little bit over time. So if members have got some certain questions they would like to ask, now is the time.

Mr RAY WILLIAMS: If I could Mr Chairman. On the list of the 130 vehicles that require rectification, as I pointed out earlier, 40 of those vehicles subsequently re-assessed are now off the road in wrecking yards for only parts.

Mr JUDGE: Not necessarily. Although I have 40 recorded as total losses where the customer has been paid out—

Mr RAY WILLIAMS: Can I confirm then, Mr Judge, have they all been listed on the written off vehicle list?

Mr JUDGE: No, that is what I was going to get to. I checked, 21 of the 40 are on the written off vehicle register. There is an example of one, I did it last night, dated 16 March 2014 where the customer has been paid out, the car has been identified as having a bent steering rack, it needed two chassis rails to be replaced and at the moment the car is registered until June 2014. I do not know where that car is at the moment.

CHAIR: Are you prepared to table that document?

Mr JUDGE: Yes.

Document Tabled

Mr RAY WILLIAMS: That vehicle, is driving around today on the streets of New South Wales?

Mr JUDGE: It could be. It is registered and it is saying to me that written off vehicle records are available. During this time this vehicle has not been recorded as a write off. But yet we have got a customer that the Motor Traders' Association helped, and I can tell you, he got his \$30,000.

Mr RAY WILLIAMS: Mr Chairman, I think as an action not specifically today but something this Committee needs to do, is make sure that the Minister for Fair Trading is provided with that information immediately, that that vehicle may be endangering the lives of people on the road at the moment and if there are only 21 out of that 40, which you have suggested Mr Judge there may be more, it was not the point of the question, the point of the question was that the vehicle repairer identified with the greatest list of vehicles that were reported as total loss out of the 40 were actually a company by the name of QPlus, which I believe recorded no less than 13 of those total loss vehicles. Could either one of you please provide the Committee with an update as to your understanding of that particular company?

Mr JUDGE: My understanding is QPlus is 60 per cent owned by the Suncorp Group, 40 per cent owned by Daniel Zammit. If I could just correct you, there were 13 vehicles that we identified as being rectifications, seven of those were total losses. The business has been operating 11, 12 months.

Mr RAY WILLIAMS: Therefore what you are suggesting is the QPlus is in the majority owned by the Suncorp Group?

Mr JUDGE: Yes.

Mr RAY WILLIAMS: Who provide a customer with an insurance premium, decide whether to repair a damaged vehicle itself, as they now employ their own assessors, then send the damaged vehicle to their own repair business and once repaired they self-regulate and approve whether or not that vehicle is sent back to the customer; that is correct?

Mr JUDGE: Slightly off in so far as they only do structurally damaged vehicles. The vehicle will go directly to the repair centre; it will not necessarily go to an assessment centre. It can go straight from the scene of the accident straight to QPlus.

Mr RAY WILLIAMS: But they are doing everything. They provide the premiums, they provide the repairer, they are assessing their own quality standards and they are returning the vehicle. We have got a situation where seven of those vehicles have been—and I do believe, correct me if I am wrong—that that particular company has now been operating for only 10 months?

Mr JUDGE: I think it is April 2013 they began.

Mr RAY WILLIAMS: In that space of time we have now got seven vehicles that have been marked total loss out of previously repaired vehicles. So once re-assessed—

Mr JUDGE: That I know of, there could be more.

Mr RAY WILLIAMS: They are only the people that have come to the Motor Traders' Association complaining about the quality of their repair?

Mr JUDGE: Yes. Also—no, that is alright.

Mr RAY WILLIAMS: Mr Chairman, can I ask the Motor Traders' Association at this point in time do they believe that the repair of motor vehicles in New South Wales, given the evidence that we have been given in relation to the majority of vehicles that are repaired by the two major insurance companies, given that is the case, that they are actually repairing 90 per cent of the vehicles that are being repaired in any vehicle workshop, do you believe that those insurance companies are currently manipulating the repair business in New South Wales at the moment?

Mr JUDGE: Most definitely.

Mr RAY WILLIAMS: Do you believe that the two major insurance companies, namely both those groups that I mentioned earlier, are repairing particular vehicles and the amount that they are offering is far below what the actual price will be to appropriately repair a damaged motor vehicle? The motor vehicle repairers are cutting corners and saving anything they can just to operate in the current economic circumstances?

Mr JUDGE: I would have to qualify that, some of the vehicles that are being repaired by the partner repairers or the QPlus, depending on whether the car has a recovery to be made. So some of the vehicles I have seen, I have had a copy of the quote. So where NRMA runs into the back of the AAMI car and AAMI/Suncorp know there is a recovery to be made against NRMA, the price seems to be heavily inflated, heavily.

At the same time we have a situation where NRMA, because they have got their partner repairers repairing to a price and at the end of the month that repairer might have done 40 claims. They do not have one price as a labour rate that most repairers have, at the end of the month, because they have got a target price, they adjust their labour rate up and down so that it meets the fixed price.

It might be a bit hard to understand. If I gave you an example, a repairer in Campbelltown on

average repairers is around \$80 —

Mr RAY WILLIAMS: That is the hourly rate?

Mr PATTEN: The hourly rate.

Mr JUDGE: The hourly rate for repairers in Campbelltown is probably around \$78, \$82, \$83. There is an NRMA partner repairer down in Campbelltown, Gemini, I have got a copy of a quote for \$113. We have got NRMA, who have a schedule of times to say it might be 1.8 hours to paint a rear bar, that repairer has been able to quote and get away with 3.5 hours.

You sort of get to the point where customers ring saying I only did a little bump on the back of this car and now I have got a bill for \$1,300. We say, can you send me a copy of the quote? Automatically you go, if that went to any other shop that would have been an \$80 rate. We would have had the 1.8 paint time applied to it and the cost would have been about \$700.

Mr RAY WILLIAMS: So when the claim is against another insurance company you are saying that the price will be inflated?

Mr JUDGE: Where there is a recovery, prices go up.

Mr RAY WILLIAMS: Mr Chairman, if I could just perhaps wrap up this way and say it is very difficult, as I started by saying, for everyone to try and understand it and we have tried to cover that in the easiest way and simplest way possible. Can I just ask this final question to the Motor Traders' Association, surely we have got to a point in time where the current situation cannot continue and that is why the Premier has asked for this particular inquiry to investigate the repair industry?

Under the terms of reference it particularly states that when doing so we make sure that the safety of the public is absolutely paramount, that the vehicles that are returned to the roads of New South Wales are returned in the safest and most appropriate manner, according to the code and so according to the Act. Therefore, do we not need to get to a point in time where if a vehicle is damaged, someone drives into a repair shop and they get that vehicle estimated, a quote is given or two quotes are given, that we then want to have that independently assessed by an assessor that has absolutely no affiliation with either the panel beaters or with the insurance companies to come up with an accurate assessment of both the methodology, the cost, the parts, the hours, the real time that it takes to estimate that, once that assessor assesses that particular price, presents that to the insurance company, that that is the price that should be paid for the repair. Is that where we are trying to get to?

Mr JUDGE: That would solve a lot of the problems, if we had an independent assessor. To my understanding most insurance company assessors are on some sort of a bonus or incentive to reach a certain target. The target is always about maintaining costs.

Mr RAY WILLIAMS: Could I ask you, with the assessors, who are they on an incentive or a bonus from, Mr Judge, if you are making that comment?

Mr JUDGE: Their employer, NRMA, Allianz.

Mr RAY WILLIAMS: Their employer is?

Mr JUDGE: Suncorp, yes.

Mr PATTEN: An insurance company.

Mr JUDGE: So you have got that conflict of interest where the assessor assessing the car to arrive at a fair and reasonable price and look after that customer, the consumer, or are they looking

after the shareholder or are they looking after themselves if they can, by way of some sort of incentive or bonus?

Mr RAY WILLIAMS: It sounds like the mums and dads that are out on the street are the last ones to receive consideration in all of that, the safety of them?

Mr JUDGE: I would say the repairer is the last and the mum and dad is the second last.

Mr RAY WILLIAMS: No further questions Mr Chairman.

CHAIR: Thank you. We could keep going on this all morning but we do have other witnesses here this morning and we are already running late on our schedule. Can I thank you for appearing today in front of the Committee. The Committee may wish to send you some additional questions and I know we do have some in front of us today; the replies to which will form part of the evidence and be made public. Would you be happy to reply with a written reply to any further questions?

Mr JUDGE: Very happy.

Mr PATTEN: Certainly will. Thank you Mr Chairman, thank you Committee.

(The witnesses withdrew)

MR PETER BLANSHARD, Chief Executive Officer, The Institute of Automotive Mechanical Engineers, also representing the Institute of Accident Assessors, sworn and examined:

CHAIR: Thank you and can I welcome Mr Blanshard, the chief executive officer of the Institute of Automotive Mechanical Engineers. Thank you for appearing before the Select Committee on the Motor Vehicle Repair Industry today to give evidence.

Can you please confirm that you have been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

Mr BLANSHARD: I have.

CHAIR: Do you have any questions about this information?

Mr BLANSHARD: No.

CHAIR: The Committee has received a submission from your organisation. Do you want that submission to form part of your formal evidence?

Mr BLANSHARD: Yes.

CHAIR: Before we commence when I will invite you to make an opening statement, I will introduce myself as John Barilaro, the Chairman of today's Committee and also the member for Lake Macquarie, the member for Hawkesbury, the member for Campbelltown and an apology at the moment for the member of Bankstown, who is running late.

I encourage you to start with an opening statement before a number of questions will be put to you.

Mr BLANSHARD: The Institute of Automotive Mechanical Engineers was first formed in 1933 and was incorporated in 1936. We are a not-for-profit organisation and have national membership in excess of 20,000 practitioners. I sit on seven to eight automotive boards around Australia and we have submitted our paper where we believe there is greater need for training in the collision repair network.

It has been identified that assessors need to be trained. They are now being made to sit a certificate IV as the technology of vehicles has been growing and that is evident with every new release of a car. The certificate IV needs to be linked to current competencies and it may be a licence which should possibly be renewable included in that.

By way of example of the need for this, VicRoads just had a structural awareness course where they ask a motor mechanic to say that the vehicle is safe or roadworthy but they have now asked them to sit a course looking at the structural awareness or the structural viability of that car and to identify any critical areas, because it is outside their level of expertise, to have that vehicle re-assessed and check the calibre of repair.

I look at some of the repairs that are required today and some of the technologies that are involved, that is, windscreen replacement in cars with the high side of technology. I have an example of that, the use of DataDot, which is what the National Motor Vehicle Theft Reduction Council looked at, where some repairers have been encouraged not to use genuine parts and therefore the use of such a product in Subaru's DataDot is not being used.

I look at some of the new technologies that are being put out in the market place, such as Holden had a night in regards to its VF body repairs. It used the term hard metal panels with aluminium. But some of the new technologies that are on display, such as Pfitzner Performance

Gearboxes (PPG) here in Sydney, it is talking about hydrogen gas over infrared, which does not put any heat into the panel whatsoever. So technology is changing quickly.

Looking at thickness of paint on sensors; we have a lot of vehicles that can avoid accidents and try and reduce this but there is certain criteria that is needed for the thickness of paint on bumper bars. Vehicles have to be re-engineered for their next accident, not just pulled straight and colour matched.

We look at the Insurance Australia Group, CGU, QBE, all these people, Suncorp, they have all taken on the certificate IV. Consumers do not know what is being done to their car. They related quality to repair and they are just judging this on colour match, body panel alignment and that all the items that they were used to in a motor vehicle are now currently working.

We need to see our estimators equally as qualified as the trained assessors, which we now have. We also believe that this will follow into the shops.

Thank you Mr Chair.

CHAIR: Thank you very much for that opening statement. You touched on something there regarding something I made comment on earlier in relation to assessors, having independent assessors and more importantly licensed assessors. In your submission you support the requirement of ongoing professional development. Do you have any suggestion on how such a system could be implemented without disadvantaging the smaller repair shops that do not have the resources?

Mr BLANSHARD: I do not know about the smaller repair shops, but certainly with the assessors' licensing, yes, for sure. We did have licensing in New South Wales and I think it is the case that we need to re-introduce it. I believe, as I said in my opening comment, the vehicles are just getting smarter. The information that is held in them, the technology that is in them, the scope of repairs that is required in the cars today, we need our assessors and we need our estimators up to speed.

