

ECONOMICS AND INDUSTRY STANDING COMMITTEE

INQUIRY INTO WA'S AUTOMOTIVE SMASH REPAIR INDUSTRY



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 19 SEPTEMBER 2018**

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 10.42 am**Mr RICHARD HOWE****Deputy Chief Executive, Insurance Commission of WA, examined:**

The CHAIR: On behalf of the committee, I would like to thank you for agreeing to appear today for a hearing for the committee's inquiry into WA's automotive smash repair industry. My name is Jessica Shaw, I am Chair of the Economics and Industry Standing Committee. I would like to introduce the other members of the committee. To my right is Yaz Mubarakai, member for Jandakot, and to my left, Stephen Price, the member for Forrestfield. The Deputy Chair, the member for Churchlands, and the member for Warren-Blackwood are not present today, unfortunately. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside today's proceedings. Before we begin with our questions do you have any questions about your attendance here today?

Mr Howe: No, that is fine.

The CHAIR: Would you like to make an opening statement?

Mr Howe: Yes I would, if that is okay. Thank you for the opportunity to meet with the committee today. As the Deputy Chief Executive at the Insurance Commission I am responsible for the insurance operations of the organisation. You may or may not be aware the Insurance Commission is the sole underwriter of motor injury insurance in WA, but motor injury insurance policies do not cover vehicle property damage or towing expenses. Insurance products for that cover are purchased privately. However, the Insurance Commission via its RiskCover division is responsible for managing and administering the self-insurance arrangements for the state government public authorities. As a consequence, through RiskCover, we provide cover for damage to approximately 16,500 motor vehicles that are owned or leased by public authorities.

Our submission focused primarily on issues arising under your terms of reference 3, around consumer contacts and 4, for vertical integration. The cover that we provide to agencies or owners of the vehicles allows them to choose smash repairers to repair their damage, so we do not have any preferred repairer networks. We work with about 250 different repairers across the state each year, handling up to 2,000 repairs a year from that fleet. The Insurance Commission has generally observed good business practices from those smash repairers working on government vehicles that are insured by us. We use a panel of assessors to determine the appropriate costs and the types of repairs required, and also to monitor the quality of repairs undertaken. We are not aware of any concerns either directly or indirectly through our assessor panel of any systemic issues relating to the quality or the cost of work done by repairers for our insured vehicles.

However, some smash repairers have vertical business models that include links with or interests in vehicle towing services, and the Insurance Commission is aware of business practices of some tow truck operators that are to the detriment of consumers. We have concerns that relate to the payment of spotter's fees by tow trucks operators to get tips to get them to the accidents first, and the practice of crash chasing, whereby often multiple tow trucks will attend the scene of a crash on an unsolicited basis. In order to secure work, accident victims are being pressured to sign blank or incomplete tow contracts when they are often in a very vulnerable state at the scene of an accident. The consequence of that is those contracts often provide for tow truck operators to then charge exorbitant fees or take the vehicle to a yard rather than to a repairer prior to them having it towed a second time to get to the repairers, with a second fee charged. Those fees are then passed on to

insurers who are then under pressure to get the vehicle released to be repaired as per their commitments to the insured owner of the vehicle.

Delays in making payments for renegotiating the fees that have been charged can, as a consequence, result in additional storage fees instead being charged by the tow truck operators, making it often simpler and more economic to just pay up. Complaints regarding that practice from the general public are infrequent because it is generally the insurer, not the vehicle owner, who is faced with what I might describe as the “extortion” under this scenario. Additionally, our concerns are that there are no fit and proper tests for tow truck operators, so consumers actually have no idea who they might be getting into a truck with if they go with their vehicle to the repairers. Given anecdotal reports of criminal elements operating in the industry, that should be of concern.

The impact of this with regards to repairs for us, is significant when it comes to costs. We have seen invoices for towing fees of up to \$1,700 or more for accounts where we would estimate the actual cost is \$700 or less, implying an increased unjustified cost of more than \$1,000 on top of what would otherwise be the repair costs. Whilst that cost in the grand scheme of things related to our overall cost of claims is not necessarily large, when you take into account that the average cost of repair for a vehicle that we look after is in the range of \$3,000, if you add \$1,700 to that as a towing fee, it increases your cost of repair by more than 50%. As a result, insured customers end up paying for the price increase for the repairs and as a consequence, insurers increase premiums to be able to cover those costs.

The Insurance Commission welcomes efforts to further protect consumers and insurers from unconscionable conduct relating to towing services provided either through vertically integrated models of smash repairers or independently, and we would welcome the opportunity to work with others to achieve that outcome. I am happy to take questions now.

The CHAIR: Let us explore this tow truck issue just for a little while. The unconscionable conduct that you are seeing with the tow truck operators, that is government employees in government vehicles that experience that, that you specifically insure?

