



**TRANSCRIPT
OF PROCEEDINGS**

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PRODUCTIVITY COMMISSION

INQUIRY INTO SMASH REPAIR AND INSURANCE

MR R. FITZGERALD, Presiding Commissioner
MR C. RENDALL, Associate Commissioner

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON THURSDAY, 3 FEBRUARY 2005, AT 9.05 AM

Continued from 31/1/05 in Sydney

MR FITZGERALD: We'll commence the proceedings. I've just got a formal statement to read and then we'll have our first participants. Firstly, welcome to what is our second day of public hearings into the inquiry into the relationship between smash repairers and insurers industries. I'm Robert Fitzgerald, the presiding commissioner, and on my left is Curt Rendall who is the associate commissioner for the inquiry. We've had hearings in Sydney earlier this week and today we're taking submissions in Melbourne, obviously.

Before proceeding, let me just apologise for the inconvenience that my recent surgery and illness caused in delaying the inquiry. As I said in Sydney, I'm sure the inquiry wasn't the cause of my heart condition. Nevertheless, it has meant that the inquiry has been delayed and the government has agreed to an extension through to 31 March. So that means that the final report will go to the government on or before that date. Written submissions are required to be to the commission on or prior to 11 February. We will conduct these hearings as informally as possible but I would remind you and those that are presenting that the Commissions Act requires people to be truthful in their remarks. A transcript will be made of the proceedings and will be placed on the commission's web site as soon as possible.

I just want to appreciate those that have made submissions already and those that have participated. During the day it will not be possible to take questions from the floor. That will be mine and Curt's responsibility. However, at the end of the formal presentations anyone that is present here who wants to make a comment on the record can do so. In Sydney we had a couple of people who did that. The procedure is very simple. The participants are asked to make an opening statement and make the key points and then we have an opportunity to quiz and question those participants accordingly.

I just want to express my thanks to the staff and others for their work in the inquiry to date and also for preparing for the hearings that we're holding at this present time. So with those just brief introductory formal remarks I'd like to welcome the ACC. If you could just state your name and position in the organisation for the record.

MR JURKSCHAT: My name is Gunter Jurkschat. I'm the general manager of divisions and membership of the VACC.

MR HOWES: John Howes, a member of the body repair division of VACC and vice-chairman of the Australian Motor Body Repairers Association.

MR CURRY: Darren Curry, division manager of VACC for the body repair and towing industries.

MR FITZGERALD: Okay. Over to you.

MR JURKSCHAT: Okay. Thanks, commissioners. First of all, could I say I wear two hats today. I'm actually representing the Motor Trades Association of Australia and they've asked me to read out a statement on their behalf. Unfortunately, they could not attend today due to conflicting commitments. So if I just read this out to you and perhaps if you have any questions as a result of this statement we could deal with that first.

MR FITZGERALD: Yes.

MR JURKSCHAT: Then I could, I guess, put on my VACC helmet. Good morning and thank you for the opportunity to present to you today. As you are aware, the VACC will be providing a statement on behalf of the Motor Trade Association of Australia whose officers, unfortunately, are not able to present today, having an unavoidable engagement with a federal minister. Notwithstanding that, on behalf of the MTAA I would like to confirm the importance that it places on this inquiry. To that effect, MTAA has already tendered to the commission a supplementary submission on the commission's draft report. My brief statement will provide an overview of the key matters identified in the supplementary submission that MTAA believes the commission should further address to ensure real improvements in the relationship between smash repairers and insurers.

In principle, MTAA is pleased with the preliminary findings of the Productivity Commission's inquiry as they support the arguments presented in our original submission. In particular, there are problems and difficulties plaguing the relationship between insurers and smash repairers. While the association considers the approach the commission has taken to be positive, it believes that the commission should strengthen its draft recommendations in a number of areas in order to ensure a robust framework for improving the relationship between insurers and smash repairers.

The key matters that MTAA would like the commission to strengthen are as follows. MTAA believes that every insurer operating a PSR scheme should make public their specific criteria for selection of PSRs. This will improve the transparency of the operation of the PSR schemes. MTAA disagrees with the commission's preliminary findings about consumer choice and reiterates its position that consumer choice of the repairer should be mandated to ensure stability in the structure of the market and the value of individual smash repair businesses. Furthermore, if this is not acceptable to the commission, a reduction in the policy premiums to reflect the removal of choice by some insurers over the past decade should be required.

On the voluntary industry-wide code of conduct MTAA believes that a deadline for the finalisation of negotiations should be 30 September 2005 with a commencement date of 1 January 2006. Otherwise, a code should be mandated. On the matters that should be included in a code of conduct MTAA believes that the following things should be included. (1) the code should include provisions relating to the time frame repairers are given to consider PSR contracts and provision for a cooling-off period. (2) insurers should be required by the code to disclose in plain English to both repairers and consumers their respective policies on the types of parts that are to be used in repair work. (3) choice of repairer should be mandated and product disclosure statements relating to the repair and claims process be presented in plain English. (4) the code should mandate that all insurers disclose to repairers their payment arrangements. (5) there should be a dispute resolution process for smash repairers and insurers that provides a mechanism for the timely and costly effective resolution of disputes between insurers and repairers. A dispute resolution model has already been presented to the commission in the MTAA's original submission.

In conclusion, a voluntary, industry-wide code of conduct would improve the operation of a code and strengthen the relationship between insurers and repairers to the benefit of consumers. The association would like to reaffirm the necessity for a robust disputes resolution process to govern the relationship between insurers and smash repairers and that the commission should acknowledge in its report and findings the imbalance of market power between the large insurers and the small smash repairers. This distinct imbalance places repairers at a disadvantage in their dealings with insurers regarding all facets of their business relationships, making it difficult for an individual repairer to seek to address these concerns with insurance companies as insurance companies often control the future of the repairer business. Mr Chairman, my colleagues and I are happy to take answers and any questions you may have, to stick to the script there.

MR FITZGERALD: Thanks. We've received there a written submission from the MTAA from Michael Delaney. A number of the issues you'll canvass as well as in your capacity as the VACC. Just one issue, if I might. The choice of repairer and the mandating of that, I note the comments by the MTAA in relation to that but it strikes us that one of the reasons why an industry code has not been able to be achieved to date centres around that particular issue. I was just wondering whether or not there is merit in pursuing that particular claim for mandated choice of repairer in respect of a voluntary code.

MR JURKSCHAT: Well, it's a bit hard to sort of answer just for the MTAA because the VACC has a very strong position on this.

MR FITZGERALD: And we probably won't raise many questions and let you go

straight through to the VACC.

MR JURKSCHAT: Look, we think mandatory choice is fundamental because there's more to it than just simply whether a consumer has choice or not. The issue of choice comes down to the issue of market power as well, and it's the belief of the association that the only thing that's keeping some sort of counterbalance against the insurers from taking total control over this process is the fact that consumers have choice. I think the commission needs to understand that if you remove choice and the insurers determine to strengthen the PSR arrangements there is virtually monopoly power for some of the really big insurers. If you've got 55 per cent market share and there is no choice for the consumer and you can dictate, that's monopoly power in our terms, and therefore you make monopoly profits. And it's something we wanted to say as the VACC, that choice has a much more central role to this whole issue of relationship between insurers and repairers than simply the notion that consumers must have a fundamental right of choice.

MR RENDALL: Can I just say at the real coalface of this choice issue, if an insurer insures my car and I say, "I want Fred and Bill Smash Repairs to repair, and only Fred and Bill's," and then Fred and Bill can't agree or the insurance company who is getting the bill for my repair cannot agree as to pricing, what happens at that point, where I have the absolute choice to choose.

MR JURKSCHAT: I don't think we've actually found that position.

MR RENDALL: Can I just supplementarily add, has that occurred? Does it at the coalface become a real issue?

MR JURKSCHAT: I'm not a repairer and I'm sure there might be some repairers who want to answer to that, but I think we've not come across the situation where that's happened because in the end an arrangement always seems to be made between the assessor and the insurer. We don't know of any situation where they've been so far apart they can't come to an agreement and I think that is the other issue. It's not as though the insurance company doesn't have a role to play when there's choice. In fact they still have a role to play and we have companies like Allianz who have their particular method where there is a very involved process. So I think for us that's not a problem, we don't see that as a problem because it just simply doesn't raise its head often enough. Did you want to comment on that, John?