I think if you have prepared a quote that a tradesman could not read, that would then flow back through the shop. I think that we have concentrated greatly on getting our assessors up to speed and I believe there is a great majority of them that are currently undertaking their certificate IV. I believe there are a lot of companies out there promoting professional development and keeping these guys up to speed and I think that this needs to continue.

I think we also need to open this up to the smaller shops. You talk about disadvantaging them, it would be a greater disadvantage if somebody incorrectly repaired a motor vehicle and there was a death because of it. Mercedes has that terminology, they don't repair; they re-engineer the vehicle for its next accident. They do not repair it. We need to follow through with this.

Mr RAY WILLIAMS: It is a great point, thank you Mr Blanshard. I certainly agree with your last comment in relation to how the vehicles should be repaired. Can I ask you what you believe the situation is currently with the quality of repair being returned to the New South Wales roads?

Mr BLANSHARD: It is very hard for me to comment because we do have some members which are collision repairers. We have got members that are educators. We have got members that are also assessors. I do concur, I have some papers put out by other associations and I do understand that there are repairs that are not up to scratch.

In the areas that I want to give evidence here, which was say in the replacement of windscreens, I have brought evidence of where you can pick up the phone and I had my personal assistant do that today, where you can have a windscreen in a late model Subaru replaced for as little as \$380; fine, not questioning the price. But then to a higher one, which was just over \$2,000 with

genuine glass and all the sensors reset. I think you have got to understand what this eyesight technology is like. It would be like you swapping glasses there with Mr Piper. Once you put the windscreen in the car, if it sits at any different angle, if it is any different thickness, the technology which is in that car which will prevent an accident up to 50 kilometres an hour will probably not work or not work as designed by Subaru.

We need to have these things reset; we need to be working on them. Is every shop doing the right thing? No, I cannot believe that they are. We had a phone call on Friday afternoon to my northern New South Wales operations manager where the person that rang was a collision repairer, he was having a fight with an assessor about fixing a cross member. He wanted to pull the cross member straight. The one question we asked was: what did the original equipment manufacturer want to see happen to that cross member. He could not answer it. He had to research what the original equipment manufacturer required, so the correct repair methodology was not employed. How could he be having a logical argument with the loss assessor? The good thing is the loss assessor had asked the question. He had been so trained whereby he had asked the question and the repairer could not give him the answer and in fact thought it was best that he rang us as a mediator, and when we asked the technical question he could not answer it.

Mr RAY WILLIAMS: I think that is good to hear in relation to your assessor. Before I get onto assessors can I just come back to windscreens? Is there something under the repair code of conduct in relation to windscreens where there is a standard that has to be applied to the fitting of windscreens?

Mr BLANSHARD: Look, it has always been linked back to the use of the correct urethanes or the correct methodology with the original equipment manufacturer. I think the quality original equipment rules are if the vehicle has eyeSight—and I use that as a brand name—then it should follow that same line, the same way as the manufacturer lays down.

Mr RAY WILLIAMS: You are suggesting at this point in time today there are windscreen repairers who if you ring up today they would have a windscreen in your car for under \$300 for most brands of vehicles that are on the road. Are you suggesting that they are not fitting those windscreens with the appropriate technology that should be applied to them?

Mr BLANSHARD: Correct and if we go back onto bumper bar replacement. You have certain Audis out there that will prepare a vehicle for a rear end collision, where the rear park sensors will look at trajectory of the vehicle coming in and it will then prepare the vehicle. You have got vehicles that if it moves towards a stationary object it will stop at a set speed if you have not looked at putting your foot on the brake.

But those sensors that are used, the radar sensors which is used a lot of the time for your park assist, for your front and rear park assist, but if you just go ahead and paint that with any old paint and put on it any old thickness that you want, the expectation is—and you could not expect those sensors to work correctly and in fact Audi, BMW, those sorts of people who have had this technology for a long period of time, not only specify paint thickness, but they also specify what sort of paint you will use on their products.

So how then can you say that a vehicle would be repaired correctly if the shop, quality shop, is not using one of those endorsed paints? How do you know that that sensor will work? How can you put your hand on your heart to know that that sensor is going to work as Mr BMW or Mr Audi designed if you are not using the paint that they do and if you are not following the correct paint thickness?

Mr RAY WILLIAMS: Which then comes back to that every repair should be as per the vehicle's manufacturer's specifications?

Mr BLANSHARD: As best as can be followed, yes.

Mr RAY WILLIAMS: Then can I lead that into asking you in relation to genuine parts, as to your feelings in relation to genuine parts and is there an age of a vehicle where genuine parts should be used? Obviously anything under warranty I suppose would be void unless the genuine parts are actually fitted to those vehicles but is there a point in time where insurance companies should actually provide information under their product disclosure statements that they are offering premiums and that they may not be covering full genuine parts on that particular vehicle?

Mr BLANSHARD: I do not know if genuine parts are ultimately required on a motor vehicle repair. The reason why I say that is you do have the situation with parallel parts. The same factory produces the same glass. I have got no problems with any glass that may go into a motor vehicle providing the advice to the consumer and providing the job is done right. You can put any glass in the front of that car as long as you use the correct urethane but you need to reset the sensors when it goes on.

The same applies if you are looking at brake pads. You can get any brake pads and in fact ADT or ADD or whatever in Germany, they produce brake pads for Volvo and BMW, but they also produce a non-genuine set. The specifications are exactly the same. It comes out of the production line exactly the same. One is in one box, one is in the other. Proton have a place in Asia that produces bonnets and it is one goes to the after-market and one goes to themselves. It is exactly the same bonnet each time.

You cannot say that you must every time reach for a genuine part. If the part is certified and the part is fit for purpose, then I cannot argue that you cannot use that.

Mr RAY WILLIAMS: Who certifies that?

Mr BLANSHARD: Well, here in Australia we do not have part certification. In Europe, if you want to look at a lot of your German ones, TUV in Germany, it is a part certifier and they will certify parts. That is one of the problems we have in Australia, without having parts certified.

Mr RAY WILLIAMS: So I come back again, do we do that under the code of conduct, do we do that via legislation, do we do that through our assessors, do we do that through manufacturer's specifications? Whereabouts do we get to the point where we repair that vehicle to the appropriate standard and use the appropriate identifiable part?

Mr BLANSHARD: That is the key element. I do not know, unless you were able to certify yourself, then therefore you would go back and to be able to meet that standard, you would say that you have to use a genuine part on the motor vehicle. What age limit does it cut out, as you asked, again, I do not know whether I could put a hand on my heart and say what age it would be, other than these vehicles as each year rolls on, we have got high strength steels, we have got bonnets and things in there, we have certainly got the right sorts of headlights, brighter headlights. We need to ensure their focal aim is correct. We need to know that these parts going on the cars are fit for purpose.

Mr RAY WILLIAMS: You need some guidelines to specify that?

Mr BLANSHARD: Yes.

Mr GREG PIPER: In relation to the problems that might be identified in either repairs or parts that are used, it seems to me that because you are saying there is a range of skill sets out there and you are talking about standardisation of qualifications for assessors, repairers, there could be an incompetence, there could be a lack of skills or a variation of skills. You have not mentioned about the pressures that might be brought to bear from the insurers around the economics of a repair. Could you give any view of the impact of the overarching pressure or rules that might be being applied by the

insurance companies?

Mr BLANSHARD: We have not received any complaints that there has been. Over the years in the industry—and I have worked in the industry now for 30-odd years—I have seen it where there has been the term the cost of repair and there has been a pressure applied to have the cost of repair reduced. Some of the shops that I actually worked for probably a decade ago, I looked at the areas in which the vehicles were being damaged, that is, vehicles that were being towed off from your area off the F3 freeway, when they have an accident off that area there, they are travelling at 80 to 110 kilometres an hour, obviously the extent of damage is far greater than what you might find in the back streets of Balmain.

So I thought that sometimes when people looked at an average cost of repair that was a little bit unsound, especially when you are asking the shops on the Central Coast and the Hunter region to look at their average cost of repair compared to that of say in Sydney. But that is about the only real evidence that I have got of it, where people do talk about average costs of repair and you need to try and reduce it.

Mr GREG PIPER: You were actually here I think for the previous discussion?

Mr BLANSHARD: Yes.

Mr GREG PIPER: You heard the discussion about funny money, funny time?

Mr BLANSHARD: Yes.

Mr GREG PIPER: You are suggesting that that is not something that you have really come across?

Mr BLANSHARD: Look, it has been discussed for many, many years and again, as I say, because I have been in the industry for as long as I have, I grew up in that particular era where they talked about funny money and funny times, but I suppose it is a language that they all have. Be it right or be it wrong, it is not the Institute of Automotive Mechanical Engineers place to really say whether it is. But I know that I have worked in shops which had worked with that funny time, funny money and they were successful, got through and there were not any problems. They were, again, quality shops.

Mr GREG PIPER: Has your organisation noticed any change in the industry with the reduction in the number of insurers that are out there, as once again we are dealing with a rather limited number of insurers, two in particular that are dominating the market?

Mr BLANSHARD: Nothing that has been reported back to ourselves as being negative towards the industry.

Mr BRYAN DOYLE: Do you support legislation or regulation making the certificate IV in vehicle loss assessing a minimum qualification for assessors?

Mr BLANSHARD: Absolutely, yes, I do. I think there are some things in the certificate IV where there are some areas of competency which are above that of a panel beater or a spray painter or a motor mechanic which was accepted as the base line for motor vehicle assessing. It was very hard in some regards in the early days for mechanics talking to panel beaters or whatever and being on the same page. To have them sit for a certificate IV, to have them do the skill sets that are within that certificate IV and to ensure that the knowledge of the repair practices following original equipment manufacturers' standards and that, which is a little bit higher than what you would normally get as a certificate III tradesperson. Yes, I believe that it is a great thing.

Mr BRYAN DOYLE: Do you think they should have some ongoing competency re-accreditation?

Mr BLANSHARD: Absolutely because just because you have done the course today, there will be some new technologies come out tomorrow, next week, next year and you have got to go into a shop and be understanding of what you are looking at, understanding of what the costs of repair may be, because your job then, as the estimator, is to make sure that he has also identified it and put the right information down as well.

Mr BRYAN DOYLE: Today if I wanted to become an assessor, what would I do? What qualifications would I need right now?

Mr BLANSHARD: It is the first time that we have ever seen a pre-requisite when Auto Skills Australia (ASA) developed a certificate IV for loss assessors' course. The pre-requisite is that you are a certificate III tradesperson and then you may undertake the certificate IV qualification. Then you go through the certificate IV training and depending upon your own self-paced skills and also the experience that you can pick up out in the industry, it could take you two years or three years to do it.

Mr BRYAN DOYLE: As a consumer, if I see a member of the Institute of Automotive Mechanical Engineers, what can I expect from a person who is a member of that body?

Mr BLANSHARD: I suppose understanding one of the hopeful things that we have with our membership is that people do understand the necessity for training and the consumer would then say that that person has been adequately educated in the repair method of the motor vehicle.

CHAIR: We visited a couple of shops a few weeks ago where they had in-house training now. Do you have a concern they are registered training organisations within their own organisations?

Mr BLANSHARD: I do not know if they have to be registered training organisations, but I do believe in the TAE standard or TAA standard of the trainer that is delivering that. It is one thing to put the information out, deliver the information, but you need to be able to assess in your own mind that the person that you have delivered it to has a clear understanding. A lot of accidents happen where people are told what to do and told about safe operation of equipment but yet they do not have a clear understanding, the person that delivered that did not assess correctly and therefore an accident occurs.

I would like to see that anybody that wants to do their in-house training, that is fine, they have got the information, provided it is quality information but I do believe the trainer there should hold a TAE or at least a TAA qualification.

Mr BRYAN DOYLE: Can you tell me, how should an assessor go about their business if they are doing their job properly?

Mr BLANSHARD: I suppose the main thing is when they have a look at the car or if they are doing it in cyber, that they are looking at the motor vehicle itself. They have probably got an idea of what plan they might have in their own mind. They would then look at maybe, as I said, what sort of technology or what sort of consequential damage may be there. Then they are going to assess that particular quotation from the estimator to ensure that he has, to the assessor's needs, looked at the right original equipment manufacturers' methodology and align his repair plan with the original equipment manufacturers' methodology.

CHAIR: You just made a comment there about cyber, so are we talking about over the net, photographs, that sort of thing?

Mr BLANSHARD: Correct.

CHAIR: I cannot believe that over the net or looking at photographs we can actually see the real damage on a vehicle. You might see the superficial damage on the outside, but can we actually explore the real damage?

