

ECONOMICS AND INDUSTRY STANDING COMMITTEE

INQUIRY INTO WA'S AUTOMOTIVE SMASH REPAIR INDUSTRY



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 27 JUNE 2018**

SESSION ONE

Members

**Ms J.J. Shaw (Chair)
Mr S.K. L'Estrange (Deputy Chairman)
Mr Y. Mubarakai
Mr S.J. Price
Mr D.T. Redman**

Hearing commenced at 9.20 am

Mr STEPHEN MOIR

Chief Executive Officer, Motor Trade Association of Western Australia, examined:

Ms MARIE DONATO

Division Manager, Motor Trade Association of Western Australia, examined:

The CHAIR: On behalf of the Economics and Industry Standing Committee, I would like to thank you for agreeing to appear today for the committee's inquiry into WA's automotive smash repair industry. My name is Jessica Shaw and I am Chair of the Economics and Industry Standing Committee. I would like to introduce the other members of the committee: to my right, Stephen Price, member for Forrestfield; to my left, Deputy Chair Sean L'Estrange, and Terry Redman, member for Warren-Blackwood. Yaz Mubarakai, member for Jandakot, is an apology for this hearing. It is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of the Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside of today's proceedings.

Before we begin with our questions, do you have any questions about your attendance here today?

The WITNESSES: No.

The CHAIR: Would you like to make opening statements?

Mr MOIR: If I may, Chair.

The CHAIR: Of course.

Mr MOIR: Firstly, the Motor Trade Association would just like to thank and acknowledge the committee for the work and for undertaking this inquiry. The industry would maintain that it is an overdue process and we are probably at the stage in the industry where some intervention is required to restore what we would call a level playing field. Our major focus is to ensure the retention of small business, the viability of small business, and we have seen a significant exit from the industry over the last few years, predominantly as the industry has changed and modernised. We welcome that. We provided a lot of information in our submission to you and we are happy to take questions on that submission.

The CHAIR: Fantastic; thank you very much. You said in your opening remarks that this is an overdue process. What previous attempts has the MTA made to have this issue addressed and to whom?

Mr MOIR: At a national level, we have been seeking a Senate inquiry into the smash repair industry. We have had a number of separate looks at this through the ACCC as well. New South Wales have been successful in having the code, as we call it, mandated into legislation. The difficulty with the smash repair industry is that the majority of the issues that the industry faces are of a national perspective, so that in some ways limits what we can do at a state level; however, we have had a code in place for a number of years and, as I said, New South Wales moved to mandate that last year into legislation.

That is not to say that the code is perfect, because it is not, but what it does do is lay out the groundwork for a transparent, fair and open relationship between the insurers and the smash repairers. It is fair to say that the relationship between these two very much dependent bodies is fractured, at best, and with some of the major insurers, it is almost toxic. We believe that they both need each other. The insurers need the repairers and the repairers need the insurers, and that is

just a fact of life. What we have got to find a way of doing is levelling out the playing field so that the parties can have a transparent way of negotiating how they go about doing their business.

We have undertaken some surveys with our members in preparation for this inquiry. The first question perhaps we should address is—we asked them whether they believe that they could be financially impacted by speaking out against the insurance industry, and we had a 100% “yes” on that one. There is an ingrained fear amongst repairers that if they do speak up, if they figuratively bite the hand that feeds them, they will stop getting a supply of work, and that is a very real fear. We will find it difficult to have independent repairers be bold enough to stand up and provide evidence themselves, again because they are fearful of retribution from the major insurers, so that is an issue.

The Western Australian market is a little different to the national market in that you do have the major players of IAG and Suncorp, but we are also fortunate enough to have the RAC, and the RAC is a very good leveller in our industry, because they do not act in the way that the mainstream insurance industry does.

The CHAIR: I observed that in your submission. I am interested to understand that a little more. What is it about RAC’s business model or the business models of the other two major players in this industry that differentiates them?

Mr MOIR: I think the RAC takes the line that they are not share price driven. They are a consumer advocacy group—they are the largest in the country—and they take that role very seriously. I cannot speak for them, but that is how I view it. I think that they actually take a very fair way of looking at it. They do have their discrete repairer networks, and that is fine, but the way they go about that business is very, very different to how the other majors would go about it. They are all about driving down the average cost of repair and getting the lowest possible result for the insurer to get the car back on the road.

Mr D.T. REDMAN: Do you know what market share the RAC has in WA?

Mr MOIR: I do not know. I would have thought it was somewhere around 40%, but the RAC would be in a much better position to do that. Certainly, IAG are the other big player in the Western Australia market through SGIO and their other streams, and then Suncorp are slipping in there with a number of products. The other thing which is good about the RAC is you know who you are dealing with when you are dealing with the RAC. You do not actually know who you are dealing with when you are dealing with someone like a Suncorp, because it could be an Apia, it could be a Shannons—it could be any one of their group. Although there are small disclaimers on their advertising, it is very difficult for a consumer to determine who they are dealing with.