MR HOWES: Curt, if you're with a number of insurers, you wouldn't have the choice and you would not be able to demand that that repairer do your vehicle. The AMI system doesn't allow it, the IAG system doesn't allow it in other states and will come here. So your choice is not there. With the IAG system and the two-tier policy, that will inevitably relieve that situation occurring as well. In regards to

repairers, if you like, holding the insurer to ransom, I think if it does happen there are ways in which the insurer can deal with that, particularly if they are members of the Body Repair Division of the VACC and with MTAA but they haven't come to us on any of those issues and I can't speak on the incidents. I don't think it occurs very often at all.

MR FITZGERALD: It's been put to us during the inquiry that really what's occurred is that a decade or so ago this was an industry controlled by the repairers and that was largely because of unrestricted choice by the consumer and their relationship with the repairer and we've now moved, some would say, to a situation where it's an industry controlled by the insurers. So we've gone from one extreme to another. In some senses what we're trying to find is a balance or the commission have been trying to find a balance. Do you think it's a fair characterisation that that's what's been occurring?

MR HOWES: Yes, and I think there's probably, in some ways, a justification by the insurers from the action that they have done in that regard, but the real progress from the insurer's point of view in controlling the market has been this fundamental change of directing the customer, the insured, to their repair network. It was developed by AAMI; they went through a series of processes and changes and that has got to the stage where there is no choice. They can ask, but that word "choice" has been misused very, very adroitly in their advertising "you have choice" but if it's not competitive and if the quote is not complete, that's it, and there are so many ways in which they can rot that system and have done for a considerable number of years.

MR JURKSCHAT: But there definitely has been a swing of the pendulum and you can only see that in Victoria because up until IAG was allowed to take over CGU I think the market was predominantly skewed towards offering choice and I think only AAMI were pretty strict on no choice. Since the takeover of CGU and particularly now that IAG has implemented its particular policies they haven't all filtered through to Victoria, but they're using other techniques and we all know it's the steering technique. So in essence the market has probably moved from a situation where five years ago or four years ago there as only 25 per cent of people didn't have choice and 75 did, and it's going to be around the other way because when realise that IAG have got somewhere around about 55 per cent in this stake and AAMI about 20 to 25 per cent you start to understand what the problems are within Victoria and, as I said, people are going to hammer that pretty hard later on when we get to it.

MR HOWES: Could I just add to that please that do not forget the RACV which is also IAG-controlled. They have changed the manner in which they are operating and that's another significant sector of the market it's directing.

MR FITZGERALD: But just one comment there, if you mandate choice and one

has to try to work out what choice means, is it unrestricted or has it got some qualifications, don't you swing the pendulum back to a decade ago?

MR HOWES: Could I answer that, please. I believe we're going to go back to the situation where Curt was saying where the repairer is trying to stand over the insurer and if we get the code into place with a disputes resolution procedure in there, which I believe would be self-funding, they would have the ability to refer it back to the tribunal who would appoint an independent person to arbitrate and if the repairer is wrong, he cops the bill for the arbitration and that will be the job and that will be the way it's completed. I think that's the balance.

MR JURKSCHAT: I think there's another issue too. When we request mandated choice, we also acknowledge that choice of a valet system is part of that. So we're not suggesting in any way that by offering mandated choice the insurers are not allowed to run a valet system. The only thing we would say, that if mandated choice is brought in that there be some strict rules about steering, whether they're direct or indirect or overt or covert, any steering should be prohibited, I guess.

So the consumer rings up and says, "I've had an accident," and the insurer might say, "Well, do you want us to look after it?" "Yes, I'm just not interested." We think that's a legitimate choice. But if the consumer says, "Yes, I want my own repairer," that should be the end of the conversation. We've never said - the VACC - and I don't think any of its cousins in the other states has ever said that the valet system should be disbanded.

MR RENDALL: The evidence from the consumer seems to be that they don't really want choice in the last - - -

MR JURKSCHAT: You're going to blow my presentation apart here but anyway, I think there are some anomalies, and I was very interested to listen in on Monday. We have the two insurers who have a vested interest in not allowing choice - IAG and AAMI - telling us that only 5 per cent of consumers are really interested in choice. Yet on the other side of the coin we had two insurers - Allianz and Suncorp who give unfettered choice - saying, "When consumers really have the choice, somewhere between 40 and 60 per cent opt for that option."

Now, our argument is, the reason some of these larger companies have such small statistics is because of the way they go about marketing, steering, disguising the issue of choice. So I think the real answer here is you've got a fantastic example: two companies, albeit they're - could I use the word "minnows" - they probably wouldn't like me using that word but in terms of market share - who are offering choice are getting 40 to 60 per cent of consumers electing for that. That statistic should not be forgotten. We're saying that the other two insurers, their 5 per cent is

very, very heavily skewed due to a whole raft of other factors.

MR RENDALL: But as a 40 to 60 per cent with them, are the people going to them in the first instance because they know they can get that choice? Do you know what I mean?

MR JURKSCHAT: Perhaps but, I mean, then that's the argument for the others. Choice will not destroy their valet systems or their PSR networks, and if they're good enough - and they keep telling us how wonderful these services are - people will continue to use the valet service as against using full choice.

MR FITZGERALD: I guess we should say, according to our figures, Suncorp and Allianz have about 30 per cent of the market, so I'm sure they wouldn't appreciate your comment that they're minnows. That does mean that the other two groups, AAMI and IAG, have about 70 per cent of the markets, be that as it may. But I think what we might do is let you know go into your own presentation. I'm sure you're more comfortable doing that.

MR JURKSCHAT: Yes, I'm not good at reading other people's documents. Again, the VACC is obviously thankful for having the opportunity to present here today. We like the others would like to commend the commission for the manner in which they have been able to assess and identify the problems within this industry in such a short and compressed time period. It's an industry that is full of complexities and judging by the draft recommendations we think you've been able to get below the surface.

Notwithstanding that, even though we do agree with many of your recommendations, inevitably there are some that we don't. The purpose of our presentation here today really is to focus on those areas where we perhaps would like to influence or flesh out areas that may or may not help you reconsider your situation. We're not going to pursue arguments we've already put in areas where we've agreed. I think also we need to say that we are representing Victoria here today and a lot of our comments will be Victorian specific, and hence my comment about minnows. I do apologise to those insurance companies. I think Allianz here only has 9 per cent, so I could be wrong. As such, a lot of our comment and our submission and this supplementary submission and today will focus quite heavily on the activities of IAG and AAMI simply because in this state, according to our members, they're the two companies that are presenting us with, I guess, policies and initiatives that are causing the most issues. So we're not trying to beat them up, it just reflects the reality of our marketplace.

VACC would really therefore just want to comment on a number of areas: one would be rationalisation, the other is market power. We want to make some

comments on the preferred smash repairer schemes; a few comments under the financial and commercial relationships; quite a bit to say on consumer choice and some comments on the code of conduct and disputes resolution. If we go to rationalisation first. VACC has always recognised the fact that this industry will rationalise, as all industries will rationalise. People come and people go. But the point that we want to make is that this rationalisation should take place due to normal economic factors that occur in a competitive market.

To this end, VACC doesn't necessarily agree with the commission's view that insurers have some sort of direct role to play in this rationalisation process. From our point of view the insurer's role in this process is simply to ensure that the market is formed in such a manner that assists their business models. It's too sensitive in the way they're going about it - to personalities, to special interest, to doing things the way they want to do. We believe that there's a vibrant market out there and that a vibrant market should be rationalised due to the normal economic factors.

The simple thing is that who enters this industry and who exits this industry should be determined on the individual repairer's performance. If they have the ability to perform quality repairs, if they are productive, if they are efficient, if they have good customer service, they should be allowed to remain in the industry. The fact that they don't have a PSR agreement, or they don't get on well with the head assessor, all those sorts of things, should not be a determinant of who stays and who leaves this industry. We're very strong about that. So what we're saying is, let's not restructure an industry based on restrictive practices of insurers or preferred practices of insurers to feather their own business models. Let's have a vibrant industry, and a vibrant industry needs more players.