Mr BLANSHARD: I understand yes. Again, I say that a little bit unqualified because it is something which I have only heard of at the moment but as I said to Mr Doyle there, you walk up to a car and you have got some idea of your own repair plan. I believe that Thatchams cyber technology, say in England, then you can put your mouse over a photograph and it will tell you that a rail is back three millimetres or it is up 10 millimetres. Now I have not put this to the test but when you are walking up to a car in a repairer's shop, you could say well I have got an idea of how to repair this car but mentally you are not saying wow, that rail is up three millimetres or it is pushed back 10 millimetres. But my understanding of the cyber technology, they have got it to the point where it can identify this.

CHAIR: You touched on this earlier, an example out at Lake Macquarie, the F3 highway, if a car comes off the highway they have probably got damage from an 80 to 100 kilometre collision, but is that information actually available, what type of collision, what type of accident that the car was in for an assessor or an estimator to look at?

Mr BLANSHARD: Yes, they do, I believe that they do get it; whether that has changed now but I do believe they did get the case history, they knew where the motor vehicle was and what the circumstances behind the accident were, because again it helps them understand what they need to look at, whether it has bent the middle or whatever.

Mr BRYAN DOYLE: When you approach a vehicle you already have the quotations done by either one or two or three repairers, do you have that information in your hand when you do that?

Mr BLANSHARD: Some do and some get the information that has been booked and some get the quotation when they turn up.

Mr BRYAN DOYLE: So some assessors just look at the car without reference to any other material and just assess it?

Mr BLANSHARD: No they will walk up and introduce themselves to the estimator, take the quote at the time. The bloke will say yes, the motor vehicle is around the back. So it probably does not give them a lot of time to study the quotation and to look at the motor vehicle. Other ones ask that the quotation be sent in first up and that they will be emailed over to the assessor so the assessor has time to read through it and try and work out in his own mind what sort of damage could be on the car before he sees it.

Mr BRYAN DOYLE: At the end of the process, Mr Blanshard, what does the assessor say? Does he state this vehicle needs X, Y and Z repairs or it costs this amount of money or will take this amount of time? Does the assessor give that much detail?

Mr BLANSHARD: If the assessor was doing it right and he was working with a well educated qualified estimator, they should talk through the repair plan. They should both have a very good idea of the methodology of returning that vehicle back to its pre-accident condition and they would probably have discussions about it. Then they would look at the times, the parts that were listed and they would then go through their normal monetary checks of it.

But I think the main part that I look at is not so much the dollars and cents, but the fact that they have discussed the right repair plan. Because as I said in my opening statement, most consumers can only judge whether that car has been re-engineered for its next accident by colour match and body panel alignment. That is a very, very poor way of determining whether that vehicle is going to react

the correct way in its next accident.

Mr BRYAN DOYLE: A component of that assessment would not be whether it would go to a particular repairer, smurfing the end result so that it would meet the requirements of a certain repair style?

Mr BLANSHARD: Repair styles, some shops have, as you say, maybe a repair style but I keep going back to the fact that I would really love to see a motor vehicle repaired in the way of how the original equipment manufacturer would schedule that repair to be. I have had people ask about doing sectionalised repairs. Well in some ways now we do not do sectionalised repairs. I have had it where they want to weld parts up and look at the existence of original welds so that it cannot be told, it cannot be seen that that vehicle has had an accident.

If I may refer back to Mercedes again, they do not talk about the weld of it, they will give you templates to rivet, so blind Freddy can open the bonnet on that car and see that that vehicle has been involved in obviously a significant accident and that it has been riveted all the way through. But I can assure you that if you rivet it using their rivets, using their guns, following the steps that they lay down, that vehicle will be re-engineered to operate exactly the same as if it was welded or as if it was a brand new one off the showroom floor.

Mr GREG PIPER: Would you support vehicle manufacturers having to provide all the repair specifications to all assessors and all repairers because my understanding is that does not happen now?

Mr BLANSHARD: One hundred per cent. You are just guesstimating otherwise—100 per cent. If they have prepared a car, if they have built it, they know how to re-engineer it; they need to share it.

Mr RAY WILLIAMS: What is your understanding as to who employs the large majority of assessors in New South Wales at this point in time?

Mr BLANSHARD: It would be the insurance companies themselves, it would be from the Institute of Accident Assessors, the majority of the board are of the larger insurance companies and I believe we have got three representations and three people representing independent.

Mr RAY WILLIAMS: That would certainly be my view. When you talk about Mercedes Benz I completely support your comments, but unfortunately they are a very, very small percentage of the make-up of vehicles right across our country. You would like to think that all vehicles were prepared to that type of standard. Unfortunately I think we have ascertained that they are certainly not.

In relation to the comment where you stated the large majority of assessors are employed by insurance companies and coming back to what you have said about the correct methodology of parts, an assessor sitting down with the repairer going through a quote, going through an estimate, assessing exactly what should be done, the methodology of how that repair should be undertaken and the fact that the majority of assessors are employed by insurance companies, we have actually heard from the Motor Traders' Association before that they are being offered inducements and rewards to be able to keep those quotes down as low as possible. How do you think that pertains to the current quality of repairs that we are seeing across New South Wales?

Mr BLANSHARD: Very hard to comment because as I have said, I have worked in the industry for many years and personally I have not seen or heard of any of these inducements. I know a lot of assessors and not one of them as ever spoken to me about any graft, corruption, backhand or commissions paid. They have been on a set wage. So I cannot qualify that in any way, shape or form because I have not learnt of it and I have known many assessors in my day.

Mr RAY WILLIAMS: Then if that is the case, and we are living in this beautiful world that you have just highlighted to us and that all assessors are completely assessing the methodology of repairs and the parts, why are we getting to a situation where some repairs would actually cost \$7,000 to repair and yet they are being repaired by panel beaters for \$2,000?

Mr BLANSHARD: I think the beautiful world that you refer to is probably not there. Certainly there is a vast majority of assessors doing the right thing. There is the vast majority of insurance companies asking their assessors to do the right thing. Whether they do it through human error or not is another matter. Whether they are under pressure at all from any of the companies that they are getting vehicles repaired by, no idea, or any inducements, no idea about that either, to get the price down. But I do know that I have got tonight, the Institute of Accident Assessors, has Auto Skills Australia to come up and talk about the certificate IV, to talk about the new levels and some of the training that is required in it and out of about 200 members, there are about 40 that are turning up.

It is probably not, as I said, it is the good ones and most of those will be from the major insurance companies. You have got your good and bad in everything. I do not believe that every one is as highly trained as what others are in the industry.

Mr RAY WILLIAMS: I do believe that there are insurance companies currently that take this approach—where the assessors are completely independent, that they are their own businesses, that they are employed to go out on behalf of the insurance company to provide a correct assessment on behalf of those vehicles to work with the repairers and I do believe in a small amount of cases that they are getting high quality repairs across the board. Should we not be moving towards that model of a completely independent assessor and the price of that assessment, once it is complete, once it is accepted, would just go on top of the repair bill?

Mr BLANSHARD: Those independent businesses to access some of the information and get some of the original equipment manufacturers' agreements could be a little difficult on a one on one. I do know that some of the—

Mr RAY WILLIAMS: If they are professional people, as you said before, they are appropriately accredited.

Mr BLANSHARD: They are but to get that information from them, when you own a company such as Insurance Australia Group or QBE or Suncorp, walk up to Subaru or Holden or whatever, with their size they have enough clout to say we need some information and we would like to get it. Whether the independents would be able to access that same information, have that same club to wield, I do not know. All I know is that I would like to see all the assessors correctly trained in the right methodology of repairing the car.

Mr RAY WILLIAMS: Can I just ask you in relation to one particular insurance company which now owns a 60 per cent share as we have been notified this morning of the ownership of a particular panel shop which has no less than 120 supposed tradesmen on the floor repairing vehicles. We now have an insurance company providing premiums, we have an insurance company providing their own assessors and that is even debatable as to what qualifications they actually have.

I actually have a quote that is here from one of those insurance companies—excuse me Mr Chairman, I will just find out the name of the assessor—that name is QPlus Auto Approver—that is actually his full name and qualifications there; hardly a fully accredited assessor?

Mr BLANSHARD: No, 100 per cent agree with you.

Mr RAY WILLIAMS: If we now have an insurance company, which as I said, owns 60 per cent of that particular panel shop employing 120 auto tradesmen, pushing 200 vehicles per week through their particular panel beating shops, self-assessing, self-regulating and that we have

information to show that some of the highest rates of rectification in the worst structurally defected cars are coming out of that shop, what do you say about that particular set up; any views on that?

Mr BLANSHARD: Obviously the model is not working. Obviously it does not work. To refer back and I will need to check membership but I do not believe that QPlus is a member of the Institute of Accident Assessors. I do not believe QPlus is a member of the Institute of Automotive Mechanical Engineers and what you describe is certainly not working. The model does not work in that way. It should, as you said in the beautiful real world, but obviously there is too much temptation there for it to work effectively.

Whether the shop is too big or whether there are pressures put to bear, it is not my place to comment but it is obviously not working.

Mr BRYAN DOYLE: What is your knowledge of the rate of rectifications required post repairs?

Mr BLANSHARD: Since the certificate IV has come out and since there has been a lot of talk about that, I have been made aware of more assessors talking about rectifications. I know that there is talk from the insurance bodies, the IAA about vehicles being rectified and consumers not being satisfied with it. I think it is a combination of knowledge both by the consumer and also by the assessor and the repair shops themselves when vehicles go in for other repairs. But I believe that it has probably always been there but it is now being identified a lot more.

Mr BRYAN DOYLE: So you are saying there has been an undisclosed level of rectifications for some time?

Mr BLANSHARD: I do not think undisclosed level but I do not even know if they have been found. As I said in the industry, I have not been happy with certain shops. You have your ear to the ground, you know the shops that you would take your own car to and you also know shops that you would not. I know in the years gone by there have probably been cars repaired, probably not repaired to a standard that I would like to see, certainly today and those vehicles have gone back and they have probably gone back undetected but now that we have got more of an awareness for it, we are picking more of these bad repairs up.

Mr BRYAN DOYLE: These rectifications, do they come to light through quality control at the end of the process or do they come to light when the customer says my car is driving right when I am driving straight?

Mr BLANSHARD: Unfortunately that is probably the biggest whistle blower, when the consumer takes it—

Mr BRYAN DOYLE: Or when they present to another repairer?

Mr BLANSHARD: Yes, could you just have a look at my car or they present their car for a service and then somebody says wow, this is not right. I think this is the case, either the consumer understands it or there is a whistle blower there, that somehow it comes along that this car is not right.

Mr BRYAN DOYLE: Is the position of the Institute of Automotive Mechanical Engineers they have full satisfaction or have they had concerns with the current state of the motor vehicle repair industry?

Mr BLANSHARD: I think that we always want to see a stronger motor vehicle repair industry. I cannot say that it is trouble free. We do have mechanics, panel beaters, diesel engineers that are making mistakes. I think that some shops are under-equipped to work on the cars today. We have got one repairer in Adelaide calls himself the chrome bumper bar specialist and if your car does

not have a chrome bumper bar, he will not want to work on it because he has no scanning tools, he has nothing that would work on the current motor vehicle of today. All he wants to work on is the cars that would have a chrome bumper bar.

There is a gentleman who has identified his place in the automotive industry but I do notice a lot of people taking on jobs—we get requests for information, technical information and when we go down and ask questions in regards to their diagnosis or discovery of what the problem is, they are just ill-equipped to work on it. I think that that may also seem, to some of the smaller panel shops as well, where they just do not have the equipment in their head to do the proper repairs.

Mr RAY WILLIAMS: Just a quick question in conclusion and then just picking up on that point Mr Blanshard. Should we be looking at what has already been suggested as a rating system for motor vehicle repair shops across the board? If there are motor vehicle repairers who have invested in that technology to do that particular work and do a grade of work and there are smaller companies who have operated for many, many years do not want to make that investment in the new technology, they would therefore have a rating system as to what they could actually repair or the quality of repairs that they can provide to the individual repairs across the board?

Mr BLANSHARD: A basic understanding of that and how it has been put up, and I suppose in an initial stage it certainly has our support. There are panel shops out there that would love to do rust repairs and do the small minor accidents on older motor vehicles and they are probably fully equipped and fully trained to do so. Then you have got shops that invest massively into qualified technicians, very fancy pieces of equipment and they do operate with some excellent training for their people and they are probably skilled enough to do larger hits, yes.