Mr S.K. L’ESTRANGE: Stephen, you talk about vertical integration being a real issue for the industry. Have you seen any evidence that the big players like Suncorp or IAG are actually looking to buy into the repair side of the business?

Mr MOIR: Last year, we had IAG come into Western Australia and attempt to control parts supply, and by doing that, they went to manufacturers and larger dealerships and tried to strike deals. We were able to get that pushed out—and it was also in South Australia—because we went to the dealerships and said your business is also going to be cannibalised because you will not be getting any parts supply; it will be going to one or two major dealers.

The first part of the integration model is to get control over the parts. The second part is the subsequent move into owning panel shops, and then you can amortise the low average repair cost across your network of repair shops. In Western Australia, we are yet to see that. It is starting to—there are early signs of it happening on the east coast. Generally, the major insurers will try it first

on the east coast, so the parts supply argument has been in place in Victoria and New South Wales for a number of years.

Mr S.K. L'ESTRANGE: Is it coordinated to the point where there is a strategic plan to drive out small operators in order for this model to work?

Mr MOIR: I do not think that is a direct objective; it is a by-product of what they are doing, because the smaller repairer cannot compete. We have given you some basic data in there about the average payment per hour that the repairers were doing. There is this concept of “funny time, funny money” that has been around for far too long, and that is where basically you triple the costs to get your thing back. For us, that is orchestrated fraud and it should not be allowed.

We would like to see genuine average cost of repairs, so to that extent the MTA has produced a cost calculator, which we have had vetted by the ATO and by BDO independently, to provide some form of assistance to repairers to better understand their business. If I do have a criticism of the repair industry, it is that they do not generally have a good understanding of the costs involved in running their business, and in that that provides a challenge, because they are more likely to be taken advantage of. Unfortunately, we have a race to the bottom to go for the lowest cost to get the business and that inevitably will cost businesses and cost jobs.

Mr S.K. L'ESTRANGE: Is the RAC at risk of being taken over by Suncorp or IAG?

Mr MOIR: No, I would not have thought so. I think the RAC is far too strong and I would hope that that would never, ever occur. In saying that, you are right, because it has happened in Victoria with the RACV, where IAG is a major shareholder of that, along with Australian Insurance.

Mr D.T. REDMAN: Just going back to some earlier comments, you talked about the example in other states of having a mandated code. Can you just give me an appreciation how the mechanisms of a mandated code flow through to changes?

Mr MOIR: Currently the code in the majority of states, with the exception of New South Wales, is a voluntary code. The code is made up of three industry representatives and three MTA-nominated representatives.

The CHAIR: Any WA people on it?

Mr MOIR: No, we do not. We have had a strong place on that, but because we are a federation we have to share it around. The mechanism really is where you have a dispute, you can lodge that with the code and the code committee—what we call CAC—can go through and have a look at that and come up with a mediated result. As a by-product of that, the Victorian Chamber introduced an IDR process, which is an industry dispute process.

Ms DONATO: Internal dispute resolution.

Mr MOIR: They have had well over 180 of those lodged in the first 12 months, with the majority being resolved without having to go into an official scene. The advantage of that, of course, is that the major insurance companies actually want to get those things resolved without them going public.

Mr D.T. REDMAN: Disputes between who and who? Where is the typical dispute —

Mr MOIR: The insurer and the repairer.

Mr D.T. REDMAN: So that is 99% of the issues?

Mr MOIR: Always the case. It will be a dispute over the allowances to undertake a specific repair.

Mr D.T. REDMAN: Earlier on you mentioned a reluctance for parties to come forward here. In that model, are they seeing people progressing the dispute?

Ms DONATO: Can I speak to that? Repairers will contact me for assistance at the MTA and the process, like in other states, is that you then go through and put in an IDR. An IDR is effective because it is recorded. The insurance companies do not like it, so they make sure they act on it. Repairers say to me in WA, "I'm a bit concerned about going down that track; I don't want any repercussions", so what I do to try to facilitate is speak to the insurance company and tell them, "There's a problem here". I give them a certain amount of time to address it and then I tell them that I am left with no option but to put in an IDR. I have a very good success rate in employing that model.

What has happened is that, if you look at the statistics for WA, it will show that there are not very many IDRs, so you could falsely believe, "Oh, they don't have a problem in WA." We do, but it is just the way we manage it. The code works. The code is important. The code assists the industry to address a lot of issues.

Mr D.T. REDMAN: You are giving me the impression that you have a reasonably effective process of getting feedback through what you are doing in an environment where there is not a mandated code. Is it New South Wales that has the mandated code?

The WITNESSES: Yes.

Mr D.T. REDMAN: In their example, where there is a mandated code, is there a step change or a step shift in effectiveness of resolution and/or bringing forward issues?