I'd like to get on to market power. The commission recognised in its report that a substantial amount - I think 99 per cent of the business - is done by four insurers or thereabouts. The point the VACC would like to make is that within that market share there are huge disparities between insurers. In Victoria alone we see - and in fact the two most popular states, New South Wales and Victoria - and South Australia, IAG has somewhere between - well Victoria, I can talk about that - somewhere around about 50 or 55 per cent of the market. AAMI has 20 to 25 and I'm sure they'll correct me if I'm wrong. The next one, as we understand it, is Allianz that has 9 per cent. Now, that is a huge disparity of market share and we all know that market share means market power and it shouldn't sort of elude the commission that the two - in Victoria anyway - the two organisations that are offering choice are the two smaller organisations in terms of market share. So they're up against it. So we're very concerned that for some reason this concentration of power has seemed to be ignored. Even though over all it looks pretty good, in Victoria it is a huge discrepancy and to be absolutely blunt there isn't anybody at the moment who can challenge the IAG. They are a juggernaut, and if they are allowed to control choice,

they will be an unstoppable juggernaut and that's a very real concern for us, and we'll get on to that a bit later. There's also an issue with this concentration of market power. It also allows for, I guess, the concentration of repairers and the fewer you have in the business, the more it is about control. When you have 55 per cent of the market place and you then control a very select group of repairers, it's a very unhealthy situation.

If we just move on to the preferred smash repair arrangements. I think the very first thing that we need to say is that the VACC has always recognised there is a place for PSRs in the crash repair system. As we have acknowledged, there is a place for valet-type services. However, the VACC steadfastly maintains that the repairers who have PSR status are not necessarily superior in any way to those repairers who have non-PSR status. In many respects it's an act of God who they choose and who they don't choose. But certainly their overall business practices; their efficiency; their quality; there is absolutely no proof that PSRs are in any way superior.

Perhaps this would be a good time to debunk that particular myth, by some of the insurers anyway, that the PSR schemes have in some magical way improved efficiencies and improved quality of repairs, reduced the cost of repairs, stamped out corruption and illegal activities, reduced premiums and created economic value. There is absolutely no proof; we've heard nothing, we've read nothing, we've just heard some views, I guess. We see nothing and the repairers can't show us anything, that these schemes have in fact achieved all of that. In fact if you really look at the PSR schemes, and perhaps I should say, in the past we would acknowledge that perhaps the PSR schemes had some pretty lofty ideas and they may well have initiated some of this. But the way the PSR schemes are managed today is all about control.

The lofty ideas, they're not set above anybody else and in fact I was interested to hear one of the insurance representatives on Monday trying to claim that PSR schemes have added economic value. Well, when you really look at it, the best that they've done is transfer economic value from small business to large insurer shareholders. The worst they've done is destroyed economic value. Good, efficient, profitable, effective insurers have either been forced out of the business or been screwed so hard that they are now borrowing money to stay in business whilst the insurers rush off to meet their 15 and 20 per cent return on capital targets that they've promised their shareholders, whereas the body repairers in this room or anywhere else, they would be lucky to be making a positive return on their capital investment, let alone double digit figures.

If we get hold of the information, you would probably find that many of them are funding their operations through increasing overdrafts and I think the commission

was made aware of that on Monday. So this is not creating economic value, this is destroying it and what better way to destroy it than to encourage a repairer to invest hundreds of thousands of dollars in a business on a one-year contract and then pull the plug and he's ended up with a business that is over-capitalised and over-specked and over everything else. So let's not fall for that trap that PSRs create economic value.

If we go back to the commission's draft recommendations and there are a couple of points we just want to talk about. One is, with respect to the PSRs, we are concerned about the restrictive numbers and the concentration of the PSRs within those restrictive numbers. Whilst we accept there is a place for PSRs, this concentration concerns us. If IAG are successful in convincing the CA with regard to this premium for choice project, we will see a distinct turnaround in the number of PSRs versus their ASRs and I think the commission is aware of the ASRs. Currently, I think, they have a 105 PSRs and something like 500 ASRs and that's because there are still people out there who have choice in this state.

If that system came in of premium for choice there would be a significant increase in PSRs, but there would be a disproportionate decrease in ASRs. Now, we can't pick the numbers, but you can rest assured that if you've got 500 ASRs, you're not going to end up with 500 PSRs. So we see this as a real big problem in Victoria and again it's this restructuring of the industry to suit the business model.

MR RENDALL: Sorry, can you just say that again. I think I follow it.

MR JURKSCHAT: Okay. Currently in Victoria - - -

MR RENDALL: The choice under the, say, IAGs - - -

MR JURKSCHAT: At the moment under IAG in this state with their subsidiaries there is an element of choice still available, hence they have a relatively small PSR network, around about 105 - - -

MR RENDALL: 105, yes, or 550.

MR JURKSCHAT: - - - I think, it is, but they have a fairly extensive ASR network - - -

MR RENDALL: Yes.

MR JURKSCHAT: - - - who have some restrictions, but in fact they can do the work.

MR RENDALL: You're saying if they bring that choice - policy in - - -

MR JURKSCHAT: If they bring their policy in - - -

MR RENDALL: - - - that extra 60 bucks - - -

MR JURKSCHAT: - - - therefore people say unwittingly, "I don't want choice." More and more work that is currently going to the ASRs will now be driven to the PSRs, therefore you will need more PRSs, but you'll disproportionately less ASRs because that's the whole of the purpose. So we're very concerned about that, that's a restructuring of the industry to suit really what is their supply chain business model. Everybody knows what they're doing, they're trying to model Coles and Woollies and all of those places.

MR RENDALL: Yes. No, I understand.

MR JURKSCHAT: The other issue is this concentration and we're concerned for those crash repairers who become part of the PSR network and once they're dependent one hundred per cent on somebody for all of their work, they have very few rights of negotiation and we will talk about negotiation power as well. So that's another concern and the other concern is, if you keep cutting away at the number of crash repairers that are available out there, there's 25 per cent of people who have private work done, insurer work, I think the statistics show, was about 75 per cent, so all of a sudden people who have private work done will find it harder to find a repairer to do that work and the costs will rise on the simple supply and demand scenario.

So you will be waiting three and four weeks to have your little \$600 job done and you will paying whatever the repairer can get out of you because there aren't many around any more and we're finding that in the British scenario where there is an under supply of repairers and people are waiting two and three weeks to get their work done. That's what we are facing if this is allowed and hence I keep making the point, choice has a much bigger impact in this whole debate than simply consumer right and I'll keep stressing that point until you tell me to stop. So we need to consider that whole rationalisation which will come about when 70 per cent of the Victorian market, the consumers don't have a choice and get directed to PSRs.

I'd just like to comment on the short trial period that the commission suggested which we're heartened by. We do, though, have a couple of concerns. The first one is what constitutes a short time period and the commission didn't necessarily stipulate that, and this is of course the trial period from where a new person buys the business. We believe that should be six months to have any benefit at all. The second issue is that the way the commission's recommendation reads, it tends to read that once the

insurer has allowed the person to be there for six months, they can just pull the chain and away they go. Our argument would be that when the incoming repairer has his trial period, he or she should be bound by the same terms and conditions as the PSR contracts that exist.

The performance clauses are clearly laid out in that contract. The incoming person clearly understands what he has to do and how he will be measured and therefore there should be no arbitrary plug pulling after six months; only if that new repairer hasn't been able to meet the performance standards should that happen and that process should be very open and transparent. Now, unless we have a longer or a six months time period, it's not fair on the person who is selling the business and it's not fair on the person who is buying the business. The person who is buying the business needs that time to understand what is going on, what the system does, how it works and gives him or her every chance to ensure that they can meet the requirements and continue with the arrangement. So if we could suggest to the commission that six months would be the appropriate time and that the review of that person's performance should be open and transparent.

We'd like to touch on this issue of what we call duty of care. The commission made a draft recommendation which we applaud, that if an insurer specifies the method of repair, the insurer should take responsibility for that and we heartily support that. However, we are concerned that this practice may not be enforceable unless this whole process is done in writing, and what we're suggesting is that at the time of the repair method being approved, the insurer or the insurer's agent or the insurer's representative, where they've directed and dictated that certain parts will go here and certain repair methods will go there which are contrary to ones suggested by the repairer, that that should be signed off or documented. It's not an expensive or time consuming process, it's simply somebody's signature that says, "You will do it this way and we told you to do it."

We are concerned that if under duty of care laws, that if something did happen untoward as regard an improper repair method, right, we're not talking about bad workmanship here, improper repair method, the court would more than likely hold the repairer responsible because of their perceived expertise. The only way we see that we can get around that is by insisting that where the method of repair is changed on every occasion, the insurer take full responsibility by identifying the repairer in writing. It may not get the repairer out of trouble, but at least it's a start and we don't think that's an onerous - and we'd be asking for that to be put in the code and we'll be talking about that later.