Mr RAY WILLIAMS: I would just like to close on this Mr Chairman. Mr Blanshard, you made a very, very good point earlier and I think it might have been lost. I just did want to come back to it again. You made a couple of points about how a particular customer would view their car and I think you said something around about apart from the depth of the paint that was on the vehicle and the panels aligning, that they would have accepted that car as being appropriately repaired. Could I ask you, what is your opinion in relation to what a normal consumer in the street when seeing and picking up their car to make a qualified decision on the quality of the repair of that vehicle? How does the normal person in the street do that?

Mr BLANSHARD: In today's land you cannot make that now. That person is just totally unqualified. You have high strength piece of steel such as a chassis rail, if the person has pulled that straight and applied heat to it, that high strength structural piece of steel will not operate in the same way at all, not even a good clairvoyant could say how that will operate in the next accident. But the consumer would not know. He would look at the car, he would take it for a drive around the block, all the panels line up, as long as everything closes, you would be a very, very happy camper with that car, but the car will be dreadfully unsafe to drive.

Mr RAY WILLIAMS: Therefore it could be assumed that if they cannot make that particular judgment and you are saying, and I completely agree with you, that it could be the case that we have got some very, very unsafe vehicles driving around the streets of New South Wales at the moment?

Mr BLANSHARD: If the repair shops and assessors have not been following the right formula and yes I would agree. I do not know the exact statistics, but you look at what VicRoads have pulled up and when they have asked their technicians, their motor mechanics to do roadworthy and safety checks on the vehicles, they have looked at chassis rails that have obviously been heated, may have been ground, may have body filler in them and they have rejected those cars for more forensic testing around the structural high strength steel and the structural integrity of those vehicles. They have had a massive uptake after introducing structural awareness training to their authorised light vehicle testers, they have found a lot of vehicles that in the past have had high strength steels used and

they have looked and said, no, not happy with that quality of repair, get it fixed.

CHAIR: Mr Blanshard, we thank you for appearing in front of the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any of these further questions?

Mr BLANSHARD: Certainly, no worries at all. Thank you very much Mr Chair.

(The witness withdrew)

(Short adjournment)

MR ROBERT WILLIAM WHELAN, Executive Director and Chief Executive Officer, Insurance Council of Australia, Level 4, 56 Pitt Street, Sydney, sworn and examined:

DR RIC SIMES, Partner, Deloitte Access Economics, affirmed and examined:

CHAIR: Good morning and welcome to Mr Rob Whelan and Dr Ric Simes from the Insurance Council of Australia; thank you for appearing today before the Select Committee of the Motor Vehicle Repair Industry to give evidence.

I am the Chairman, John Barilaro, member for Monaro and today my colleagues are the member for Lake Macquarie, Mr Greg Piper, Mr Ray Williams, the member for Hawkesbury, Mr Bryan Doyle, the member for Campbelltown and Ms Tania Mihailuk, the member for Bankstown.

Can you please confirm that you have been issued with the Committee's terms of reference and information about standing orders that relate to the examination of witnesses?

Mr WHELAN: Yes I have.

CHAIR: Do you have any questions about this information?

Mr WHELAN: No.

CHAIR: Can you tell the Committee in what capacity you are appearing at the Committee hearing today?

Mr WHELAN: I am appearing as the chief executive of the Insurance Council of Australia.

Dr SIMES: I am a partner of Deloitte Access Economics and we provided advice to the Insurance Council.

CHAIR: The Committee has received a submission from your organisation. Do you want the submission to form part of the formal evidence today?

Mr WHELAN: Yes, we do.

CHAIR: Before we start questions, I will give you an opportunity for an opening statement.

Mr WHELAN: Yes, I would like to, thank you Chairman. Firstly, thank you for the opportunity to give evidence to the Committee today. I am joined today by Dr Ric Simes from Deloitte Access Economics. Members of the Committee will be aware that Deloitte Access Economics has a reputation as a provider of independent economic analysis and advice.

Dr Simes is one of the principal authors of the report entitled NSW Smash Repair Review dated February 2014. This report was commissioned by the Insurance Council of Australia specifically to provide detailed information to the Select Committee concerning the motor vehicle repairer and insurer relationship and the smash repair market in New South Wales.

I will give this opening statement, including an overview of the Insurance Council of Australia's submission, and the overall general insurance industry itself.

The Insurance Council of Australia is a representative body of the general insurance industry in Australia. Our members represent more than 90 per cent of the total premiums underwritten by the private sector and general insurers. Insurance Council members both insurers and re-insurers are a significant part of the financial services system. The industry employs approximately 60,000 people and on average pays out \$107 million in claims each working day. Many of the Insurance Council

members that underwrite motor insurance in Australia are represented on our national motor insurance committee.

In preparing the Insurance Council of Australia submission to this Inquiry, the Insurance Council of Australia secretariat consulted closely with members of our national motor insurance committee and Deloitte Access Economics. The Insurance Council of Australia has in its submission to the Select Committee focused on the following:

The nature of the market forces that play in the smash repair industry; the benefits of competition from various insurer arrangements for smash repairs; and the benefits of industry self-regulation under the motor vehicle insurance and repair industry code of conduct and the general insurance code of practice.

In appearing as a witness today, I also wish to note at the outset that the Insurance Council of Australia is not able to comment on the details of the various business models of particular insurers, nor am I able to comment on specific matters concerning insurer/repairer practices that are brought forward by individual organisations. Questions concerning these matters should be directed to the relevant organisation raising the matter.

The Insurance Council of Australia submits that insurers have developed their businesses to meet consumer demand and that a wide range of products in the market meet this demand. We strongly believe that the insurance industry in Australia is highly competitive. In purchasing motor insurance consumers have genuine choice about whether they wish to choose their own repairer or have their car repaired by an authorised or preferred repairer.

The various business models that insurers have for their engagement with the smash repairers support efficiency, quality and safe repairs. The insurance industry employs thousands of people who are dedicated to providing their policy holders with good and fair claims' outcome. The reputations of the Insurance Council of Australia member companies demand nothing less than this.

We also believe that many smash repair businesses in New South Wales are run very well and that they engage in a very constructive manner with insurers and consumers. These smash repair businesses are supported by the insurance industry.

It is also important to highlight at the outset the influence of industry self-regulation codes and driving improvements within the industry. It is always a far preferable outcome if an industry can take responsibility for driving improvements and higher standards of service for consumers from within rather than relying on further regulation having to be imposed.

The motor vehicle insurance and repair industry code of conduct has been in place since 2006. It has created a very important framework to set clear standards for the relationship between the insurance and the smash repair industries.

The principles of this code are very sound. However, we acknowledge the outcomes of the recent independent review of this code and we look forward to the results of the decisions of the code administration committee concerning potential improvements to this code.

It is our genuine hope that this code will remain the centrepiece framework for driving improvements in industry relationships, good commercial outcomes and most importantly, quality outcomes for consumers.

Further on the matter of the importance of industry self-regulation, it is also important to note that the Insurance Council of Australia members are signatories to the Insurance Council's general insurance code of practice. Section 3.14 of this code provides that where a code signatory has selected and directly authorised a repairer, it will accept responsibility for the quality of the workmanship and

materials. It will also handle any complaint about the quality and timeliness of the work or conduct of the repairer as part of its complaint handling process.

The importance of this commitment by Insurance Council of Australia members to consumers cannot be underestimated. Code signatories take their code obligations seriously and they can be publicly sanctioned for a significant breach.

It is now worth touching on the state of the market for smash repairs in New South Wales. The Insurance Council of Australia is grateful to Deloitte Access Economics for preparing this insightful analysis. Key points made by Deloitte Access Economics in their report include the following:

In line with trends overseas, the smash repair industry is undergoing significant change and consolidation. This consolidation is inevitable and is being driven by advances in technology and competition between repairers rather than pressure from insurers.

Demand for repairs has fallen as safer cars require fewer repairs. On the other hand, more complex cars require more sophisticated equipment and higher skilled workers to effect the repairs.

Production line style high volume repair shops, complemented by small medium specialist repairers are out-competing traditional repairers. Over time insurers develop long term relationships with quality repairers under certain repairer codes. Smash repair services are characterised by information asymmetry. A majority of consumers do not have the experience and expertise to compare smash repairers and their quotations. For these consumers there are benefits to relying on insurer recommendations.

Having the insurer organise and manage the entire repair process improves convenience. Repeated interactions allow insurers to assess the quality of repairers. Administrative and scale savings can result in overall lower cost of repair. This in turn can be passed onto consumers in the form of affordable premiums.

In the Insurance Council of Australia's view, many of the issues facing the repair industry today are not matters of fair trading or transparency but instead relate to issues of fundamental structural change brought about by the various factors detailed in the Deloitte Access Economics report.

Consumers demand for affordable insurance premiums, as well as a high standard for repairs and customer service has led to a variety of repair models and other initiatives to meet these expectations. Insurers work with repairers to achieve the best possible outcomes.

Consumers are the direct beneficiaries of these initiatives through improved levels of customer service, a quality end to end claims experience and containment of premium costs.

In the Insurance Council of Australia's view it would not be appropriate to address the effects of these market dynamics through government intervention. Structural change and market evolution are necessary to ensure the survival of a robust and highly competitive repair and insurance sector.

Interference with this process could have the unintended consequence of impairing consumer access to highly skilled, competitive and innovative industry sector.

The Insurance Council of Australia does however recognise and support the need for appropriate regulation of conduct of matters in the motor vehicle repair industry to protect the interests of all parties.

We note in our submission that Insurance Council of Australia members are concerned about

illegal practices in small sections of the smash repair industry that lead to very poor outcomes for consumers. The Insurance Council of Australia and its members would welcome the opportunity to engage with the New South Wales Office of Fair Trading to identify ways to improve the consumer experience.

The Insurance Council of Australia would also like to welcome the opportunity of increased involvement in the consultation process around licensing and other initiatives to further raise repair industry standards.

We are happy to take questions.

CHAIR: Thank you Mr Whelan. You referred to codes and specifically the repair industry code of conduct. We heard earlier today that there has been a suggestion that the code of conduct has failed and we have seen in submissions that the code of conduct is seen as a toothless tiger because it is not able to dish out penalties or have any real enforcement. Have you got a view on the code of conduct? I know there is a review going on but does your organisation have a view on how we could strengthen the code of conduct and would you be supportive of penalty in the enforcement process?

Mr WHELAN: Well my understanding is the code actually is a very capable and working process that does satisfy the principles that it set out to do. It cannot resolve matters that are about structural change, it never has been able to. It is there essentially to resolve disputes and that is through, largely, a consultation process and working together to resolve problems.

I think that is what the code has been able to do over its period of time since 2006, since it was implemented. So I actually think it is working well. I do not believe sanctions are necessary because I think they would mitigate against open and fair discussion between the parties. It is a representative body; it is comprised of three members from the insurance industry and three members from the motor repair industry. So there is ample opportunity for them to put their cases on both sides and resolve the issues in that collaborative way as opposed to trying to structure in penalties against either party.

Mr RAY WILLIAMS: Mr Whelan, you would have been aware that the Premier of New South Wales, Barry O'Farrell requested the establishment of this particular Committee to inquire into the vehicle repair industry and if I refer you to section 2(a) of the terms of reference that we are to report on the smash repair work, whether that has been carried out to an adequate safety quality standard.

It is stated in your submission that the standard of smash repair work in Australia is generally high. Could you advise the Committee as to what methodology, what analysis, what data that you have utilised in that particular assessment in your opinion of a high standard of repair work and why that was not provided in your submission?

Mr WHELAN: Well the issue is that there is a very, very low level of consumer complaint at the end of the day. We hear a lot of anecdotal comment that there are concerns about safety of vehicles on the road and there are inadequate repairs, poor quality of repairs but that does not actually play out in terms of facts. There are very few consumer complaints as to the quality of repairs. Most of those complaints, if you look at the Financial Ombudsman service, the proportion is infinitesimally small compared to the number of repairs undertaken, largely around cosmetic issues, not structural issues or safety issues.

In essence, the overall sanction against the industry is if there was a large degree of consumer dissatisfaction with the quality of repairs, that there was clear evidence that unsafe repairs had been effected into the market place and allowed to pursue, for people to drive those cars, and there is no evidence to that at all.

Mr RAY WILLIAMS: Mr Whelan, what you are saying is you have not inquired as to whether or not the insurance companies are holding particular information at this point in time which would have given you adequate information. You are happy to just make a general observation that the quality of smash repairs across this country is generally high?