Mr MOIR: There is, and we have included in our submission that the New South Wales Small Business Commissioner actually has the ability to mediate and issue instructions on how this should be resolved. We believe that the Small Business Commissioner in Western Australia would be in the perfect position to do that. The difficulty in Western Australia is that the powers that are provided to the commissioner are a little bit deficient, so he currently cannot compel parties to come to mediation; we believe he should have the ability to be able to compel and also to fine.

In South Australia, if we look at the small business commissioners across the country, the South Australian example is perhaps the best in that the Commissioner can compel parties to not only attend, but also provide evidence that he can look at. He also has the ability to enforce fines.

The CHAIR: But the code is not mandatory in South Australia?

Mr MOIR: Not yet, no.

The CHAIR: So what is he enforcing against?

Mr MOIR: The benefit in South Australia is that you actually have a Small Business Commissioner's office that you can refer a complaint to and the Small Business Commissioner can investigate that in the absence of the code. We do not have that ability.

Mr S.J. PRICE: Who does the committee report to?

Mr MOIR: The code committee is self-reporting. That is why it has three insurance representatives and three body repair, and it is voluntary in nature.

Mr D.T. REDMAN: Would you recommend to us to have a mandatory code?

The WITNESSES: Yes.

Mr D.T. REDMAN: But you have not convinced me in what you are putting to me about the differences between what you achieve in your effectiveness now, the South Australian example, where there is an active Small Business Commissioner, and the New South Wales example where there is a code, so convince me.

Mr MOIR: Perhaps if I can respond to that one by saying that we have just on 200 of the 600 potential body repairers in Western Australia, so we potentially have 400 out there who have no ability to use their Association to help them.

The CHAIR: Right, so you are almost like, not a union, but kind of like a representative organisation that can —

Mr MOIR: We are a union of employers; it is fair to say we are a union of employers, but 80% of these are small businesses or family owned businesses and they simply do not have the ability to combat that sort of thing. If you provide them with an avenue, such as a mandated code where you can refer to a small business commissioner, you provide an avenue for them to address those —

Mr D.T. REDMAN: And the mechanism for change is public visibility?

Mr MOIR: Yes, absolutely.

Mr D.T. REDMAN: You are putting a number out there.

Mr MOIR: Yes.

The CHAIR: On your evidence, 236 smash repair organisations subscribe to the code on a voluntary basis, but there is another 400 or so out there who have not. If the code is an effective way of driving better outcomes, why has not the vast majority, it would seem, of smash repairers signed up to the code?

Ms DONATO: We go back to what we mentioned earlier: smash repairers are concerned about being seen engaging in any activity that an insurance company might see as not supporting them.

The CHAIR: So even signing up to the code is seen by the insurance industry as threatening?

Ms DONATO: It could be, yes, because it is showing that they expect that the insurance company will abide by the code conditions.

The CHAIR: But there are obligations on smash repairers —

Ms DONATO: As well, yes.

The CHAIR: As I understand it, it is designed to make both parties understand very clearly where they stand.

Ms DONATO: Both ways, yes.

Mr MOIR: Absolutely.

The CHAIR: If the insurance company is playing the game right, they are assuming that the repairers are coming to the party as well, so —

Ms DONATO: The other thing I need to mention is that in WA, when I am dealing with some of the issues that the repairers have and I am speaking to insurance companies, they are well aware, because I make it clear, that they know the Motor Trade Association nationally has lobbied for a mandated code, like in New South Wales, in all states. That is, I believe, part of their motivation to work with us. It is almost like the threat of understanding that, “You work with us because we are pushing for a mandated code, so then you have to abide by the code.” The other reason —

Mr D.T. REDMAN: When you say “mandated code”, do you mean mandated membership —

Ms DONATO: No, make it mandated so that it is compulsory to sign up to it.

The CHAIR: So if you want to be a smash repairer, you have to sign up to the code?

Ms DONATO: Well, it works both ways, but yes, and the insurance company as well, because it then keeps both sides communicating transparently and honestly and in their practices, because the code is for both the insurers and the repairers.

Mr D.T. REDMAN: But even with a code in place, if there is this concern about getting future work through the insurance companies, referrals from the insurance companies, even with a code in place, those 400 who are not signing up because they are concerned, what is going to make the code change the behaviour in the market?

Mr MOIR: Okay, I think if we go back a step. If people have a belief that there is a fair, transparent way of resolving disputes, you will not get this adverse action being taken against them by large insurance groups, because it will be out there in the public arena and the last thing that a large industry group, an insurance group, wants is bad press about them bashing up some poor little smash repairer out the back of Midvale.

The CHAIR: So has the introduction of a mandatory code in New South Wales produced tangible changes in behaviour? Could you provide direct evidence of that? Could you elaborate on how things are being done differently in New South Wales? Are there any reports out there or any monitoring that can give us hard evidence that a mandatory code is worthwhile?

Mr MOIR: It is early days because it was only introduced in late 2017. We could certainly provide supplementary information to you —

The CHAIR: We would appreciate that.

Mr MOIR: — from the Motor Traders' Association of New South Wales that would support it.