The next matter is licensing. I guess we'd encourage the commission to review its perhaps non-committal stance on licensing. The VACC certainly believes that a licensing regime could only do good to this industry, particularly as this industry is

becoming more complex, the repairs are becoming more complex, more involved, the level of skills required, a whole raft of those sorts of issues points towards the need for licensing and I think it's worth noting that we don't often agree on much, but I think on this particular issue the insurers, the associations and the repairers all agree there should be licensing and you don't often get those three people in one room agreeing on anything.

So we would argue that the licensing of the crash repair industry has potential to greatly assist all parties, particular the consumers, and there is a need to ensure that premises that claim they can repair motor vehicles can in fact do so.

MR HOWES: And compliance.

MR JURKSCHAT: I was just about to get onto the compliance issue. There is a whole raft of compliance issues that are involved; OH and S, EPA, all the sort of things where people can take shortcuts. It is important that we have an industry that the consumer can trust and have faith in. Yes, we're not against probity checks as such. We do not believe for one minute there's this endemic criminal element that the insurers have tried to insist - or some insurers. There wouldn't be any more criminal element in our business than there would be in the white collar business or the construction business but we do understand there may be a need for probity checks.

We would ask that probity checks be expanded to include financial viability, because one of the things that does worry the VACC is the number of repairers who go broke today and reincarnate themselves tomorrow and continue to do business. We think there should be something that takes those sort of people out of this industry, because all they're doing is changing names and changing faces and leaving a trail of debts that other businesses have to carry. So we would accept and encourage some sort of probity checks but let's not get too hung up about this criminality thing, though we recognise there is always a bad apple in the barrel.

Our views on licensing also include the licensing of assessors. We've read and heard quite a bit how insurance assessors go to all sorts of training courses, et cetera. But there's a difference between going to a training course and actually physically repairing a vehicle. You may have the most sophisticated research centre in the southern hemisphere and you may advise manufacturers how they should change their motor vehicles but it's the repairer who really has to understand and really understands how that motor vehicle is repaired. We think that some of the assessors are losing touch with practicality and I think some of the insurers last Monday tended to agree that perhaps they're not right on the money when it comes to processes.

While we're on that, VACC made a comment in its original submission about

access to intellectual property. We note that the commission didn't really make any comment on that and I think that's probably another area where the three parties I've mentioned before would agree. VACC in particular - and we know MTAA - have tried extremely hard to engage the manufacturers in giving us appropriate information on methods of repair and all the bits that go with it, like glues and welding and whatever.

I have to say that it's a very convoluted response. They all say they will help us but we actually haven't seen too much in concrete, though one or two of them are trying. We really believe there's an area there for the commission to perhaps be a little bit more on the front foot. You cannot repair a modern car correctly and ensure its safety status - with all its electronic gizmos and its crumple rates and its fancy glues - unless you fully understand how it's to be done. Now, we think the manufacturers have been far too precious about this and they don't understand that this is very important to all repairers and this whole industry, and we would ask perhaps if the commission could find time to make some comment, and of course there's always consumer safety. We acknowledge in the scope of the original inquiry the commission really wasn't asked to look at licensing, but we do think it's within your purview to perhaps suggest that it could be looked at in more detail and more thoroughly and even by an industry group perhaps, so that would be our recommendation then.

If I could go to the quotation system, and I'm actually really sitting here in fear and trepidation to talk about the quotation system. We've heard a lot about the quotation system and one thing I've gathered is that there's no commonality here, so I feel for the commission and how it's going to make some sort of recommendation. VACC would agree that the current practice of funny money and funny times is perhaps not conducive to having an open and transparent quotation system. Notwithstanding that, I think it should be acknowledged that there are many crash repairers, assessors, independent assessors and even insurers who see this as the only way to go forward, even with its flaws. It has been the practice in this industry for so long that there's some fear and trepidation about moving away from it because nobody really understands what will happen. To some of us, we don't think it will be any different; it will be just another version of funny times and funny money, but anyway.

On the other hand, you've got quite a few of our members and industry participants who want to go to real time, real money, which I guess has its merit. We're not going to talk about money because that's a separate argument but certainly we see some merit in a nationally agreed times guide that has real times, because when you look at it, any quotation system that involves labour has to have a time component. So to work up a quote, even to get to your bottom single line one number, you have to start somewhere. So time is a reference point for many

insurers. Some of them take the guide as gospel; that's their problem. If you're a repairer and the guide says four hours and you know you can do it in three, if you want to put four hours in and lose the quote, that's up to you.

We're not talking about that. We're saying everybody needs a reference point sometime to work up a quote, and perhaps a nationally agreed times guide would be an appropriate start, no matter what the outcome is. To be absolutely truthful, VACC's real concern is that no matter what quotation system you have in place, if it's heavily prescribed it will be open to abuse. You'll just have another version of funny money, funny times. What we're really concerned with is some fundamental principles and we think these principles should apply irrespective of what methodology is used.

The first principle is the system must be genuinely open and transparent. The second point is if you are in a two-quote situation that this quote should be costed on a like for like basis; not almost on a like for like basis but a real like for like basis. The commission happened to be with us at a repairer on a particular day here in Melbourne where there was a quote from - it was a AAMI quote, we don't mind talking about cousins here. They have a policy of open form and all that sort of thing, it's in their lovely book. But actually we all witnessed as lay people, there was a very clear panel damage that was not on the quote. That's not open and transparent, that's not like for like. So we're saying the system must be like for like. It's certainly not fully complete, whatever the terminology they use. So let's have a system that's open and transparent and let's have it based on a two-quote basis of like for like.

Our third point is that we agree with the commission that materials should be costed separately. It shouldn't be buried in some sort of hourly rate. The other point we want to make is that the winning quote should be exactly that; the winning quote. It shouldn't be a point for the insurers to start negotiating the quote down. If you have a two-quote system and the winning quote is whatever dollar it is, that should not be - provided the scope of works have been agreed, which they would have been if it's like for like, there should be absolutely no availability for insurers to say, "Right, now take 15 per cent off that." It should not be allowed. The winning quote should be the winning quote.

I guess the only other point we want to make is a general one. With a move, I guess, towards all these electronic quoting systems and whatever, there is a fear within the industry that if everybody embarks on a different system and you're doing work for more than one insurer and you've got a lot of expensive quotations sitting there, and there is a fear that each insurer will select a particular system and say, "You will have to use this system," we think there should be some sort of commonality and there shouldn't be an ability for insurers to simply say, "We prefer this one. You will use this one," particularly for those people who are doing more

than one insurer, and particularly if we have unfettered choice because then you're doing work for everybody.

MR FITZGERALD: Obviously we have a number of questions around a number of issues you've raised. Just in order to do that, if we can just sort of run through your key points in the next couple of minutes and then we can have a discussion around a range of issues you've just raised.

MR JURKSCHAT: Okay. The other key point is one of negotiation power. The commission has raised the issue of negotiated outcomes on a number of occasions in their report. We're simply saying there is an absolute huge imbalance in the ability to negotiate. If you've got 55 per cent of the market share you've certainly got a lot of market power; as an individual repairer, no negotiating power at all. That in fact is manifested in the hourly rate in the way that insurers have asked repairers to do things for no money, you know. They have introduced direct sublets and there's no administration fee for doing all the work. There's no negotiation. We don't see any ability for repairers to negotiate. We even think that if the Dawson review recommendations come in and give us collective bargaining that the market power of somebody like IAG is so huge that they would be able to divide and conquer and quite easily get around any collective bargaining arrangements, because there will always be a willing person out there who will want to fall outside that and do something. That's been proven in the oil industry. I mean, there's a huge history in all this.

So what we're saying is there needs to be something to redress this imbalance of market power in negotiations. We actually think choice is one of those mechanisms, because if a consumer can go to his own repairer it tends to take away some of that power. But the other thing is, how are we going to provide a structure where you can have a fair, reasonable and balanced outcome? At the moment it's non-existent. Even a disputes resolution which will be helpful may not solve some of those problems. Terms of payment - we're not going to say too much other than to say if it hadn't have been for an active public campaign we doubt very much where some of the insurers would fall into place. They were very thankful they have. Our only request would be that the terms and conditions of insurers should be in a code; not the days, but simply they should be obliged to advise their repairers what their terms and conditions of payment are.

Choice - look, I could probably speak for three hours on choice but I'll try and make it as succinct as possible. The commission recognise that consumers have restricted choice. We would argue that it's really heavily restricted. The thing that stops consumers from choosing and from moving around, there's a whole raft of techniques, I think. Perhaps most important is the issue of transitivity and that is, consumers do not know what's in their insurance policy, let alone what's in

everybody else's. So it's very hard for a consumer to really make an informed choice. The other issue of course is that most are working on the premise that, "I'm not going to have an accident this year," and therefore all the other terms of the policy are irrelevant. The only one that counts is price.