Mr WHELAN: To my knowledge it is.

Mr RAY WILLIAMS: Mr Whelan, could I just show you a list of 130 vehicles long which was provided to us from Motor Traders' Association from owners of vehicles, their registration details, their owner's details, the vehicle repair shops are listed down and the actual repairs to the vehicles. These were vehicles that were actually repaired by repair shops that your insurance companies that you preside over have insured. These are the vehicles that owners have been unhappy with the repairs of those vehicles. There are 130 listed on that of people who have notified the Motor Traders' Association.

Of those 130 vehicles, 40 of those vehicles were re-assessed. When I say re-assessed, this is following the return of the motor vehicle to a family, which has driven round on the streets and when they found there was something that was not quite appropriate with their vehicle, those vehicles were re-assessed by an independent panel beater, 40 of those particular vehicles were found in such a bad condition that they were listed now as a total loss and the majority have been listed on what is now known as the written off vehicle register.

Those vehicles have been driven around on the streets with your families and with my families. So I asked this Committee would it be prepared to write to insurance companies—insurance companies that I believe you are putting forward that you are the representative body of these insurance companies—and request copies of all the rectification work in the last two years by those particular bodies.

Could I ask you Mr Whelan, when you make a comment such as we believe that the quality and standard of repair is generally high, why did you not just ask your insurance companies if they had any rectification work? Why would you not have assessed that through your insurance companies?

Mr WHELAN: Well I am sure they do have rectification work because there are circumstances where repairs are not effected to the high quality standards that insurers require and that rectification work is undertaken because most insurers actually provide a lifetime guarantee for the repairs. They contract repairers to undertake these repairs to a quality and to a standard that is both at a quality level and also a safety level.

I just remind you of the 130, we are talking about millions of repairs throughout the year throughout Australia and in New South Wales. I do not know the data on what are the issues with the 130 repairs but it is a relatively small percentage. Any one unsafe vehicle is unacceptable, I agree with that, but I suggest that the repairers are the ones who actually did the repairs on those vehicles and if they were unsafe, then the repairer should not have let the vehicles out of that shop.

Mr RAY WILLIAMS: Happy to keep going exploring this Mr Chairman but I will go back and say to you that I have already been provided with a list of repair work from a particular insurance company over the last two years and I can say to you that that takes in over 500— from one particular insurance company.

So when you are going to say that you believe that the quality of repairs is generally high, I cannot believe that you would not have at least inquired into your own insurance companies so as to provide you with evidence that that is the case. You have already said for the record that you do believe there is rectification work. I can certainly advise you that the rectification work is in the thousands, it is in the absolute thousands. So it is not a small percentage, it is a high percentage of the

vehicles that I have just demonstrated to you now are from people that approached the Motor Traders' Association. These are people that just off their own back and are not happy with the repairs, are driving around in vehicles today on the roads of New South Wales, endangering the lives of your family and my family and that is something that this Committee under the terms of reference have been charged to look into.

Mr Chairman, if I could I will just go and ask a couple of brief questions to establish as to why. Last year the Motor Traders' Association provided a previously repaired motor vehicle to the Roads and Maritime Services. The vehicle, which had been previously repaired and then been re-assessed, was found to have structural defects. However, the vehicle had been returned to the customer and it was, as I said before, being driven on New South Wales roads.

The Motor Traders' Association requested the Roads and Maritime Services to crash lab test that vehicle and when that vehicle was crashed under test conditions at 80 kilometres an hour, it demonstrated that if an occupant had been inside that vehicle, they would have been killed.

Do you agree it is paramount to the safety of people on our roads that any repaired motor vehicle is repaired appropriately as per the code of conduct and the Act to a standard that ensures safety to the consumers of New South Wales?

Mr WHELAN: Well, I believe the insurance industry does do that and I return to the fact that the repairers are the ones that actually do the repairs. They are the ones that take responsibility for actually repairing the motor vehicle back to a safe and quality standard that they are expected to do by the insurance company and by the customer.

If there are vehicles that get past that, then I would remind you that the insurer provides, through its contractual arrangements with the customer, lifetime guarantees on that vehicle and that means that their reputation is on the line. So it is not worth an insurance company's reputation to risk having unsafe vehicles or sub-standard vehicles on the road. It just makes no sense whatsoever from a commercial point of view.

So I cannot respond to allegations of specific vehicles and the specific test circumstances; that is impossible for me to do. All I can say is that the insurance industry stands by its reputation and stands by its quality control measures and so on. With regard to its relationship with repairers, the better the repairer, the more work that they get. Obviously that makes a difference in terms of the overall outcome of repairs over time.

Mr RAY WILLIAMS: Do you think it is fair in an open and transparent market place, and I might just take you to some comments, a standard product disclosure statement of what an insurance company asks a customer:

"What you must tell us. You, the customer, must be honest when answering our questions and tell us anything known to you and which a reasonable person in the circumstances would include in an answer to a question. You must disclose every matter that you would be reasonably expected to know which is relevant to us in deciding whether to insure you. We use this information to decide whether to insure you in what terms. If you do not comply with your duty, we may reduce or refuse to pay a claim and/or cancel the policy. If you are fraudulent we may also have the option to treat the policy as if it never operated."

That is your standard statement that you would find in any number of product disclosure statements across the insurance industry. With that said, do you not think consumers have the rights to have the same open and transparent information from insurance companies? You just stated before that a repair business is ultimately the one that repairs the vehicle. I agree with that, absolutely right and I also believe that they should be named and shamed if they are not appropriately repairing those particular vehicles.

But when an insurance company which has a preferred repairer and the preferred repairer has a list of vehicles which have been subsequently re-assessed, taken off our roads, made into spare parts because they are not of an appropriate standard to be on our particular roads, do you not think that consumers deserve to be notified on that product disclosure statement—and I would suggest in bold print—exactly who the repairers are that that insurance company is using and if they are using repairers that are returning faulty vehicles back to the roads, should not the customers be aware of that?

Mr WHELAN: Well, I think they probably are aware of it if they have had their vehicle taken from them. But I am struggling to understand what your point is on this, what the outcome of what you are looking for is.

Mr RAY WILLIAMS: Mr Whelan, what I am looking for is insurance companies to treat consumers of New South Wales fairly, to give them good value for money. I believe the insurance company has a duty of care when it knows, and it states under the Act that any insurance company who knows of a motor vehicle repairer that has not acted in accordance with and not appropriately repaired a vehicle could refer that particular repairer to the Fair Trading Minister and I am saying to you that I have never seen any repairer that has been referred from an insurance company to the Fair Trading Minister. However, I can show you absolutely qualified evidence of the fact that your insurance companies, of which you are the representative body, are still using those repairers as preferred vehicle repairers on behalf of their customers and I think that should be notified to the consumer.

Mr WHELAN: That is an allegation I just have to accept your point of view on that. I cannot really comment further on that.

Mr BRYAN DOYLE: Mr Williams, I am going to move onto Mr Doyle for a little while.

Mr BRYAN DOYLE: What are the criteria for membership of the Insurance Council of Australia?

Mr WHELAN: You have to be a licensed insurer or re-insurer under APRA to be able to qualify to join the Insurance Council of Australia and you must also abide by the Insurance Council code of practice.

Mr BRYAN DOYLE: How many companies do you have as members?

Mr WHELAN: About 55, represents something in the order of 95 per cent of all the premiums underwritten in the country.

Mr BRYAN DOYLE: Does the Insurance Council of Australia have any view about what is an appropriate rectification rate for vehicle repairs?

Mr WHELAN: No we do not have a particular point of view on that; that tends to be an operational issue within individual companies.

Mr BRYAN DOYLE: Does the Insurance Council of Australia have any particular view on insurance companies actually owning or having the majority ownership of motor vehicle repair shops?

Mr WHELAN: No, as far as we are concerned that is just a business choice by the individual company to make decisions about whether they will be vertically integrated or not or whether they use alternative means to provide repair services into the market place. That is entirely a commercial decision on their part.

Mr BRYAN DOYLE: You see no conflict of interest of an insurance company being an

insurer and also a repairer and assessor of vehicles?

Mr WHELAN: No.

Mr BRYAN DOYLE: The Insurance Council of Australia actually has a role on the code administration committee?

Mr WHELAN: We nominate members from the insurance industry to participate in that body, the code administrative committee, yes, three members from the industry.

Mr BRYAN DOYLE: In the opinion of the Insurance Council of Australia, how is that code working?

Mr WHELAN: Well, as far as we can see from all the reports that we get from the code administrative committee, it is working well. The disputes are being brought forward, they are being resolved. There is both an internal dispute resolution and an external dispute resolution that requires an independent mediator to participate to resolve disputes. Both sides are able to bring up whatever they believe is necessary to raise as a dispute but the code cannot deal with issues that are about transformation of the industry. At the end of the day this is a relationship that we must manage going forward. The industry, as we pointed out in our report, in the Deloitte report, is going through massive changes. It is not unique to Australia, it is happening worldwide.

It is a combination of a number of a number of factors, not the least of which is technology and the changing nature of cars and the requirements to be able to repair them has changed quite dramatically. The overall industry is consolidating, which it has done in many other jurisdictions. I note that Australia has more repairers than the United Kingdom does, which has three times our population, three times the number of cars, so you could argue that seems unusually high as a representative proportion.

As a point in fact, the industry is going through major change. We recognise that and we are looking for ways to assist that transition, but at the end of the day, they are major forces that we have to come to grips with. We have seen that in the general economy with the manufacturing industry in this country, the motor repair industry is not immune to similar sorts of impacts and dynamics that affect these sorts of manufacturing industries.

The code has done a good job, I think, in resolving internal disputes between repairers and insurers about how best to manage the relationship going forward, but it cannot deal with factors that are about major structural change in the economy.

Mr BRYAN DOYLE: The code is more effective when dealing with disputes between repairers and insurers and currently it is made up of three representatives from the Insurance Council of Australia and three representatives of the Motor Traders' Association?

Mr WHELAN: That is right.

Mr BRYAN DOYLE: I assume on some occasions they agree to disagree and no outcome is reached. Would the Insurance Council of Australia support the appointment of some sort of arbitration process or an independent chair of that committee?

Mr WHELAN: Well the overall code has gone through a substantial review process just of late and there are a number of recommendations within that review. I think that needs to be played out by the members of the committee and the participants in the code to work through those recommendations in due course. I would not proffer a response on our behalf until we have had a chance to fully evaluate what those recommendations are and the implications of that for the operation of the code and also for the committee itself. So I would not proffer an answer at this point in time

until that review has been completed and we have had a chance to review those recommendations in full.

Mr BRYAN DOYLE: Dr Ric Simes, in your opinion what do you see the future of the car repair industry is in New South Wales in particular?

Dr SIMES: As Rob has mentioned, the industry has been undergoing a lot of change and that change I think is going to continue. We have got quite a way to go to catch up with what has happened overseas. We are sort of following what has happened in the United Kingdom for example.

What we have got at the moment is a number of different business models there, so you mentioned the vertically integrated ones, you have mentioned varying degrees of choice, all those relationships and they are sitting alongside each other pretty well.

They are also allowing new entrants to come in, so the Coles and Woolworths or online or whatever are coming in and offering relating products, so it is not as though it is not quite a dynamic industry from the insurance side is quite a dynamic industry, despite the fact that it is fairly concentrated with the major players.

The other important point to make is that those trends are delivering benefits to consumers and from a consumer point of view, I think as the committee has heard earlier; it is a very difficult system to navigate for most consumers. The relationship between the insurer and the smash repair industry helps solve what is a very complex problem for the consumers to get those benefits.

So more change, more consolidation, probably growth of the high volume/low impact end of it alongside increased sophistication of various jobs related to the nature of the technology of the cars.

Mr GREG PIPER: Just following on with that question to Dr Simes or perhaps Mr Whelan, what we are talking about is the industry is changing and we know this is going to change in response to the technology, the vehicles that are being produced. But at the same time there are a lot of insurers up there that are popping up. You were just talking about Coles and Woolworths or one of the others are also looking at coming into the market.

In reality a lot of them are actually owned by one or two major players in the market. The insurance companies seem to be growing, proliferating quite well but a lot of the smaller players in the repair industry are being taken out. The market has to change, they go, we get more insurers in there. I just want to know, what is the profitability of the insurance companies? People are not diving into this because it is a tight market; there is no money to be made. Obviously there is a lot of money being made.