I think we need to go back to the Productivity Commission's initial findings on the code and also the federal government's view. Their view was that you do not really want to mandate these things. Let us see if the industry can actually self-regulate, which in a perfect world would be a nice way to go.

The CHAIR: We are trying that with regional airfares too.

Mr MOIR: Correct. It is not working though.

The CHAIR: We are giving it a go.

Mr S.J. PRICE: Just on that, can you briefly explain, if I have a repair shop and I do the work for an insurance company—the arrangements that we are talking about that go into dispute are essentially payment arrangements between the repairer and the insurance company. Can you just broadly explain how that relationship works to begin with?

Mr MOIR: Generally, those sorts of disputes will be over times allowed to undertake specific repairs or materials used.

Mr S.J. PRICE: How does that work? If I have a car in —

Mr MOIR: Let us say we have a front bumper bar assembly. I know, as a repairer, that it is going to take an hour and a half to take that off and remove all the components so I can effect a repair. The assessor may, in fact, come in and say, "No, we're only going to pay you for 30 minutes to do that job because we believe it can be done." The industry has done a lot of work on determining accurate, average times of repair. There are systems out there; NTAR is one. The industry has developed one called eMTA. There is Audatech. They work on industry standards. They take best case, worst case, come back to an average.

Ms DONATO: And work with manufacturers.

Mr MOIR: As an industry, we do not have a problem with that, not at all.

Mr S.J. PRICE: But if it is costing you \$100 an hour to do that work and they are saying, “We’re only going to give you \$30 an hour”, what is the trade-off? Term of reference 1 talks about the safety and quality of work.

The CHAIR: What is the trade-off? What is the true cost of it?

Mr MOIR: The trade-off generally is that the repairer will try to re-claw that somewhere else in the job. This is where the transparency breaks down. It is not that dissimilar to the “funny time, funny money” concept.

Mr S.J. PRICE: Are you going to explain that as well?

Mr MOIR: It is a difficult one to explain with any sort of commonsense. Basically, if they allow you \$30 an hour, the true cost is probably around \$100 and then you make it up by adding on additional time or telling the person it is going to take longer to do the job.

Ms DONATO: They are aware it is happening.

The CHAIR: Is there cost cutting otherwise, in materials or shoddy repairs being returned?

Mr MOIR: Yes, there will be costs, and this is the problem. Shoddy repairs? I think repairers in the main are trying to do the best they possibly can for the consumer because the repairers understand that if they do a second-rate repair job, that car will probably end up back with them. We have a thing in the industry called rectification rates, which are basically, “Let’s address the issues.” Some of the large insurers will farm that out to other repairers so it does not show up. We put in our figure of 4%, which is roughly where we used to sit. We believe it is higher—up near 15% right now but you will not see it on any reports because it is farmed out to other repairers to do the job.

The CHAIR: That assumes that someone is able to identify. If I pranged my car and it came out looking all shiny and new and smelt nice and was clean, I would probably be happy with that but I would not know that what is done is a substandard repair, which could potentially be unsafe and unroadworthy. You are assuming that you have an educated consumer base that is able to go, “Actually, you did not fix that widget properly.” Surely, there have to be some issues there.

Mr MOIR: There are and most likely they turn up in car dealerships. We had a case last year where a car turned up, a Honda Jazz, that looked perfect. When the owner of the new purchase had an accident in the car, the repairer who had the car said, “There’s actually substantial damage to this car; it hasn’t been repaired properly.” You would never have seen it without stripping the car down to understand how the subframe works and where everything should fit.

Yes, the consumer does have a problem in understanding the repairs. As I said, repairers in the main will try to repair a car. They are required to repair it back to manufacturer’s standards, which is why we have a category in Western Australia called repairable write-off because a car can be declared an economic loss. That is because the Commissioner for Consumer Protection will argue that the car has been brought back to manufacturer’s standards as close as possible so it is able to be on-sold or reused somewhere else.

Mr D.T. REDMAN: Pretty much you are the first hearing we have had on this so we still have a fair way to go and we have not talked to any insurance companies yet. I imagine that one of the things that insurance companies will say is that this is a very competitive business, they are out there chasing market share and the implications of tightening down on regulations are likely to push insurance premiums up. The premise that is put here is that costs are being pulled out of the industry that are unsustainable. The comment you just made then is that shows through in a repair that you can see, or a fault that you can see. What are your comments about that? Is there any evidence

from the New South Wales examples of mandating codes that that has tangibly changed insurance premiums?

Mr MOIR: Going to the first part, as an industry, we do not have an argument with insurers forming their own alliances with our network of repairers. That is all fine. There is nothing unlawful about that. But it comes then to the ability of the repairer to fully understand the consequences of entering into that arrangement for agreed rates. That is where the pressure comes, because they are so keen to get the repair work. We have also had the introduction of what we call smart shops, which are rapid repair outlets where they can roll through a large volume of repair work but their average cost is quite low because they work on volume. Your average suburban smash repairer does not have that volume so they cannot absorb the lower costs into their business model. That creates a problem. Do we have evidence out of the code out of New South Wales at this stage on that? No, we do not. We could certainly ask for it.