There is a thing called brand loyalty and there is an unwillingness by consumers to change. These are all proven things. The insurers work on all those things. That's fine, that's allowable. There's also something that we would call institutional reliance. It's amazing how many people rely on their big corporation to tell them what they need to know. In fact we're a bit conditioned by that because of the finance industry. When a credit card company changes your terms and conditions or your interest rate, you get a special letter, or it's inserted in with your monthly statement that says, "Hey, we have changed this." Unfortunately insurers don't do that. But consumers rely on them to do it because they get it in other areas. So there is this institutional reliance which I think is played upon.

Consumers are time poor. They haven't got time to read all these documents. If the premium is pretty rough to last year's, let's tick it and go. I think the main thing though is the clever and deliberate marketing techniques. The big insurers are doing everything possible to keep choice in the background, hidden under the carpet and out of the consumer's eyes, and if you look at some of their product disclosure statements you can actually see what they're trying to do. If I take AAMI's current PDS, which I think is this one, and this is AAMI who constantly tell you that the valet system is the best thing since sliced bread and that very few consumers seek choice, yet they're still not confident enough about this because they put their bit on choice on page 36 and I think it's only got 39 pages in it. But even more so they disguise the real meaning in weasel speak, they're not even game enough to say, "You do not have choice, and in fact AAMI doesn't really want to do business with you if you want choice."

So there's this clever campaign that's been going on and I'd like to contrast that to the same document. AAMI have, from our point of view, a very good policy on parts. They want OEM parts for vehicles that are three years old and less which we think is admirable, that's on page 12 but it's in big bold writing. So there's an orchestrated campaign to keep choice off the front pages. Those of you that can remember Malcolm Fraser, he wanted politics on the back page, well that's what they've done here. So we have to understand exactly what is going on, consumers are not aware of their choice options and we will speak a bit more about it later.

I just want to remind the commission that the Consumer Federation of Australia in fact also at the round tables expressed concern about the words and the design of the brochures that remove choice. A lot has been said about unfettered choice ramping up costs. We disagree with that entirely. The fact of the matter is that every job with

an insurer is assessed if it's not done by a PSR, so the insurers have full control over costs and there's no real evidence to that extent. I'm not sure whether you going to ask me about the IAG proposal, but you obviously want me to rush around it.

MR FITZGERALD: We've got your submission and I do want to raise some questions. We're running just a few minutes - we've still got plenty of time for that, but I do want to start to ask some questions and if you don't mind we might do that just at the moment. You've raised a range of issues and I just want to flag a couple if I can, and Curt will as well. You indicated before and correct me if I'm wrong, but 25 per cent of repair work is private work.

MR JURKSCHAT: That was in the - - -

MR FITZGERALD: Yes, and if you look at that, 25 per cent of the repair work is private work. Currently, if you take the IAG statement that 80 per cent of the - they believe that if their policies are successful, about 80 per cent of the work will be on a no-choice basis leaving 20 per cent that will be and you've got 30 per cent of the market at the present time through Suncorp and through Allianz whose policies are to provide, we heard on Monday, unrestricted choice.

My calculation roughly is more than 50 per cent of all repair work is in fact not directed and unless Allianz and Suncorp change their position, that remains the case. So would you agree that around 50 per cent of the market, already 50 per cent of the repair market, is in fact not subject to direction and won't be even if AIG's proposals are correct or a proposition that 80 per cent of their customers would in fact chose a no-choice basis. So I just want to say that in fact the market is not as stark in the sense of, you know, the whole market is now being pushed to a no-choice basis.

MR JURKSCHAT: I think I have to make a distinction there and I'm not sure whether you're talking aggregate nationally or whether you are talking Victoria.

MR FITZGERALD: Aggregate nationally, just roughly. I mean, we haven't done the full calculation, but just on the rough statement, the market is not moving to one hundred per cent no choice and when I say - I mean, the repair market.

MR JURKSCHAT: I guess we are talking a before and after. IAG, I think, on Monday, indicated they thought their current take-up rate of premium for choice is 5 per cent. I think that's what they said.

MR FITZGERALD: Yes.

MR JURKSCHAT: I would agree that at the moment the choice may be 50-50 because this policy has not been presented right throughout Australia and it has only

just been rolled out. So you won't see the full effect of this for at least 12 to 18 months - - -

MR FITZGERALD: True.

MR JURKSCHAT: - - - because renewal dates happen every day. What we can say, that if the statistics remain and we're talking now Victoria where if 5 per cent of IAG's consumers choose the premium, substantially less than 50 per cent of people in this state will have choice and it's very - you know, I don't want to be provocative, I guess, but it's sometimes dangerous to average things out because you can drown in a two-inch bathtub, type of thing.

MR FITZGERALD: Sure.

MR JURKSCHAT: So we have to understand what it means. I think in New South Wales and Victoria and South Australia this has very, very severe implications for choice, it won't be 50 per cent at all.

MR FITZGERALD: Let me just clarify a couple of things. The ACCC indicated to us that out of the round tables in 2002-2003 (tape malfunction) Now, some people have disputed that, but I'd like to see your take on that because when we met with the ACCC they were very clear that the repairers had in fact challenged the insurers to say, "If you were so confident that consumers in fact don't want choice, try it out with the premium." IAG would say to us that's exactly what they've done. Now, I'd just like your take on that?

MR JURKSCHAT: We heard that and we went scurrying looking for - we honestly cannot find where that came from, that's not to say somebody didn't say it, but I think that was two years ago now. Certainly VACC's position has never been one that you would pay for choice because we see it as a fundamental consumer right and if it was said, I would have to say that things that have happened in the last two years, particularly the way things have come out through - I've got to talk about IAG, 50 per cent market share, their supply management techniques where they are now dictating who will supply you parts, who will do this, who will do that, where you can make a margin, where you can't. We now see that choice is much more fundamental to the whole issue of competition than it simply is to consumer rights, so I can't make a definitive statement.

MR FITZGERALD: No, that's fine, I just wanted to - - -

MR HOWES: Could I give a bit of an answer to this too, please?

MR FITZGERALD: Sure.

MR HOWES: You're probably aware and if you're not you will be now, but the IAG system that they have a habit of trialing, and the scope of works digital imaging was trialed in Brisbane where they have less than 10 per cent of the market, taken to Western Australia and South Australia and has now been introduced. So what is happening in that state now is that those vehicles are going to their repair accident centres or whatever they call them, they are digital imaged and not a definitive scope of works is produced, repair and replace left-hand front guard, for example. The images and the scope of works is put on the net and the only repairers who can quote those vehicles and have the ability of quoting those vehicles are PSRs.

They're the only ones who can get on and they've got to have a pin number and if they have the pin number sat on for a couple of weeks, there's no work coming into the shop. It's open to the whole of the PSR network, the cheapest one gets it I should imagine and if an owner wants their repairer to do it, he's got to do it for that price. With the system that has been introduced and what you are talking about now, two-tier policies, there will be no choice, it's inevitable. This system that they're devising and are rolling out which currently doesn't affect CGU and RACV will come about, it's inevitable, that's the way they play the game..

MR RENDALL: Is this a naive view that the flip side could be that if there's a - by logging on to my little computer every morning and my workshop is - you know, I'm just about to roll out the rest of the cars for the day, "I'd better get some work," or there's a hundred jobs in there that I can access and fill the shop up so I'm not spending time running around looking for work or however it's done, is there really another argument to assist the business to run?

MR HOWES: No, I don't think so. I think what you've got is a reduced market and the only people who will be able to do the repairs will be PSRs, the ASRs will be gone and the rest of the industry will dry up as well and their control will really manifest itself in supply chain management. That's the way it is going to be, that's the way their process is.

MR JURKSCHAT: I think you will find there are a lot of PSRs who are doing more work but making less money. I'm not a PSR but we've read, heard and seen enough to say that this is becoming a sausage factory. It's also having implications for retention of staff. This is an industry that can't get enough qualified people, yet the sausage factory mentality which is starting to be pushed onto PSRs is in fact encouraging people to leave the industry; those people whose business has been affected by not being a PSR, and they're closing the doors, are seeing their staff not go back into the industry but in fact go out and seek alternative employment elsewhere because they don't want to be part of it any more.