Mr Howe: Yes. We hear responses from people who have been at accident sites. The vehicles that we insure are government vehicles. Generally speaking, the drivers of those are government employees. What we see, and usually we do not get to see this issue until we are presented with an invoice from a tow operator indicating that they have attended a site, got a signature on a contract, which does not have the complete details in and did not include any costs associated, and charging us for towing the vehicle not to a repairer but to a yard, unhooking it—so they charge for hooking it up, they charge for unhooking it, they charge for storing it in the yard and they charge for hooking it up again to take it out of the yard.

They then charge for the second tow to the repairer, which anecdotally we believe in some instances, may be exceedingly close, and then charge us again for unhooking. The consequence is that instead of a bill which might range reasonably from \$300 or \$400, we end up with invoices for \$1,700 plus simply for getting the vehicle to a point where an assessor can look at it to start the process of repair.

The CHAIR: Do you think that is because government is viewed as a bit of a soft target—that government will always pay? If you are the government employee driving the car, you know that you are not on the hook for it at the end of the day, the government is, and you may perhaps be a little less—and the tow truck driver—it is a bit like buying a cake versus a wedding cake. As soon as add the word “wedding”, you pay three times the cost. Do you think that government is viewed as a bit of a soft target?

Mr Howe: I think where people know that it is government that may well be the issue, but I think the more fundamental issue in this instance is the tow trucks being aware of the insurers as the soft touch, because it is the insurers who have the responsibility to get the vehicle repaired and get it back to the consumer in a reasonable time frame and therefore they are under pressure to be able to do that. We have taken up a stance on occasions of challenging and renegotiating or refusing to pay these invoices. It has resulted in delays in getting vehicles repaired, which obviously inconveniences the user of the vehicle or the owner of the vehicle, and adds to the cost, but we feel that we need to try to push back against this practice. However, for commercial insurers there may not be the same incentive for doing the right thing, necessarily, and they may expediently simply say we will get the vehicle back by paying and the costs ultimately get passed on.

The CHAIR: It has come up in a general sense, but certainly was not something that the commercial insurers pushed to us as being a problem. It has been mentioned in passing in some evidence from some witnesses, but you are the first witness to make, from an insurer perspective, a substantial submission on this issue.

Mr Howe: I understand that. We did think carefully about making the submission given your terms of reference did identify that you were not inclined necessarily to look at tow trucks, but we felt that it was something that was worth raising here and perhaps that might prompt further action at a later point in time. Hence we made the submission. I do notice that others have raised the issue. Suncorp in their evidence last week, identified that they would support having some better regulation in the industry. We are aware that the lack of regulation in WA is unusual by comparison with the remainder of the states in Australia.

The CHAIR: How does it differ?

Mr Howe: There is no regulation of pricing, there is no fit and proper test for operators in the space. The regulation within WA focuses solely, as I understand it, on the actual mechanics and technical operation of the tow trucks—making sure that you have got a big enough truck to tow a particular weight of car and that type of thing. There are no controls, as far as I am aware, in relation to who can operate in that space, how they operate, what is required to be done in terms of the way those contracts are set in terms of charging, and, for that matter, the practices of whether in fact vehicles get taken straight to repairers or otherwise.

The CHAIR: How many incidences a year do you think that this particular issue affects you—the Insurance Commission?

Mr Howe: We are aware obviously of a number of incidences of the practice. Our concern is that we are a relatively small insurer from a vehicle perspective in the state. We only insure 16,500 vehicles. We know from our motor injury side of things that there are in fact somewhere north of two million registered vehicles in the state, so ours is only a very small proportion of it. We presume that the problem is quite a lot larger than what we are seeing.

Mr S.J. PRICE: Just in regards to the panel of assessors that you use, can you give a little bit more detail about where they come from and their experience or if you have any sort of requirement of them?

Mr Howe: We do, in that we have a panel of assessors and we run a tender for that from a procurement perspective on a reasonably regular basis. That assessors' panel was last tendered, I believe, around 18 months or two years ago. Each time we require, obviously, anybody who is going to be put onto the panel to be able to meet certain requirements around the quality of their staff, their qualifications, their capacity to be able to assess and monitor for us, and also to be able to operate and cover the areas that we need to. We have vehicles all over the state. We need to be

able to ensure that we can get a assessor job done up north west or way down in the south east just as much as we do in Perth. We currently have four firms on that panel. They all provide services on a regular basis. We share the work amongst them evenly.

Mr S.J. PRICE: Can you give some examples of the skill requirement or the level of expertise that is required of them such as they have to be a tradesperson out of the industry or something like that?

Mr Howe: I will take on notice perhaps identifying the specific requirements that we would include as requirements for those people, but ordinarily we would expect that these are qualified people, that firms that are providing the service obviously have to demonstrate to us their expertise and capacity to be able to provide expert staff to do the job in order to be able to get onto the panel.

Mr S.J. PRICE: In regards to, I think you said you use around 250 repairers across the State, or something like that?

Mr Howe: Yes. We do not have a preferred repairer panel, it is up to the agency that owns the vehicle to determine where a vehicle gets repaired. We will work with whoever the repairers are. The way we control whether or not the repairs are appropriately being done and priced is through the assessors identifying what repairs are required based on the damage, what that should cost and then authorising those repairs based on that.