Mr D.T. REDMAN: Right from the outset you mentioned, I understand, quite rightly, you are out there to support the small business player, yet you have these big businesses—presumably the Coles and Woolies of the game—that can run a car in one end and run them out really quickly and get the volume thing. Arguably, that is a marketing play where they may not be producing a shoddy job but it is something that is putting price pressure on the system. Does that command any regulatory intervention?

Mr MOIR: I would not have thought so. We represent some of those larger shops, those larger networks, and they are fine. They have a place in the market because there is a need for that. Our real concern is to ensure that the market is fair, open and transparent. We would argue that the transparency is missing in a lot of those.

Mr D.T. REDMAN: I live in a regional town—the town of Denmark on the south coast. I think there is only one repairer in town. I ding my car up, that is where it goes. Is there a difference between regional locations in terms of your smaller business people and the fact that they are the only player in town as distinct from what I would have thought would be a pretty competitive market in metropolitan Perth?

Mr MOIR: Denmark is an interesting one—a good example. Of course they can simply divert the work to Albany. You would hope that where you have locals in the area that that shop would be the beneficiary of any work that turns up in that marketplace. But the reality is that they will move it 50 or 80 kilometres down the road.

Mr S.J. PRICE: Would Terry have a choice in that?

Mr MOIR: Shall we talk about choice of repairer because that is an interesting line? My understanding of choice of repairer is that I have an absolute choice to determine where my car goes, and that is important. In some policies, it will say “choice of repairer” but the small print says, “of our repairer network”. So, in fact, you have a limited choice of repairer. The unfortunate reality is in a lot of situations—we made the point of accident, the consumer is at their most vulnerable; there is no doubt about that. The first person they are confronted with is the tow truck operator, who generally has a relationship and that tow truck ends up going to one of those shops and then you have to move it around.

Consumers are not fully aware of their rights in this area. That is something we think there should be better education on. Consumers should have a choice of repairer because there are people out there, and I am one of those fortunate people who does not tend to have a lot of accidents, but there are people out there who do have a lot of accidents and do have a regular relationship with their panelbeater.

The CHAIR: They should probably improve their driving as well!

Mr MOIR: They probably should improve their driving. I have always been amused by that. There are people out there—I do go to smash repairers, and Marie talks to them every day—who have a regular clientele. They should have the ability to continue to go there.

The CHAIR: My mum is one of them, I reckon.

Mr D.T. REDMAN: In my case, I hit kangaroos, not cars.

Mr MOIR: Well, that is it. The regional thing is that wildlife damage is a critical one. Windscreen damage is the other one that occurs a lot. There needs to be genuine choice of repairer, and it is not.

Mr S.K. L'ESTRANGE: Most consumers, I imagine, would trust the insurance company to be referring them to the best repairer. So, they are probably less likely to go looking for their own repairer because they do not want to get the wrong one. They are almost like taking it as a referral by the insurer that “We’ll use these ones; these are the best ones.” If you pick your own, you could be taking a risk.

Mr MOIR: You are right, and I provide the example in our submission of one repairer who is a very, very credible repairer, who had an owner of a car, a regular client, who had an accident. He happened to be one of three accredited repairers for that manufacturer. He has had to jump through hoops that you cannot believe to get to that accreditation. When the client contacts the insurance company, they say, “We can’t guarantee his workmanship.” That is just blatant steering.

Mr S.K. L'ESTRANGE: That is what I am considering to be what I would think is the minority. Most people prang their car, they take it on trust that the insurance company is saying, “Pick one of these. They’re on our list” and off you go and pick one close to you for convenience or whatever. That example you just gave us, where somebody actually does know a fully accredited, competent repairer and is asking for that one to be used and the insurance company is steering them away from it.

Mr MOIR: Quite often, that will happen where a person who owns a specific model of car will have a crash and will go back to their dealership and say, “Who do I get to repair it?” That dealership, being aware that there are accredited repairers, will generally say, “You should go there.” It is when the client then rings the insurance company and says, “That’s where I’d like to take it” and they go, “Oh, no, we can’t guarantee that.”

The CHAIR: Is that true—they cannot guarantee? Is that absolutely true or is that a bit —

Mr MOIR: It is a stretch.

Mr S.J. PRICE: There is also a lifetime guarantee.

Mr MOIR: The lifetime guarantee is a nonsense. No manufacturer in the world will give you a lifetime guarantee on their car, yet we had a case just two weeks ago of a car that was repaired in 2010 after the hail damage and the owner had noticed that a corner of paint on the bonnet had started to peel. That car had been left out in the open, the paint had oxidised, a whole heap of stuff had happened, but because there was a nominated lifetime guarantee on it, the car was presented back to the repairer who did the original repair and the insurance company’s instruction to them was, “Fix it or don’t get any more work.” That is not reasonable.

The CHAIR: That is putting the risk back on the repairer rather than on the insurer.