So this has a lot to do with this negative whirlpool that swirls around the skills and ability of apprentices.

MR FITZGERALD: Clearly the questions we're having is trying to get some - on the more touchy issues. Would it not be true that it is counterproductive for the insurance companies to drive out repairers to the point at which repairs cannot be effectively and efficiently and in a timely manner be done? The insurance companies need repairers. They also want them to be cost effective and that includes the issues of quality and so on. So wouldn't it be logical to say, as insurers have said to us, that it's just simply not in their best interest to drive the repair industry into the ground. At the end of the day they require quality repairers to repair their clients' cars.

So is there a point at which the insurance companies themselves are not going to drive the repairers out or is there something else?

MR JURKSCHAT: No, I think there is a point, but I'd have to say that if you were concerned about having enough repairers why are you offering them one-year contracts? My view is that - and it was interesting to hear - I think IAG said the reason they offer one-year contracts is because they can't predict future work flows. Well, that's a crock, isn't it? Because the fact of the matter is they've got very smart lawyers who could put in a force majeure clause or whatever. This is all about control. So I don't necessarily believe that the insurers are so concerned about the network. I think what they've said for a long time is there's far too many, "and if there's far too many we can't control."

Now, if you are really interested in the consumer you would allow for the repairer, you would help the repairer nurture his client base and he would be a reflection of your business practices. But that's not what they're trying to do. They're trying to drive business to certain areas for specific economic reasons. And, yes, there will be a day when if they drive everybody out of the industry there might be a shortage. We have that in England, and England has exactly the same system as Australia, I think. We can't afford to have that. So we're saying there's a middle ground and the middle ground is the more repairers you have, the more vibrant the industry. Surely if you had an open and transparent quotation system and consumer choice of which valet was won and you had a lot of repairers the interaction of all that would in fact give us a competitive outcome.

I mean, this country is going into free trade agreements, for goodness sake, to try and open up the markets. The government has legislated for the superannuation industry to have freedom of choice, yet in this industry we've got to believe that freedom of choice is some sort of detrimental thing. We don't accept that.

MR FITZGERALD: Just moving on to another issue, you mentioned about the duty of care and you've supported some of our statements. Just in relation to the repair methodology we've indicated in our report that where an insurance company specify a particular methodology then they should bear a responsibility for that. The contra view is that if a repairer does not agree with the methodology of work it shouldn't accept the job. So in accepting the job the repairer does agree that that's an adequate repair job. So we have empathy with your view, and that's in our report, but that contra view is, well, at the end of the day the repairer can determine to say no. But if they say yes, then they've accepted that methodology.

MR JURKSCHAT: Perhaps. I mean, that's sort of ignoring market forces a bit there and market power which we've - if you're a PSR and you know the job should be done method A and you get told to do it method B how likely is it that you're going to tell your insurer, "Go away. I'm not going to do the job" - highly unlikely. I think, whether you want to accept it or not - and we're certainly not here to sort of draw out emotions - there is also an element of conflict between repairers and assessors. You know, their personalities become involved. So if you stand by your digs too long all of a sudden you find out that you're no longer in the favoured loop or in the loop. So I think that's a possibility but we think in reality, because of the imbalance in the negotiating power, unlikely to happen.

MR RENDALL: You must be able to simply put it on the record though, even in a simple letter or something every time they - to protect your own blood, you know.

MR JURKSCHAT: You can, but there's nothing like in asking an insurer, their assessor, to sign his name against what he tells you to do. Our understanding is that if they're doing a job with a non-PSR and they ask for that they run a hundred miles. So, you know, we believe that it's not hard to sign off and that happens every day. Our mechanical repairers, when they get people to authorise repairs, they get the customer to sign off this is what they want. Why would the insurer be unhappy to sign off on a changed method of repair?

MR RENDALL: That's not occurring now. There's no - - -

MR JURKSCHAT: No, not as far as we know.

MR HOWES: Certainly not within PSR systems.

MR JURKSCHAT: No.

MR FITZGERALD: Sorry, just in terms of the percentage of work and the licensing issue, is the industry affected by a lot of backyard work that might

otherwise go on?

MR JURKSCHAT: Look, that's a really hard one. It depends what you mean by backyarder.

MR FITZGERALD: Well, you know - - -

MR JURKSCHAT: Look, I think there a number of businesses out there that do not meet compliance standards and are getting away with it because governments are very short handed, short funded. We would call them backyarders. Anybody who doesn't meet OH and S and EPA regulations is avoiding costs and therefore they're backyarders. How many there are we can't really tell you.

MR FITZGERALD: Just a question, in relation to your licensing we've heard that there has been some support by insurers and repairers for some form of national licensing or national certification of repairers and you say it would produce benefits. But it would also produce substantial costs and at the moment there's only two states that have any form of certification - New South Wales which has licensing and yourself that has certification through the VACC - and I understand that WA may be considering implementing some form of licensing regime. But what we heard on Monday was that even if you introduce this it's unlikely to reduce the need, in the eyes of the insurance companies, for PSRs or ASR arrangements. So the question I have is, would licensing really achieve anything other than add another layer of administrative costs but at the end of the day the marketplace would look very little different to what it does today in terms of the arrangements that are in place.

MR JURKSCHAT: Look, I think it will add value. We certainly didn't see licensing as a substitute for PSRs and ASRs; that's not what we're saying. What we're saying is there is an industry that is rapidly growing in complexity in terms of type of repairs they have to effect. There are businesses out there who are undertaking repairs that may not have all the necessary equipment and there may be repairers who don't have the skills and there may be business operators who are operating on the fringe and need to go through some sort of check. What we're simply saying is we don't really see any substantial increase in costs. If the truth be known, the increase in costs will come about from compliance costs because if you set up a licensing regime and that licensing regime insists that everybody licensed has to comply with their state government laws on OH and S and EPA, yes that will increase costs. But we think that's a good thing because it's helping improving the safety for the workers.

The consumer has to know that when they drive their vehicle into a workshop or are directed to drive their vehicle into a workshop, that that person is doing the job and that that person has all the skills that are necessary. Now, we continue to find it

humorous, I guess, that you're working with a very complex piece of equipment, a motor car - and the commission itself has seen cars in various stages of dismantlement with wire harnesses and all sort of things. To not require that industry to be licensed, to me, is a bit unusual.

MR FITZGERALD: Let me put another proposition and that is that in some senses, because the insurance companies are in fact paying the bills, they're in the best position to determine who they think should repair their clients' cars. Notwithstanding the fact that you've got disagreements, one of the things we would acknowledge is that PSR and ASR arrangements do in fact have some ability to monitor the overall performance of repairers and even within companies that have those schemes they also do monitor non-preferred suppliers in some way, shape or form. So in a very simple sense the companies that pay the bills, surely they're in the best position to determine who does the work for them and their clients. Now, that's not my view but it's a position that could be put.

MR JURKSCHAT: Wouldn't it be the person who owns the car? I mean, it's my asset. But notwithstanding that - I've actually forgotten the point. I was too busy getting my smart comment in.

MR HOWES: I have one. I think it would be somewhat akin to - - -

MR JURKSCHAT: I should have a book of smart comments in this inquiry. It would make good reading. No, look, I don't believe the insurer has any special knowledge to choose a repairer. In fact, I found the comment the other day the height of corporate arrogance to suggest consumers are somewhat dull witted and not able to choose their repairer. Consumers do a whole bunch of complex things in their life - build houses, sign finance documents - and what I think the insurers fail to understand is that there's a fantastic consumer network. When you go out and buy a car you do your research, you ask your mates. When you go and buy tyres for your car you just don't rush off. So there's this network.

You go and ask people, "Who did you get to repair the car?" So consumers, when they want to, can become more informed despite the fact that insurers are trying to blind-side them with lack of disclosure, open disclosure, so they can make these decisions - and let's face it, if the insurers were so damned good at picking their repairers we wouldn't have all the reworks out there that we have. So they're not as good at doing that as anybody else is as far as we're concerned. We think the consumer isn't dumb. And for those who think they don't have the necessary skills they can always opt for the valet system - but don't preclude those who don't want the valet system from that option.

MR FITZGERALD: You mentioned the two-quote system which is used by a

number of companies and the issue of like for like. IAG, as you know through the web site, specifies the scope of work upon which repairers quote and in some senses they would say that it therefore ensures like for like because it's the same scope of work. Others have doubted that. It was put to us that like for like in principle sounds fine but, in practice, isn't part of the competitive quoting; the ability of a repairer to also talk about - or to specify the way in which the car might be repaired. In other words, different repairers would have different views about the way in which a car might be repaired and just as price is important so too that's important.