Can I get some kind of indication of how the insurers are actually going, say their profitability over the last five or 10 years while this market change has been happening? Who is the major beneficiary in the changes that are happening?

Mr WHELAN: The major beneficiary is the customer.

Mr GREG PIPER: Not shareholders?

Mr WHELAN: Well, the shareholders are also customers as well. One would presume that we would want the profitable industries in Australia to persist because if we do not, we will not have an economy. But the major beneficiary of all these changes in the industry, and I just argue that it is not just one or two players, there are four major players in the industry and there are a number of what we call challenger brands coming into the industry to create competition through different business systems in the industry, so it is a competitive market.

The consumer actually has benefited quite substantially. In New South Wales I think the average premiums paid for comprehensive motor vehicle insurance have declined to the proportion of average weekly earnings over a number of years. At the end of the day, more efficiency in the industry both from the repairer point of view and also from the insurer point of view, the greater the efficiencies there, the lower the cost base, the more we are able to pass onto the customer in terms of lower premiums.

You have also seen enhanced service levels I think across the board as well. Consumers are getting a much enhanced value proposition overall for their premium dollar. So, to answer your question, it is the consumer that has actually benefited the most.

Dr SIMES: Just to add one point to that, your suggestion was that there were some excess profits being generated in the insurance companies—

Mr GREG PIPER: I did not use the word excess. I do not care how much you make and I do not need to be patronised about how we want companies to be profitable. We all support that; but you also employ people. However, we are looking at a market shake up here and I just want to know whether or not there is a shift in the profitability of the expense of some of those other players. That was my point, not the fact that shareholders should be getting a return. I do not need that. I just want to know what the trend has changed.

Dr SIMES: I guess the point I wanted to make was that the new players coming in the market are tending to come in with new business models to compete in that way, which basically lowers the overall cost to consumers. So the Coles' situation or online offerings or whatever, basically have a lower cost structure and that is where they are competing from, and that almost automatically flows through to end premiums. That is where they are competing, so it goes through to the customers.

Mr GREG PIPER: What we are hearing from a lot of the people in the industry, because obviously people from the repair side, that the more traditional side of the industry is being squeezed out. Are there a number of reasons why we are seeing that happening? Mr Whelan, you have touched on some of those, technology you have talked about, the need for insurers to provide better outcome services and all those types of things, but I guess the suggestions I have been receiving are that the industry is accelerating, the natural rate of change there, it is in their interest, particularly when we start talking about some of the majors are going to vertical integration. Once again, it is a legitimate model but the question is, is that ultimately, when we see a reduction of all these other providers, the repairers, will we have the long term benefits or will we end up with a relatively small number of major repairers and a loss of the competition that your submission refers to?

Mr WHELAN: Well, the repairers are actually changing as well. Insurers are responding to the market dynamics and adapting and so too are repairers. You are seeing more repairers moving to accommodate the fact that we are actually having a different set of collision specifics now than has occurred historically. Cars have now got technology which reduces the overall level of impact when a crash occurs or if a crash occurs at all. Collision avoidance systems are becoming prolific across cars.

So the type and nature of vehicle impacts has changed quite dramatically over recent years and that has changed the way in which cars have to be repaired and the frequency of low impact/high volume repairers is the natural course of events. You have seen repairers adapting to that by generating shops which actually are able to handle high volume low impact vehicles with a higher level of productivity by employing highly skilled individuals with high levels of technological capital which is required to repair the new motor vehicles that are out there today.

So repairers are adapting too and in their adaptation to the market circumstances, they are actually doing reasonably well. I think it is about adaptation to changed circumstances and when you talk about loss of numbers of repairers, a lot of those are consolidated into these new operations where

the quality of the people is often taken from those who have left their own smaller operations which are finding it difficult to cope with the costs associated with the capital equipment training and individuals that they have to employ to be able to repair these vehicles and they are being absorbed into these new operations by new repairers.

I think this is a process of evolution and adaptation and I think we should not be frightened of it and to try and intervene to stop it would be folly.

Mr GREG PIPER: Do you have a view as to the way in which the relationship between insurers and repairers, for example, I understand if I use two of the majors, Insurance Australia Group and NRMA have a certain methodology for doing the assessment and the payment process with the repairers as opposed to Suncorp and the company known as Suncorp? Could you have any opinion about the merit of that? Do you think that is a competitive issue or is there some need to get some consistency across the industry on how these are done?

Mr WHELAN: No, I would argue you do not try to put consistency. You want choice in the market place. Consumers ultimately need to have choice in the market place and they are the final arbiter as to who they choose to have a relationship with in terms of their insurance requirements and to try and standardise that across an industry would just take choice out of the market place.

CHAIR: Standardising that might not give the consumer choice in relation to repairers?

Mr WHELAN: They do actually.

CHAIR: But some insurance companies take away the right of repairers—

Mr WHELAN: Well then do not choose them if that is high on your priority list.

Mr RAY WILLIAMS: Should it be in their product disclosure statement up front?

Mr WHELAN: It is.

Mr RAY WILLIAMS: Upfront, on page 69? It should be upfront and in bold letters.

Mr WHELAN: Well I do not know if it is on page 69. As far as I am concerned—

Mr RAY WILLIAMS: The consumers have to be fair, Mr Whelan, to you and disclose all the information that you want, should not the insurance companies be fair to the consumer and disclose upfront whether or not people have the right to request their own repairer, up front, first and foremost, when the consumer contacts the insurance company, we give you the right of repairer, yes or no? Would not that be fair?

Mr WHELAN: Sir, I understand it is quite explicit in the product disclosure statement.

Mr RAY WILLIAMS: But it is not, it is on page 69, I can tell you. I can show you the product disclosure statement if you want to see it. It is hidden on page 69. How many people who take insurance out do you think actually read the product disclosure statement? Would it be a percentage of people, anyone?

Mr WHELAN: There would be a percent of people—

Mr RAY WILLIAMS: Gee, that is a lot of people.

Mr WHELAN: But sir I also imagine if this was a very high priority for consumers that they would ask the insurance whether they offered a choice of repairer. The fact is, to the vast majority of

people it is not a high priority for them in their choice of insurer.

Mr RAY WILLIAMS: That is your comment.

Mr WHELAN: No, that is in research. There has been some research done where nearly 70 per cent or more say that that is not an issue for them. They would rather the insurance company manage that relationship.

Mr RAY WILLIAMS: There was research in *Choice* magazine to show that 85 per cent would be happy if they knew that they had the right to choose their actual vehicle repairer. That is *Choice* magazine.

Mr WHELAN: That is a different question, whether they would be happy, it is whether it is a discerning factor in their choice of an insurer and I think that the research that I have seen says that for the vast majority it is not.

Mr RAY WILLIAMS: But you still do not believe insurance companies should be that honest that they should disclose upfront—

Mr WHELAN: They do disclose it—

Mr RAY WILLIAMS: On page 69.

Mr WHELAN: It is part of the requirement of the code of conduct.

CHAIR: Mr Williams we will come back to you.

Ms TANIA MIHAILUK: Mr Whelan, I was going to make a comment in relation to what was just raised, but I must say as somebody who not too long ago had a car accident, I will agree with one aspect of what you said, when I originally picked my insurance company I did not think about the need to pick your own repairer, but I must say when you first have an accident, that is when that thought process enters the minds of a lot of people out there, when you realise what you go through in trying to repair a car and sometimes the need to have a repairer that you trust.

I, as Shadow Minister of Fair Trading, have met a number of people who have experienced firsthand like me, being in an accident for the first time in their lives and like me, not having any idea about cars. I have got no idea about cars, I will be the first to admit that and when they end up in an accident and they trust firsthand their insurer that their vehicle will come back fully repaired and safe to drive, it can be a really daunting experience to find that your car needs rectification.

I had an example of one woman in particular whose repairs ended up costing the insurer more than the car was worth. It certainly brought to my attention that perhaps there may be to some degree reluctance from insurance companies to write cars off and I wanted to ask your view of that?

Mr WHELAN: A reluctance to write cars off?

Ms TANIA MIHAILUK: Write cars off, that is right.

Mr WHELAN: That is a decision that has to be made as to the level of damage and the overall value of the car, and whether that repair can be effected in a safe and quality manner. If it is the insurance company's view and the assessor's view that that repair can be effected in a safe and proper manner, then they will go ahead and repair it.

Ms TANIA MIHAILUK: Because usually why there is becoming a higher rate of rectification, there seems to perhaps be a reluctance and I put that to you, that perhaps there may be a

reluctance to write cars off. I do not know if you have done research in that but what Mr Williams has referred to earlier, those examples and what we are hearing from the Motor Traders' Association and from smash repairers, there may be a reluctance by some insurance companies.

Mr WHELAN: Well, it comes down to a decision about the nature of the collision and the repairs that are required, the value of that car and whether safe and effective repairs can be managed within the value of that car. New South Wales has a different system to other States, as you might be aware.

Ms TANIA MIHAILUK: No.

Mr WHELAN: New South Wales does not allow repairable write offs. It can only have a write off or not. So there is a very clear delineation between those. So insurers have to make a decision within that framework. In other States they have more latitude to have what is called repairable write offs. That is not the case in New South Wales.

There is likely that the number of cars that are now repairable by the insurer has increased, but they guarantee those repairs, by the way.

Ms TANIA MIHAILUK: I understand. I will have more questions with the insurance companies but can I just touch on the code because I think if there is anything this Select Committee can do with this inquiry that we are undertaking is to help the committee perhaps with recommendations on how that code can move forward. We know this is a mandatory code. We know it was a first in New South Wales when it was first introduced.

Mr WHELAN: Yes.

Ms TANIA MIHAILUK: Clearly, Mr Whelan, you have half the committee—certainly telling this Inquiry—that the code is not as effective as it possibly could be. You mentioned earlier that you thought it was effective. You have also mentioned that the code is doing a self review. I would hope this Committee also helps and assists in that review.

I have read a lot in relation to how and why that code was set up. There was always an intention to review that code. There was always an intention to see whether it was truly effective for the industry. I would hope that the Insurance Council of Australia after today does consider perhaps that when you have half the committee unhappy with the code or unhappy with the dispute resolution process, that perhaps there would be consideration to a more independent committee.

I put to you the idea of having Fair Trading inspectors more involved; have more independent representatives on this particular panel and possibly having the New South Wales Civil and Administrative Tribunal as an adjudicator?

Mr WHELAN: Well that is a decision for government. As I have said, we believe the code and the code administrative committee is actually working well. Just because particular individuals have a dispute does not always mean that they get what they want. So if they are not happy with the outcome, I suspect they do not believe that the system is working in their favour. It does not necessarily mean that the system is failing.

Our view is that it is an effective system. It has been operating since around 2006. It has resolved many disputes. There are things that it cannot resolve, as I have mentioned before, these are subject matter issues that relate to industry transformation, which does not necessarily relate to just basic relationships between insurer and repairer.

There are specifics that the code has been working on to resolve and I think it is doing its job there. to expand the relationship to a broader set of enquiries and assessment is really a matter for

government but we would argue that the code is actually working very well, and it has had an independent review and there are a number of recommendations that both sides are reviewing as to what might be done to continually improve that process.

There is a process out there now so I would wait for the outcome of that process before taking any further action.

Ms TANIA MIHAILUK: What we are hearing is there is certainly some reluctance from repairers to take in matters to the resolution processes. No doubt we know that repairers have to have a relationship with insurance companies to be able to obtain work.

Mr WHELAN: Yes.

Ms TANIA MIHAILUK: That in itself, I would think, can pose problems to the way this committee would operate and deal with day to day disputes. I just put that to you.

Mr WHELAN: There are other sanctions that they can take if they are concerned about that, which I do find a bit surprising but if that is the case, then they can always go to Fair Trading and I am not aware of any disputes that have actually been taken to Fair Trading.

Ms TANIA MIHAILUK: Fair Trading encourages the use of this code, in fairness, the utilisation of this code.

Mr WHELAN: But if they did not think that it was working or if they were frustrated by that process, then they could take it to Fair Trading.

Ms TANIA MIHAILUK: It would be considered a last resort.

Mr WHELAN: It is still a resort though. It is still an option and if it was that serious and they were concerned about their commercial position as a consequence of taking a dispute up, then I would have thought Fair Trading would have been an appropriate way to go.

CHAIR: Mr Whelan, I have got a couple of questions in relation to the warranty comments you made earlier. If a car is repaired at a repairer that is either a partner repairer or directed by the insurance company we offer warranty on that car.