Mr MOIR: Yes. The insurer is offering a lifetime repair but having none of the impost on their business; it all falls back to the repairer and that is simply not a fair —

Mr S.K. L'ESTRANGE: Taking that issue a step further, if you do give the Small Business Commissioner the powers to enforce a code, would they be able to rectify that situation?

Mr MOIR: Yes.

Mr S.K. L'ESTRANGE: How would that work?

Mr MOIR: The repairer would refer the matter to the Small Business Commissioner with a claim of being unreasonable. Then the Small Business Commissioner would be able to compel the insurance company to come in and talk about why they are doing that, how they are doing that and justify it.

Mr S.K. L'ESTRANGE: That would then make the insurer's lifetime guarantee void.

Mr MOIR: Yes, which they should be, let us be honest.

Mr D.T. REDMAN: But does not the same issue apply? You have a big insurance company sitting there, a little repairer goes off to the Small Business Commissioner, has their word and never again does this person get a job from the big insurance company.

Mr MOIR: We would then have that evidence to provide back to people in the public space and we would be able to refer it.

Mr D.T. REDMAN: Because there are examples of that in the liquor industry.

Mr MOIR: Absolutely. We have seen it in the petroleum retail industry. We had a great fear when the two major retailers started to encroach in that territory: first, the small independents would fall off the vine, which they largely have; and, second, the consumer would be the end line payer of it because the prices would go up—we are up to around \$1.40 to \$1.50 a litre right now.

Mr S.J. PRICE: With regard to what we were just talking about, as a way of mitigating the risk of having everything under the controller, the insurer, can a repair shop do a small part of the insurance work and have their own clientele separate from that or do they expect them to be wholly and solely?

Mr MOIR: There are a number of repairers who do specialist work, mainly in the restorative area or a specialist area like four-wheel drives, but the overwhelming majority of repairers are reliant on insurance companies feeding them work.

Mr S.J. PRICE: Is that a choice they have? Does the repairer come to you as a shop owner and say, "I want to give them my business" and you say, "I only want to do 10 cars a week" and they go, "No, we want to give you all of them."

Mr MOIR: Yes, they would have a choice in that but, unfortunately, that is not how it plays out. The insurance companies will put out a notice of determining a repair network with the criteria that will be required. What we want to see with that criteria is that it is very transparent and people can make an informed decision as to whether they want to go into it or not. That is what is missing right now.

The CHAIR: You mentioned in your evidence to us that the code is not perfect. How is it imperfect? What would you like to see improved?

Mr MOIR: You will notice in the recommendations that I said that we recommend that the code be reviewed by the Small Business Commissioner and industry, which will be the insurers and us, to look at—there are some little nuances in there that could be improved.

The CHAIR: Would that mean, though, that we then set ourselves apart from the national code?

Mr MOIR: No, I would think what we could do just by reviewing the code is to then take the recommendations out of that review nationally and have them adopted. There is a desire at every state level to have a code mandated.

The CHAIR: Amongst your membership?

Mr MOIR: Amongst the other motor trade associations and chambers. The reality is that the federal system moves far too slowly, so this is why New South Wales was the start. We would be advocating for it. I know that Victoria and South Australia are also very interested in looking at advocating for the mandating of the code.

The CHAIR: What would the State Government's role in that process be?

Mr MOIR: In?

The CHAIR: From having a bit of a read around, much of the action in this industry depends on the Commonwealth Government in terms of how it regulates the insurance industry, the sort of competition issues that you have raised—a whole heap of stuff under Australian Consumer Law. This is all federal-style stuff. Other than legislating for a mandatory code of conduct, I guess I am trying to understand what the State Government's role in all of this is. If you are saying the code could do with improving and there should be a review, the State Government cannot do that.

I am asking, I suppose, if we were to say yes, the code needs a review and there are defects and they need to be fixed, if the State Government says, "Yes, we will mandate the code of conduct and because of the defects we have identified, the code should say X, Y and Z", that pulls us apart from a federal scheme or a national scheme. I am just trying to understand, firstly, what improvements do you see are required to the code, because I think it is important that we get your view on that; then, secondly, how would it be changed; and, thirdly, what is the State Government's role in that?

Mr MOIR: The State Government actually can play a very important role there in facilitating this. When I say that the code needs to be reviewed, that is not necessarily to say that there are huge problems with it. But if the State is going to move down the line of walking towards mandating the code, it needs to be satisfied that it represents transparency, fairness and equity in its application both to the insurance company and to the repairer.

Ms DONATO: And to the public.

Mr MOIR: I think it would be foolish—that is probably not the perfect word—but it would be a little careless for the State to just run down the road of mandating the code without first checking that it was actually appropriate. All I am saying in that recommendation is we need to take a breath, have a look at it, have the three major participants in that process sit around the table and go back over it. If it is deemed to be that it fits, then you can move towards the legislation.

The CHAIR: The three major participants are —

Mr MOIR: Insurance, the repairers and the Government in terms of the Small Business Commissioner.