So just a thought about this like for like. The benefits of that seem apparent, but on the other hand some people have said once you do that you actually take away another important element; that is, the actual methodology, and there can be pros and cons in doing it different ways and repairers should be able to specify different ways and that should be part of the competitive tendering process.

MR JURKSCHAT: Sure, but I think part of the problem is though for a lot of people it's very hard to see how you can actually quote on a vehicle unless you pull it apart, right? You don't really know what's happening. So this notion that you can have some video shots and away you go, that's supported, I think, by whole bunches of supplementary activities. I think what we're trying to say with a like-for-like quote, it's part of the openness debate. There are companies who deliberately allow for misquoting, if I could use the term, in order to get the job into their PSR and then the PSR comes back and says, "I've just discovered I've got to do this, this and this." We maintain - and I go back to that example on that Honda CRX or whatever it was.

MR FITZGERALD: CRV.

MR JURKSCHAT: CRV. There was a very clear dent in the panel but it was not on the quote. Now, this is an expert in the business, and five laymen saw it quite obviously. So that's the sort of manipulation. When we say like for like, we do understand that there may be different methods of repair and that's perhaps something that will engender competition. But what we're saying is it's the deliberate nature of avoiding the like for like that makes the quotation uncompetitive from the moment it's done - in fact there's no bona fide in it - and that's what we think needs to be fixed.

My argument is if a guy gets the job and before he even starts it he says, "by the way, I just found a couple of things and now I've got to add a supplementary, why wouldn't they go back to the other guy and say, "Well, have another crack at this." It's not practical, I know, but you see how this system is manipulated?

MR FITZGERALD: But can I just make the comment - and Curt might have a comment - there's no doubt at all that that may occur. What you're saying, and we've

heard it from repairers, is that this is a systemic - almost a systemised or a systemic approach by insurance companies to deliberately preference certain repairers and it has become systemic in nature. Others would say, yes, it does happen from time to time but it comes down to individual assessors but it is not a systemic approach or it's not a systemic way of doing business. Why do you think and what's the evidence to support the view that this is a systematised, as you say, misquoting or manipulation of the system?

MR JURKSCHAT: Well, I think we actually provided the commission with quite a few documents on this where in fact quotes were lost by two or three hundred dollars and then the job came back to the repairer who lost the quote and it took him \$6000 to fix it. Look, we don't know how big this problem is but there certainly seems to be a systemic problem, if I could say, in one area perhaps with one company and it seems to be more obvious that quotes are kind of a let's give it a rough guess, get the quote in, make sure it's the cheapest and then we'll worry about the real price thereafter. I don't know how any quotation system will be open and transparent unless you deal with some of those aspects, and hence we go for this like for like. John, you wanted to say something as well.

MR HOWES: Yes, I did, please. I have a problem with the IAG system, with the PSR system in particular. If you look at page 63 of the NRMA policy it says, "We will determine the method suitable to repair your car." I'm not going to like this but I think that's sort of akin to giving Dracula charge of the blood bank. This is a real serious issue. There is no control; their repairer has no say. They write the scope of works, they will do what is there. There is no way under the AAMI system - and I have had to go in without any knowledge of who my client is because they won't tell me - and they may have changed their car because I check the registration number through my system - but you cannot quote a car in there, you can't get access to it, you can't dismantle it.

The only truly honest system that works in this system at the moment is the Allianz system, managed repair process, which is what AAMI wanted to do originally many years ago. It just doesn't work. You cannot get a complete and competitive quote. It just does not work, it's not possible.

MR RENDALL: Why doesn't AAMI continue with that or pursue - - -

MR HOWES: It was many years ago - - -

MR JURKSCHAT: Perhaps you could ask them afterwards.

MR HOWES: - - - and it was a little bit of a different situation. It was many, many years ago when they started off their repair systems.

MR FITZGERALD: We're going to run out of time and we're already 15 minutes over but that's fine. We needed to stay just a little bit later and we wanted to give you plenty of time. Curt might have a couple of questions.

MR RENDALL: On this question of intellectual property and the motor vehicle manufacturers particularly, is the reason that they won't give repairers sufficient information as to how to repair a car, is it a commercial-in-confidence issue with them that, you know, they're sort of - - -

MR JURKSCHAT: No, I - look, it - - -

MR RENDALL: Or are they just lazy or - - -

MR JURKSCHAT: I'd better be careful what I say, I might - but we do have car dealers, I guess, that are our members. Look, I think it's more to do with the thin edge of the wedge. As you know, in America and Europe there was a big push to open up access to IP for all sorts of things like servicing, et cetera, et cetera. We think even though we've gone to the manufacturer and said, look, we really only want it for repairs, but that's a pretty big ask when you think about it because what you need is wiring diagrams, you might need a whole bunch of information on brakes. You may actually need suspension tuning system information. So I think the manufacturers are a little bit reluctant because they feel it may be the thin edge of the wedge and they'll have to give away the whole game. That's the only suggested answer I could offer you.

We would have thought that in the interests of safety they would be more than happy - and, look, some do, and I'm not going to name anybody but some do and are trying, but we've been working through the FCAI and it's a bit of ballroom dancing with those guys, I can tell you, on this issue.

MR RENDALL: I note in your submission - and we're not going to have time to go through it - you've got extensive comments in relation to the characteristics of the code of conduct, which we'll take on board. Can I just ask you finally your view as to a voluntary code, how long should the industry be given - the industry being the two parties - to look at that, or your view about moving to a mandatory code straightaway. But I take on board your comments about this content.

MR JURKSCHAT: Past experience would suggest to us that a voluntary code is just a waste of time, we should go straight to a mandatory code. The insurers ignored us for 10 years and there has been - and I use the word deliberately - a fair bit of pontificating recently about all the things they've done in the last couple of years, but that has only been since the ACCC got involved and this commission's

inquiry started. So let's not beat around the bush. We have yet to see the colour of their money, I guess. Even on Monday I think one of the insurers - none of the insurers said that they really didn't believe a code was going to go forward.

If there is no bona fide intent and commitment to make it work, it won't work. So we're kind of saying, "Look, we don't think it will work though we'll give it every shot." The insurers are certainly putting up flags saying they don't want it but if it's forced on them they'll have to have it. Therefore will a voluntary code work or should we simply stop mucking about. We're prepared to give a voluntary code a go, we've said that all along, and we believe there should be no impediment to having a voluntary code concluded by 30 September and operating on 1 January. We also believe there should be some fairly strict vigilance on this code, also a mechanism by where we can identify where it has fallen down.

I think it should be reviewed within six to 12 months and if it's not working, let's go to a mandatory code. I know we're coming to an end; in our supplementary submission we've indicated some areas where we want some additional items put in the code. We've been careful to acknowledge the commission's concern about impinging on commercial activities. The one that I just really want to highlight is the issue of full disclosure to consumers. If the commission stands by its decision not to allow mandated choice then we believe it's absolutely essential that some code of practice be included in the code to ensure that consumers are fully informed. Unfortunately I've only mentioned three here because I forgot about the old warranty one. They should be informed on what parts will be used in their vehicle before they go in, what their position is on choice - and we believe that position should be reiterated at every renewal, every invoice renewal of premium.

There should be a little line that says, "We don't offer you choice" - not weasel the words, let's get into it, straight in, "You have it, you don't, or you have to pay for it." Page 1. We also think the consumer needs to know up-front in their PDSs who determines the method of repair. It may mean nothing to them but it may to some. The fourth point I want to make is, let's get lifetime warranty issue clear. It is lifetime of ownership of the vehicle, not lifetime warranty. So let's call it what it is, because there would be a lot of families out there where the father gives the son their old car who would think because it's just transferred within the family that they would have lifetime warranty, and they don't. So let's call lifetime warranty what it really is. Certainly the code must include that the insurer cannot impose obligations on the repairer in terms of warranty that are beyond those from the original source of supply.

I think we've said enough. We've said quite a bit about the IAG choice issue and what a farce it is really because it's only designed to steer consumers to no choice. On that - because we could probably go for another two hours - I'd like to

thank the commission for giving us that extra time and we're obviously open to, if you need to contact us.

MR FITZGERALD: No, thanks very much. That goes with all the participants that we'll be going back, following up on the presentations and all the detailed submissions and, as I've indicated, if people in the audience want to put something on the public record later in the day, there will be opportunity to do so, and in Sydney a number of repairers did so. Good, thanks very much. Thank you, gentlemen.