Mr WHELAN: Yes.

CHAIR: If the car is repaired under an insurance policy that gives choice, I take my car to J Bloggs Smash Repairs, do I still get a warranty?

Mr WHELAN: In most cases I think you still do, yes, as far as I am aware.

CHAIR: If I take my car because there are problems from the original repairer for rectification to a third party, does that warranty still continue on?

Mr WHELAN: That I am not sure about, I would have to take that on notice.

CHAIR: Thank you very much. One other point, adjusting for consumer price index, you made a comment earlier that it is a competitive market and Mr Piper did make the comment that there might be only a couple of players in the game that have a whole heap of companies underneath them. You are saying it is still a very competitive market. So taking into account consumer price index for the past five years, have insurance premiums gone up, down, stayed average, where are we at with insurance premiums?

Mr WHELAN: Less than consumer price index.

CHAIR: Less than consumer price index?

Mr WHELAN: I think that is right, is it not?

Dr SIMES: Yes, there is a chart in our report which looks at premiums compared with average weekly earnings and they have fallen.

Ms TANIA MIHAILUK: But that is not consumer price index.

Dr SIMES: No, but that is not that much above consumer price index over that period and over the last decade they have fallen about 20 per cent based on—

Mr RAY WILLIAMS: Is that the same chart that actually shows that insurance premiums in New South Wales are around about \$150 to \$200 dearer than their next competitor in another State of Australia?

Dr SIMES: They are higher than other States; that is right.

Mr RAY WILLIAMS: We had also evidence to the Committee to demonstrate that over the past 10 years in the motor vehicle repair market profits had increased by five per cent per annum on average and during that same time there has been a 16 per cent reduction in motor vehicle repairers, at the same time, a decline of 16 per cent.

Coming back to Mr Whelan's comment that he would like to see profitability in all businesses and certainly in New South Wales, the Government would like to see profitable businesses across the board, do you not see that there is an inequitable outcome there when you have got insurance companies, especially in this particular market of increasing profit share, double what consumer price index is at the moment, that the motor vehicle repair industry is going broke?

Dr SIMES: I cannot confirm your comments about the profitability, just the levels that you are talking about; I have not got those figures with me. The basic issue is whether or not the industry is such that barriers to entry are low enough for new people to come in. So if what you are suggesting, people are making high returns, if that attracts new players into the market, that is going to push them down and that dynamic is playing out on the insurance side of this industry. The biggest reductions in premiums are coming from the nature of the business models, from the nature of the technology and the nature of the costs to do with the claims.

Mr RAY WILLIAMS: Just in terms of viability and profitability, I used a crude example in an earlier question on behalf of the Committee. If I was to request the services of a builder to come and build a wardrobe in my home and the cost of that wardrobe was \$7,000 and I was very, very happy with the quality of what that builder was going to provide me with, but I offered the builder only \$2,000 for the wardrobe, I can only imagine what the response would be from the builder. I think the Chairman has a background in the building industry and I know what he would tell me about me offering \$2,000 to do that actual wardrobe.

I put to you at this point in time we have a situation in New South Wales where repairers are receiving between \$1,200 and \$1,800 for repairs on any week across New South Wales currently. I might just ask you, are you aware of what a predictive cost model is?

Mr WHELAN: I am personally not.

Dr SIMES: No.

Mr RAY WILLIAMS: This is a predictive cost model or a PCM that has been provided by one of the insurance companies that you represent. As a matter of fact the insurance company actually has 30 per cent of the market share across New South Wales at the moment. I might just read for you what is in this actual predictive cost model. This is a predictive cost model that is given out to a preferred repairer.

"A repairer has carried out five repairs. Our insurance company (and I will not name them at the moment) will agree to pay \$2,000 per repair for this level of work."

Now that is regardless of the work that they are providing that particular repairer with. So if we have got a situation where 60 per cent of the motor vehicle insurance is handled by two players, namely Suncorp, Insurance Australia Group/NRMA and of that 65 per cent of the market that they have, 90 per cent of the work being done in a repair shop is being done by or on behalf of those insurance companies, do not we have two insurance companies currently manipulating the market when they are telling repairers what they are going to pay for each repair and I come back to the analogy I used before and the reason that I said \$7,000 is because those repairs can quite easily be worth \$7,000 but the insurance companies are now paying what they call a targeted or a fixed price—whatever they want to call it—to registered repairers, authorised repairers every week regardless of the repairs.

Then I put to you but how can that ensure a quality of repair on return to the road when those repairers are working in such an unviable market?

Mr WHELAN: Well, my understanding is those sorts of predictive costs models as you have pointed out, are not necessarily the actual prices paid for a particular repair. They are an example of the asymmetry of information where insurers undertake millions of repairs, very similar repairs occur across the wide variety of vehicles. That could be the replacement of a bumper bar, it could be the replacement of a side panel. It could be replacement of a windscreen or whatever it might be.

Because they have millions of instances of specific repairs across a range of models of cars, they are able to give benchmarks as to what they expect a repair will cost. If a repairer discovers during the process of that repair that they need to do further work because there is unspecified damage that they have found as a consequence of their assessment of the vehicle, then they will go back to the insurer and they will alert them to the fact that there are other repairs that need to be done in and around that specific repair.

Mr RAY WILLIAMS: You can provide evidence of that?

Mr WHELAN: I am sure you can ask the insurance companies, which they will do, have an assessment done if there are further repairs that were not obvious in the first instance. These are benchmarks more than they are a fixed price.

Mr RAY WILLIAMS: I think what you have done for this Committee is that you have actually established that you not only understand what the predictive cost model is but you actually endorse the predictive cost model. I cannot understand—

Mr WHELAN: I would rather you do not put words in my mouth sir. I did not say I endorse it, I was just trying to explain to you—

Mr RAY WILLIAMS: Can I say—

CHAIR: Order!

Mr WHELAN: —how information is used in the industry to be able to get an assessment of what costs there are.

Mr RAY WILLIAMS: I will come back to say what I said before, that we have two insurance companies at the moment utilising these fixed costs, which it says on that predictive cost model, fixed costs to repairers, that we are seeing repaired to a price and not a standard and that is why we have dangerous vehicles operating on our roads today. If you do not endorse that, I am more than happy for you not to endorse it, but if you do not endorse it, can I ask you, are you going to do something about it?

Mr WHELAN: No. You are trying to twist that argument around. I was simply explaining to you how because insurers do millions of repairs of very similar kinds across the wide variety of vehicles, they are able to get benchmarks of what it is likely to cost to effect that repair. If there are further repairs required on that vehicle for whatever other reason, then that will be taken into account.

Mr RAY WILLIAMS: Mr Whelan, you do not believe at this point in time that insurance companies are actually paying motor vehicle repairers, preferred motor vehicle repairers a standard amount per week, whether it be \$50,000, \$60,000, \$100,000 depending on the amount of vehicles that go through there on a standard rate that is set by them. \$2,000 is one of them, I said before it is between \$1,200 and \$1,800. You do not believe that is happening at the moment?

Mr WHELAN: I am afraid I cannot comment on that because I am not privy to how these companies operate in their operational businesses. I do not work in that area. You will have to ask those companies and I am sure they will be happy to answer you.

Mr RAY WILLIAMS: I certainly hope they are because they will be under oath, as you are Mr Whelan.

Mr WHELAN: I am aware of that sir.

CHAIR: Members, are there any other questions?

Mr RAY WILLIAMS: Mr Chairman, I might just finish with this one comment. I did raise before just the list of the Motor Traders' Association of the 130 vehicles. Of the insurance companies listed, 70 of those vehicles that required further rectification work were insured by AAMI. Mr Whelan, do you think that those customers are lucky to be with AAMI?

Mr WHELAN: That is a rhetorical question sir.

CHAIR: Thank you Mr Williams. Mr Whelan, and Mr Simes, thank you for your time today. Thank you for appearing before the Committee. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to make a written reply to any further questions?

Mr WHELAN: Yes we would.

CHAIR: Thank you very much.

(The witnesses withdrew)

MS ALEXANDRA KELLY, Principal Solicitor, Insurance Law Service, Consumer Credit Legal Centre, affirmed and examined:

CHAIR: Can I welcome Ms Alexandra Kelly. Thank you very much for appearing in front of the Select Committee on the Motor Vehicle Repair industry. Sorry about the time, we are slightly late. Can I introduce our members here today, the member for Lake Macquarie, Mr Piper, member for Hawkesbury, Mr Ray Williams, the member for Campbelltown, Mr Doyle and Ms Tania Mihailuk the member for Bankstown and I am the Chair, the member for Monaro.

Can you please confirm that you have been issued with the Committee's terms of reference and information about standing orders relating to the examination of witnesses?

Ms KELLY: I have.

CHAIR: Do you have any questions about this information?

Ms KELLY: No.

CHAIR: Can you please tell the Committee in what capacity you are appearing here today?

Ms KELLY: I am the principal solicitor of the Consumer Credit Legal Centre and we operate a project called the insurance law service.

CHAIR: The Committee has received a submission from your organisation. Do you want the submission to form part of your formal evidence?

Ms KELLY: I do.

CHAIR: I will now ask you if you would like to start with a formal opening statement.

Ms KELLY: I have no opening statement. I am happy just to proceed to questions.

Mr BRYAN DOYLE: Do you have dealings with customers that come in contact with the review process in the industry, the code administration?

Ms KELLY: Not the code administration process. The Consumer Credit Legal Centre operates the insurance law service, which operates a national hotline. Since 2007 when the line operated we have answered about 13,500 calls, giving advice and information to people with insurance. Motor vehicle insurance forms a subset of that information and New South Wales motor vehicle insurance forms an even smaller subset of that.

But in our experience in dealing with motor vehicle claims in New South Wales, the actual code itself has very little prominence in a consumer's day to day operation.

Mr BRYAN DOYLE: What are the major issues that the consumers are raising with the insurance law service?

Ms KELLY: A couple of these issues have been touched on in previous evidence. It is in respect of once they have made a claim, the process of making the claim, whether or not they have an ability to choose their own repairer. Often they have not read the product disclosure statement, so that is the first time that they have become aware of the limitations in their policy. It is at that point that they then have to determine if the repairs are being carried out, sometimes we have consumers who are not happy with the repair job or they are not happy that the car has not been written off. Equally we have consumers who are unhappy that the car is being written off and they would prefer it to be

repaired.

The sorts of consumers we deal with are also the uninsured, so people who are not insured and not subject to a contract of insurance but might be dealing with an insurer because in the process of the accident the insurer has taken responsibility to repair their car. So we get a variety of issues that come up in respect of consumers facing problems with insurers and the repair.

Mr BRYAN DOYLE: Is there any insurance company in particular that stands out in your dealings with insurers?

Ms KELLY: Look, it is very difficult for us to pinpoint to any particular insurer or any particular model. From what we have seen, all models and all insurers we have dealt with. I cannot point to any particular insurer or any particular insurer's model which is worse or better than any other.

Mr BRYAN DOYLE: You said in your previous answer that often consumers are not quite aware that they are tied down sometimes to a specific nominated repairer?

Ms KELLY: That is right. A lot of consumers just are not aware of that and I get a lot of comments, so the fine print tells me this or where is that in the policy? A lot of the opening questions that I have in dealing with consumers is well have you read your policy? I would say nine out of 10 would answer no I have not and it is a matter of us having to go through their policy and work through with them, informing them of what their options are. It is at that point that they are beginning to understand well I am stuck with this, yes I have to use this repairer or I have made the wrong decision by going down this track, because I did not have to do that, I could have chosen a different way.

Mr BRYAN DOYLE: Can you give an example of when the policy does provide for some choice of repairer, do you get any complaints in relation to being steered in a particular direction?

Ms KELLY: Just off the top of my head, none that I can think of but I am happy to take that on notice.

Mr RAY WILLIAMS: Can I just ask you in relation to the 13,500 calls that you were handling. What do you think the percentage would be in relation to motor vehicles and specifically motor vehicle repairs? Do you have that broken down?

Ms KELLY: We broke them down in our submission in respect of the last financial year and in New South Wales compared across other States. So we are not looking at huge numbers. In one financial year my service would have taken 5,500 calls, in 2012-13.

Mr RAY WILLIAMS: In relation to the motor vehicles?

Ms KELLY: No, that is in relation to all advice. So looking at the statistics, in 2012 we were looking at 60 calls, up to 70 disputes in relation to quantum, the extent of repairs and scope, delay, which often comes hand in hand and in respect of insufficient or poor quality of repairs we are looking at up to 45 to 50 in New South Wales, calls where we have identified that and given advice.