The CHAIR: The State Government?

Mr MOIR: Yes, the State Government and the Small Business Commissioner.

The CHAIR: So a WA-level review of the code of conduct?

Mr MOIR: Yes, but it is a review, bearing in mind that this started in 2004. The industry has moved, and it moves very, very quickly.

The CHAIR: Are there any WA-specific issues we should be alive to that would warrant us going off and doing our own thing or are these issues nationwide? There is no point us running off and doing our own thing if there have been any national processes.

Mr MOIR: No, you are right. In the ideal world, you would have the federal government backed by the ACCC working down this line. That will take time.

Mr S.K. L'ESTRANGE: You have mentioned the Small Business Commissioner a few times. Have you met with the Small Business Commissioner?

Mr MOIR: Yes.

Mr S.K. L'ESTRANGE: What is his view with regard to your proposal?

Mr MOIR: I do not want to put words in his mouth, but having had a strong relationship with the Small Business Development Corporation in a previous life, I did want to ensure that what we were suggesting was not totally against what he would see the role as. I think we identified right from the very first day of the Small Business Commissioner coming into office that it was lacking power. It really does need some form of teeth to compel people to at least attend mediation. He has done a very, very good job in getting parties to the table to do the mediation, but apart from that, there is not a lot he can do.

Mr S.K. L'ESTRANGE: What about the Small Business Ombudsman at the federal level?

Mr MOIR: At the federal level? That office was involved in negotiating the New South Wales transition.

Mr S.K. L'ESTRANGE: Have you negotiated, or had a meeting?

Mr MOIR: No—at the federal level? At a federal level, the Motor Trade Association of Australia has had discussions with them.

The CHAIR: With the Financial Services Ombudsman, or the Small Business?

Mr MOIR: No, the Small Business.

The CHAIR: The Small Business, because there is an FSO as well involved. I just wanted to clarify that.

Mr MOIR: So there have been discussions there but, as I said, the federal processes take a lot of time. We have a very genuine concern of the negative impact on the industry, and if we can get a solution within the next two years even, that would still be well in advance of what the Federal Government could provide us, considering we have things like federal elections coming up and all sorts of things.

Mr D.T. REDMAN: Just in summary, it is a federal code, but it is state legislation that enacts the mandatory part of that, and in the New South Wales example, was there much resourcing that had to come in behind it for enforcement?

Mr MOIR: No, not that I am aware of. It is a federal voluntary code. Perhaps we should use the word “national” as opposed to “federal”. It is a national voluntary code, where states are now looking at mandating that independently within the states, but I think it would be in the interests—I think we have got to be fair here. It would be unreasonable on the insurance companies to have a different code operating in each jurisdiction. That is just not a reasonable thing for the insurance industry. For the smash repairer industry, it does not really affect us, because we operate within one jurisdiction. But I think we need to look at what is best for the industry, and at the end of that what is best for the consumer, because the consumer is the end-line use of this product. If we have got the insurance company and the smash repairer in sync, the consumer is going to get a good result.

The CHAIR: I am just having a quick look through your submission to make sure that I have not missed any questions.

Mr S.J. PRICE: I have a quick further one about repairable write-offs. You have got repairable, and you have got written off, and then we have this little category in the middle, which seems to create a lot of interest and trouble. What is your view on that?

Mr MOIR: I would be delighted if the Parliament set up another committee to have a look at the “repairable write-off” issue, because my personal view is that repairable write-offs should be taken out of the marketplace, and we should just have a statutory write-off system. The reason for that is that there is a very large element out there who gain a commercial advantage by illegally repairing these vehicles and putting them back out to unsuspecting consumers. That is a real problem.

We had a case two weeks ago where we had one group of people who had sold over 258 cars in an 18-month period, illegally. I think it is fair to assume that a lot of those cars—we know that they were acquiring those cars from the repairable auctions, but those cars were having cheap fixes made to them and then sold to unsuspecting consumers. That is a problem.

Mr D.T. REDMAN: If I can move to another sight line. We have had some discussions off-line about some of the changes in technology in cars at the moment. In fact, I am in another inquiry at the moment about electric vehicles. A big part of that technology that is coming on is about safety aspects of vehicles that actually will not allow you to run into the back of a car in front of you. What is your prediction in terms of smash repairs and the demand, if you like, if demand is the right word, for the services of a smash repairer, given that technology may well be reducing the number of vehicles that finish up smashing?

Mr MOIR: Whilst you have a mixed fleet of very advanced vehicles with rather basic vehicles, you always run an increase of rear-end hits, so people who do not have the technology going up the back end of a car that does have the technology, because those cars are very effective at avoiding a collision in front, but they do not do anything about a car coming from behind. I think the RAC review will be interesting, but I believe that they will be of the belief, as I am, that whilst the incidents of accidents may reduce, the severity will increase, particularly when you get into the autonomous area.