The CHAIR: How would the agencies work out where to send their fleet of cars?

Mr Howe: That is up to them. It depends on the vehicle you are talking about. If it is just an employee driving a vehicle, it will probably get taken to the nearest repair yard to where the accident occurs. If it is managed through a fleet manager, who obviously looks after a lot of the vehicles, they may have particular people that they direct them to, particularly for specialist vehicles. If we are talking about a PTA bus, that is going to end up at a repairer who is capable of looking after those things.

The CHAIR: Do the agencies all have to go through RiskCover, or could they go to a Suncorp or an IAG?

Mr Howe: The arrangements for RiskCover, broadly speaking, are that state government entities are required to place their insurance—or, in fact, technically we offer self-insurance arrangements for government—through RiskCover, unless they are able to demonstrate a benefit not just to themselves but to the whole of government through opting out.

The CHAIR: How does RiskCover underwrite its risk? How does that work?

Mr Howe: We collect premiums and we manage that money in order to meet the liability. So the Insurance Commission across all of its insurance portfolios holds an investment portfolio of around \$5 billion, which obviously covers the liabilities that we have and ensures that we have adequate margin to be able to meet unexpected costs. We operate like any insurer would from the point of view of ensuring an appropriate solvency margin against the liabilities that we incur. Each of the agencies makes a contribution for their cover through RiskCover and that goes towards the cost of the claims that we incur.

The CHAIR: Are you a statutory authority? Are you a creature of statute?

Mr Howe: We are. Technically, we are a GTE—government trading enterprise, so we are 100%—

The CHAIR: Who is your administering Minister?

Mr Howe: The Treasurer.

The CHAIR: That is interesting. You learn something new every day in this job.

Mr Howe: If you are in one of the government vehicles and it is involved in an accident, we will be the people looking after the repairs.

The CHAIR: We had better treat Ben well, then!

Mr Howe: Yes, and try not to break them, please!

The CHAIR: We are trying to get a picture of the overall insurance market here. It seems RAC has about 40%, IAG about 20%, Suncorp about 20%. What, roughly, is your percentage of the market?

Mr Howe: We do not measure, or regularly address, actual market share as a statistic, so I would not want to commit to that but it would be a small single-figure share.

The CHAIR: Right. Who is the gap? We are trying to work out who else is out there. We have the big three—well, the big one and then the other two with their multiple brandings—but there is a gap there that we do not seem to be able to identify on the figures that we have in front of us.

Mr Howe: In my role I would have no information that will help you with that. In terms of my broader background, I would suggest looking at some of the smaller internet-based brands, and those type of things may account for those gaps.

The CHAIR: Okay. So there have been no obvious issues with the smash repairers working on your vehicles? There has been nothing noticeable in terms of defect rectification and remediation work?

Mr Howe: No. We do have occasions where a repair is not done perfectly and a complaint arises and it goes back and it gets fixed. It is not that everything is perfect but we do not have any concerns of systemic problems. We are comfortable that costs remain reasonably controlled. Our assessor panel has a regulating influence in how much we are paying and we, ordinarily, have been able to get vehicles back onto the road generally. The issues where we have had concerns that cause us to think twice have been largely in relation to the towing that is associated with those accidents rather than the repairs that followed.

The CHAIR: have you ever looked at or considered the savings that could be captured, potentially, by establishing some form of preferred repairer arrangement? Has the Insurance Commission ever given consideration to that?

Mr Howe: We do consider our business model on a reasonably regular basis. I could not commit to when the last time was that we looked at the current arrangements but the arrangements as they stand at the moment work reasonably well. Given our scale and the fact that we are insuring 16,500 vehicles, it sounds like a lot but in the grand scheme of things it is not that many. If you look at that with—I think I said around 2,000 repairs a year across 250 different providers, it is only 10 or so for each repairer. Obviously that is in average.

The reality is that there will be a few out in regional or remote areas that get one every couple of years and a number within the centre of Perth that are getting a lot of those cases every year, but it is unlikely that there will be material economic benefit to us to look at that. As a government provider, obviously trying to ensure that we are being equitable to all operators in the industry is something that is a consideration for us rather than necessarily favouring one particular provider.

The CHAIR: What about the insurance code of conduct? You have said that you have no direct relationship with it but do you have any observations as someone obviously with a significant stake in the industry on how it operates? And if you are not working within its bounds, how do you resolve any disputes around repairs?

Mr Howe: I am familiar, obviously, with the fact that it exists. As a State Government entity, we are not bound by the code. However, we would ordinarily expect that most of the repairers we are using would be operating with commercial insurers and in line with that code. I am not sure that I can comment on how well people adhere to that because we do not monitor it specifically. What we do look for, obviously, is if we find ourselves in disputes with repairers or with consumers, largely

because the vehicles are owned by agencies rather than by individuals and because, as I said, we have not really had any major issues around complaints on quality. I am not sure that I can help in any way in terms of how well the code is working or otherwise.

The CHAIR: That has been very helpful for us. It has been very interesting. Like I said, you learn something every day. It is always good.

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 very much.

Hearing concluded at 11.07 am