CHAIR: That is out of the number of 5,500?

Ms KELLY: 5,500 within a year, bearing in mind that we also give advice about all other forms of insurance, including life insurance.

Mr RAY WILLIAMS: It is interesting. If you look at it from a perspective of percentages, you would say it is a small percentage on numbers, however coming from the industry myself and I understand the industry and understand motor vehicles probably a little more than most people or the

average person I should say, my major concern is the quality of vehicles that are returned to the road and it is a particular aspect of the terms of reference of this particular Inquiry.

So when we see 60 complaints from people, we look at that as perhaps, if I use the term, the tip of the iceberg because as has already been pointed out to this Committee a couple of times this morning, the average consumer looking at their repaired motor vehicle, if it is painted the one colour, if the doors close, they turn the radio on and it drives, then they are relatively happy with that particular vehicle.

It is only to a more trained eye or when that vehicle turns up at a motor mechanic for repairs someone notices something untoward or if the actual consumer actually goes and takes it to another repair shop, a panel beating repair shop and they go through it, a third party assessment and we have found many hundreds of cases where there are vehicles on the road that should not be on the road, so that is why we are focusing on that.

I suppose when I look at that 60 vehicles in any given year, to me that is a staggering amount of people that are actually complaining about the quality of their repaired vehicles.

Ms KELLY: I would not disagree with that at all. I think our statistics under-represent if anything. We have three staff who have to deal with this on a day to day basis. We drop more calls than we can answer. We are not able to deal with every consumer in an in depth way and so we do speak to a lot of people where we just give general information, not quite so much detail and we certainly do see the quality of motor vehicle repair is an issue, not just in New South Wales but nationally.

Mr RAY WILLIAMS: I raised with the insurance company a standard part of the product disclosure statement where it refers to the requirements of a consumer to be completely and utterly honest and if they are not at any time the insurance company can nullify or not cover that particular premium if someone is seen to be dishonest.

So I come back to if honesty is a two way street and I would like to get your perspective on that from a law perspective. Should not we simply be asking insurance companies to notify consumers upfront when they take out a premium or when they look at a product disclosure statement to have the words, whether they have a preferred repairer or anything like that in relation to the issues that you are discussing with them when they ring up, whether it is preferred repairer or whether it is cost, whatever the case may be, who it is going to be repaired for, whether or not it is going to have genuine parts in relation to that vehicle, should not that be first and foremost in that product disclosure statement and should not that information, in an environment of being completely transparent and honest, be upfront on behalf of consumers?

Ms KELLY: I think space in a product disclosure statement is at a premium. Where do you put everything in there? They are lengthy documents.

Mr RAY WILLIAMS: Page one would suit me.

Ms KELLY: I certainly agree, they are lengthy documents, consumers do not read it. It generally is only when they strike a problem that they will have their attention drawn to it, even when we draw their attention to it, how much they actually understand of what we are explaining to them about the operation of that wording. I think consumer information and consumer knowledge is a very difficult and tricky thing to achieve. I think it is incredibly difficult to work out how to convey that information to a consumer.

Whether it is upfront, maybe that would work, I do not have the data behind that, whether or psychologically a consumer is more likely to understand that information if it was closer to the front, but it is very difficult in trying to predict that. I work across insurance policies as well, all of the

information is somewhat hidden because there is just so much of it.

CHAIR: When someone is taking a premium we are asked a series of questions. What if we change the system to an opt out one? In other words, you automatically get choice and then you as a consumer must actually tick or click a box for an opt out option. You are making a decision knowing exactly what you are actually signing out of.

Ms KELLY: I agree with that. I guess we have just come into flood coverage and the opt out of that. We are seeing people opting out of flood when they are in a flood zone.

Mr RAY WILLIAMS: Only because the premiums are so dear.

Ms KELLY: Even when they re not—

Mr RAY WILLIAMS: At a time when insurance company profits are going through the roof, but far be it from me—

CHAIR: Mr Williams, please.

Ms KELLY: I would love to be able to come here with a great solution how to clearly a consumer of these sorts of options. Unfortunately I do not have that information but with the opting out of flood I have got people on flood plains who are opting out and it is difficult because for those people they are just not going to have coverage. Then we get to the flipside, which is when there is a disaster, what are they going to do? How are we going to argue it? Well, they have opted out and they clearly opted out. So we lose arguments in relation to well it is not clearly informed in the product disclosure statement.

The contractual arguments about ambiguity, we have lost completely, because we have opted out and we have opted out clearly. So I guess my view is that it is difficult to put that at a consumer upfront. They will say well it is unlikely that I am going to have an accident so I will opt out to get a cheaper premium. Then we end up with an accident and then they end up in a different problem.

As I touched on before, there is no one model that I have seen that is perfect. I think it really is about focusing on how do we get the repair industry to be accountable and the insurer not overly influential in that accountability mechanism. Because it is ultimately a matter of fact, is your car repaired up to a standard or not, whether or not that is done by an insurer or whether or not that is done by an independent smash repair company, so having some sort of process where you can get that evidence to say well is it repaired up to that standard or not?

What I am getting from consumers is, because I always tell them it is a matter of evidence, what evidence can you get to say this is not repaired up to a standard? I will get anecdotally back, well no smash repairer will tell me because they want to get work from the insurer or he has told me verbally but he will not put it in writing because he does not want to upset the insurer; all that kind of feedback.

So I guess some sort of model where you have an incorruptible balancing mechanism where you have got someone who can say is this repaired up to standard or not? Have you repaired all the damage done by this motor vehicle accident? Having that kind of accountability I think is the best mechanism rather than a sort of one model meets all kind of problem. You really need that accountability to bring the industry up.

Mr RAY WILLIAMS: Ms Kelly, I agree with you 100 per cent, you would like that accountability to apply to the vehicles ultimately when they are repaired and it should be. However, we have got to the situation where through what we believe or I believe is the manipulation by the insurance companies, two in particular, who actually insure two thirds of the vehicles in New South

Wales telling repairers what they are going to pay them for the price of the repair and in order for those repairers to stay in business they are accepting those particular prices and then working efficiencies, into that which can be described only one way of cutting corners. So therefore we have gotten into a bit of a chicken and egg situation where yes we want high quality repairs but if we are not prepared to pay the repairer for the actual cost of the repair or what the repair should actually cost, how do we do that?

One thing that has been notified to the Committee has been the use of a completely independent assessor and those assessors would become businesses in their own right as opposed to where we do have the situation at the moment with some, a small amount of the insurance market, which I do believe have a very, very low rate of rectification. So their model has been actually proven to be very, very sound.

If we could have that situation as opposed to having an assessor that is paid by the insurance company and then perhaps receiving inducements, as has been said already to the Committee this morning, perhaps we could get a total assessment of the vehicle assessed as to what needs to be done, how much needs to be done, then we are prepared to pay appropriately for the repairs that need to be done, I would think that would lead to a better quality of repair. Do you have any views on that?

Ms KELLY: I think anything where it is an independent assessment as a check or balance cannot be dismissed out of hand. I agree; my standard advice to people who are having problems with the quality of repair of any goods, is what is your evidence? What is your alternative independent assessment? So if we can knock out the conflict of interest, and I do agree there is a conflict of interest with assessors at times, then I do not disagree with that as a possible solution.

CHAIR: Do you believe that Fair Trading is playing an appropriate role? You must deal with Fair Trading, or your clients, given they have an issue with the insurer or repairer, do you feel that Fair Trading has a role to play and have they got enough powers or enough framework?

Ms KELLY: I think Fair Trading is where we would expect the consumer would be able to get some independent assistance in determining the quality of the repairs undertaken. So I do think they have a role. Personally I have not had much on a day to day basis, apart from the referral out and I have not had any come back to me to indicate that that is not where I should be sending people with problems with smash repairs.

Ms TANIA MIHAILUK: Sorry, the referral comes from Fair Trading?

Ms KELLY: Consumers are normally referred to us through the Financial Ombudsman service and then we might then refer them to Fair Trading, where it is a smash repairer has done a bad job of repair.

CHAIR: You are not getting the bounce back from Fair Trading saying this is not our role?

Ms KELLY: No, that is right.

Mr GREG PIPER: Ms Kelly can I just ask what relationship the Insurance Law Service has with the insurers, their industry, their peak bodies? Do you have any discussion with them?

Ms KELLY: Not on a very high level. We meet occasionally on various issues. We are completely independent. We are not funded in any way by insurers. Where we do have issues we will write to an insurer, where we identify any systemic issue and we are open to meet with insurers and discuss issues.

CHAIR: Are they responsive?

Ms KELLY: Yes, generally. Many insurers would like to meet the stakeholders.

Mr GREG PIPER: So they do not see your organisation as a body that they engage with to try and address, although we find there are no problems in the insurance industry if we listen to the Insurance Council of Australia, generally speaking anyway, but on the individual basis of problems you are finding that they are generally responsive?

Ms KELLY: I have met with a number of insurers about various issues. I have never felt that they have not been keen to engage but whether or not that will ever lead to changes, what level of actual input we have, I really could not say.

Mr GREG PIPER: The bottom line is, of all your dealings with individuals who are having problems in the motor vehicle insurance area, what would be the single most important area that should be addressed in your view?

Ms KELLY: In my view it is really the transparency of cost and a consumer actually being able to say well what work has been done to my car and what did it cost to repair? It comes up not only for consumers when they are under their own insurance policy and seeking to claim, but also for uninsured third parties ensuring that what was repaired or what of the car that the insurer has which they are claiming against that third party and how much did it cost and making sure that that is not in any way being influenced or not a fair reflection of the actual cost undertaken.

We talk about, as you say, the \$2,000 to undertake these repairs. Well, I know from my uninsured clients that repair bills are \$5,000 and \$6,000, significant amounts of money.

Mr GREG PIPER: We also know that where there is a claim against another insurer the values are completely different.

Ms KELLY: Yes.

Mr GREG PIPER: If that is not the case there are a range of questions around that. You are talking about people particularly when they are not insured and the costs they have been exposed to in the industry.

Ms KELLY: That is right.

Mr RAY WILLIAMS: When you say the disclosure of costs is very, very important on behalf of the consumer, would that not be linked to disclosure of product and costs, I mean what the actual product is that the consumer is getting from the insurance company?

Ms KELLY: I think the disclosure is important in whatever form it comes. Consumers tend to react better when they know what is going on. They tend to feel better when they know what repairs are being undertaken to their vehicle and just being told it is repaired and not being told anything beyond that, to some consumers it is very concerning, particularly if there are ongoing issues with the car.

Mr RAY WILLIAMS: We have now got a situation where one insurance company which accounts for 33 per cent of the vehicles insured has what is now termed vertical integration, in that they actually control 60 per cent of the ownership, are majority shareholders in their own repair business. In relation to the notification of those 60 vehicles you spoke about, are you seeing an increase in notifications to your office over the years? I know you have only picked one year. Because we are starting to see a bit of a regular theme of more vehicles requiring rectification of those insurance companies that have their own repair shops?

Ms KELLY: It is difficult because we are such a small organisation. I did put in some

statistics going back from 2010 which indicate that it started off with a small proportion and it certainly ballooned to now. But the difficulty I face is my organisation has only been around since 2007 and data entry is not necessarily our strong suit. So I would not say that I have anything that I could be statistically confident on.

Ms TANIA MIHAILUK: How are you funded?

Ms KELLY: That is an interesting question because we may be out of funding by 1 July this year. We are funded federally partially and New South Wales legal aid provides the balance.

Ms TANIA MIHAILUK: Federally by?

Ms KELLY: The Attorney General and we have not been able to secure any further funding, so it looks like from 1 July this year we are likely not to be funded.

Ms TANIA MIHAILUK: Fully?

Ms KELLY: Likely we will lose two thirds of our funding and as we only have three solicitors, that is likely to be a no service at all. We are unlikely to run the hotline. We have an email enquiry system which would probably be kept open for six months and then we would probably close the service.

Mr RAY WILLIAMS: So less accountability.

CHAIR: Thank you for attending today and appearing before the Committee. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to make a written reply to any further questions?

Ms KELLY: Yes I would.

CHAIR: That is actually the end of the public session of the hearing today, so thank you very much.

(The witness withdrew)

(Luncheon adjournment)

(Evidence continued in camera)

(The Committee adjourned at 5.50 p.m.)