The industry is really challenged now with the advancing technology, and we are not talking about electric cars; we are talking about standalone cars that have more computer technology in them than the Apollo 11 spaceship had. These things are walking and rolling computers. So you need a new skill set. The windscreens themselves, with all the digitised equipment that is now embedded in the windscreen, requires a specific skill set to be able to replace that. The whole industry is shifting and we, as a Motor Trade Association, are trying to assist our members with that transformation, because if they do not, then they will not be in business, and there is nothing any of us can do about that.

Mr D.T. REDMAN: There is discussion in submissions—I cannot remember whether it was yours I read or not—in respect of reduction in apprenticeships and so on, so you have not got the supply chain of people coming on. I am assuming that is in relation to the skill sets that are required in normal smash repair shops now. This tech that you are talking about, what is your assessment of the supply chain of those skill sets coming on and, indeed, the signals going to the training organisations to get them there?

Mr MOIR: There are two elements here. In the light mechanical space, we are actually seeing an increase in apprenticeship numbers, which has been very positive over the last 12 months, so that is good. We are still seeing a very, very low uptake of apprenticeships in the panel and paint industry,

generally because mum and dad do not see that as a sexy industry to go into, and maybe Jane or Johnny are better off to go to university and learn how to become a barista.

The CHAIR: Well, I live on coffee; I would endorse that!

Mr MOIR: That is unfortunately the reality. What we do need now is a new skill set. We need a new capacity of an entrant into this industry, because they are going to need to be more tech savvy because of the diagnostic gear that is in the cars.

Ms DONATO: Can I just make one point that I wanted to make?

The CHAIR: Of course.

Ms DONATO: On what we have been speaking about on the steering—and we did mention it in our submission—what is concerning to me, because I get the calls from the members, is—it is okay for an insurance company to try to utilise the services of their network, because that is a business commercial arrangement, but it is about the language that they use, because, like you mentioned earlier, the public are not necessarily knowledgeable, so they are at the mercy of their insurance company. They trust their insurance company.

To me, it is unconscionable that wording be used such as, “Well, if you take your car there, we can’t guarantee the quality of their work” et cetera. It puts in the person’s mind doubt as to the ability, because some of the customers have come back to the repairer whom they normally would use and said, “Gee, you know, this insurance company said that they can’t guarantee your work. What’s happened? Have you had issues?” It is that inference that the repair may not be done properly that damages that small business, and yet there are insurance companies, in particular RAC—the way that they try to utilise their own network, the feedback I get from the industry is that they have got no complaints. It is about how they manage it, because there are insurance companies out there that are doing it in a way that puts doubt in the person to the quality of their workmanship.

The CHAIR: What does RAC do differently? What are they doing differently?

Ms DONATO: What they do differently is that they try and encourage people—and I know because I have got a sister who is insured with them, and it has happened—the language they use is, “Well, you’ve got a choice. These are some of the repairers you can go to”, and if I say to them, “Yes, but I want to go over here”, they go, “That’s fine” and they allow it. Even the repairers say to me that if their customer—they have regular customers—are insured with RAC and they want to go there, they do not get the phone calls, and they do not get the grief. It is about the way that they manage it, and going back actually many years ago, there were issues with RAC, but to their credit, they actually look at those issues and addressed them, and worked with the MTA and have addressed those issues, so that I do not get the complaints like I did.

In particular, because you mentioned earlier about regional areas, there are some insurers that, even in regional areas—I will mention for example Dunsborough. People who live in Dunsborough and have an accident, usually they want their car fixed in Dunsborough. They do not want to have to go to Busselton, and yet there are some that are being told, “You’ve got to take it down to Busselton”, and it is only if the insured, the policyholder, is strong enough to say to the insurance company, “Well, no, I want it repaired in Dunsborough.” A lot of people are scared of pushing up against an insurance company because they do not know how it will impact on them when they want a policy on something else. People are a little bit—I guess there is that sort of respect or fear of —

The CHAIR: It is that imbalance in market power, again, is it not? We come back to it just in the consumer context rather than a service supplier.

Mr D.T. REDMAN: The advantage of me using someone in Denmark is that he has got to look at me up the street.

Mr MOIR: Correct. Chair, I am aware of the time, but if I can just finish very quickly with two things. We asked the question: should industry codes of conduct be mandatory? One hundred per cent of the respondents said yes. Understanding that, it puts as much emphasis on the repairer to do the right thing as it does the insurer. That was a telling one. The other one was: as a small business owner, can you effectively negotiate with insurers to allow you to compete fairly? Overwhelmingly, no.

The CHAIR: Would you be able to provide, if you are comfortable, the outcomes of that survey to us? We would appreciate that.

Mr MOIR: Absolutely, yes; no problem. So, in the supplementary, I will put that to you.

The CHAIR: That would be very much appreciated. I will proceed to close today's hearing. Thank you for your evidence before the committee today. A transcript of this hearing will be emailed to you for correction of minor errors. Any such corrections must be made and the transcript returned within seven days of the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you both very much for coming in.

Hearing concluded at 10.09 am