MR FITZGERALD: We might move now to the Insurance Council of Australia. Thanks very much, if you could just give your name and status within the organisation for the purpose of the record.

MR MASON: Thank you, commissioners. Alan Mason, the executive director of the Insurance Council of Australia.

MR DRUMMOND: Robert Drummond, general manager of the Insurance Council.

MR FITZGERALD: Good. Over to you, Alan.

MR MASON: Thank you, commissioner, and thanks for the opportunity to speak to you today. As you know we haven't yet made a supplementary submission following the release of the draft report but we will do that. Just to make a few overall comments, the Insurance Council, as you know, is the peak body for the general insurance industry in Australia and our members account for most of the private motor vehicle insurance that is written in Australia. Our members include the four major corporates who have appeared in front of the commission but they also include 32 other insurers who write motor vehicle insurance which includes, I think, importantly, private motor, commercial vehicles, fleets, heavy vehicles, motorcycles. So there is a broad spectrum of motor insurance business.

To put that in context, private car insurance premiums of our members last year totalled \$4.6 billion; the commercial motor vehicle premiums totalled \$1.3 billion. So there's a lot of commercial vehicle insurance out there. Rationalisation, I think it's worth saying, has obviously occurred in the insurance industry, is occurring in the smash repair industry and we think it's inevitable that that's a feature of life that will continue in both sectors. So we don't think it's useful to try and develop a solution which resists the change that's being driven by economic factors. But the trend in the industry is towards more efficient, more cost-effective operations, with the ultimate purpose of that being a focus on the end consumer, the customer.

We have a general view that we need to take great care to ensure that the outcomes of this inquiry and the commission's recommendations do not unfairly increase costs or disadvantage consumers at the end of the day. This is an incredibly competitive consumer product which is heavily contested, mainly contested on price and service, and the key cost driver of that, of course, is the cost of claims which is what this inquiry is really all about. I'll come to consumer choice later but just some comments, if I may, about the preliminary findings of the commission. We believe at ICA that the preliminary findings provide a clear way forward, following years of discussion around this topic, on increased transparency, matters of process and

dispute resolution.

We very much welcome the preliminary findings on informing customers of individual insurer's provisions relating to parts to be used; on the safety and quality issues related to PSR arrangements; on minimum payment terms and consumer choice of repairers. We believe that improved transparency will assist repairers where insurers have preferred smash repair arrangements, for example, greater awareness of selection criteria, a wider understanding of the position requirements where there are changes in approved repairer status, and the positions on sale or transfer of business. The preliminary findings of the commission have addressed these issues and individual repairers will be making or have already made their own comments on those matters.

I should say today we obviously as an industry body are only talking collectively on behalf of the industry, we're not in a position to talk for individual companies. We acknowledge that until now the Insurance Council itself has opposed any form of industry to industry code based on the fact that consumers are already protected by the provisions of the General Insurance Code of Practice, the Insurance Ombudsman Service and existing legislation like the Insurance Contracts Act and the Financial Services Reform Act. We still are of the view that consumer outcomes have got to be the driving consideration at the end of the day.

We've also argued that arrangements between individual insurers and their service providers - especially included in the automotive body repair industry - are commercial arrangements, and dealings which are already subject to normal commercial practice, Trade Practices legislation, ACCC oversight. So we have previously opposed any form of industry code. I think we are pleased to be able to advise the commission today - and we will be making a formal submission on this point - that collectively ICA has reviewed its policy in that regard following the release of the draft report, and we believe that based on the preliminary findings in your report that the industry will be able to respond and develop a voluntary code of practice.

We think it's achievable if it is based on the preliminary finding at 6.4 of the report on page 115 which says:

The advantages of an industry-wide code are likely to outweigh the disadvantages, provided that it were to focus on specifying minimum standards in matters of process, transparency and dispute resolution; not interfere in consumer or consumer-repairer relationships; not cover matters that are normally commercially negotiated between insurers and repairers, and not prevent individual insurers developing their own codes consistent with or building on an industry-wide code.

We believe that therefore the development of an industry-wide code, voluntary code, is possible, it's practicable and will deliver positive outcomes. Our previous concerns largely are assuaged by the commission's preliminary findings. I think we might leave it at that point and respond to questions, other than we did just want to touch on one aspect which has already been raised this morning, and this is on this question of consumer choice and contestability.

We in ICA conduct regular consumer tracking research at the end of every year on a whole range of consumer-related issues. The most recent research we did in December last year, that that market research has said that nearly a third of consumers shop around for their car insurance renewal every year. That doesn't mean that they change insurer but they contest their purchase annually. It's our view that given the range of options that are out there in the market of product from insurers, whether they have got choice of insurer or not choice of insurer and all the other features that go with their motor policies, consumers do have choice and they exercise that choice in selecting which insurer they insure with. We believe that all these features are taken into account and at the end of the day the decision is always going to rest with the customer, so I might leave it at that.

MR FITZGERALD: Thanks, Alan. Can I just start with that last point. At the present time the commission has come to the view that there is reasonable choice for consumers in that there are a variety of policies now available. The concerns by insurers of course is that may be the current position but if the majority of the insurance companies were to change their approach to a no choice basis over time then it fact that changes dramatically that position. So the question I suppose I have is that whilst I think our findings are reasonable in relation to the current position, do you think that position changes if insurance companies move to increasingly no choice arrangements and, if so, how does the industry deal with that if there was a significant shift by all of the insurance companies into the future?

MR MASON: I suppose the umbrella response I'd make to that is that this is a fiercely contested market between insurers and insurers will do whatever they think is best going to respond to what the customers want. So if one insurer adopts a position of no choice and another adopts one of choice I'm sure the relative competitors in the market will quickly observe the outcomes of those different positions and, back to my point, I think in the end it's consumer behaviour that will determine the industry response to these things. I think it's very difficult to try and develop a solution to a current range of issues on the hypothesis that those issues might all change in the future.

I think one of the things we do know is - we have a lot of experience between Robert and I in developing consumer codes of practice within the industry - you've

got to have review mechanisms built into those codes so that over time you can respond to changing circumstances. That would be in my view the way to deal with it.

MR FITZGERALD: One of the consistent themes over the last decade in these issues - and admittedly each of the companies will speak on their own behalf - has been the concern of the imbalance in terms of market power, and we've heard that this morning, between a shrinking number of very dominant insurers versus a very large number of small to medium size businesses and the impacts that having. You've already heard this morning the view that the behaviour of insurance companies is in fact leading to a rationalisation not based on normal competitive market forces but on a manipulation by insurance companies. I was wondering whether you have a view about that.

MR DRUMMOND: I think our view would be very much that what is happening in the market in terms of the rationalisation - first of all it's not an Australian phenomenon, it's happening worldwide, and we believe in fact that that is rational and real market force, it's not an artificial market force. So I think it's puzzling to describe something that is quite obviously a competitive and compelling market force that it somehow is not a market force, that it is a manipulation. So we believe that exactly what is happening is normal, competitive, compelling competitive market forces. If they are resulting in the rationalisation of the insurance industry, which in turn results in the rationalisation of the smash repair industry, then that is the economic direction.

MR FITZGERALD: So how do you respond to the views put again today and we've heard right throughout not only this inquiry but previously that at the centre of this the removal of or the reducing of consumer choice of repairer is in fact itself the source of the rationalisation rather than what would be happening if there was genuine consumer choice on a broader scale.

MR MASON: I think it's difficult to respond to that because I'm not aware of any rigorous market research or consumer testing that actually says that that's the case. I think I'd probably pass on that question if I might.

MR FITZGERALD: That's all right, that's fine.

MR RENDALL: Can I just go to the work that you do annually when you're looking at the consumers - you're doing your own surveys and the like - and you're saying that a third of policy holders shop around each year.

MR MASON: Mm.

MR RENDALL: What's the driver? Is it just purely price? Is that the only - have you been able to drill down into the reasons?

MR MASON: Look, across all the consumer insurance products the primary - the first but not the sole decision-making issue is price, whether that's car insurance or house insurance or anything else, because there is a view that this is a commoditised product. But then insurance companies have a whole range of other value-added propositions, service arrangements and everything they offer customers, not just the price. In fact, many of the companies actually offer you a basic price and then optional add-ons at increased prices and many customers actually do buy those. So price might be the starting point but it's not necessarily the - - -

MR RENDALL: The sole sort of driver.

MR MASON: The sole determinant, yes.

MR DRUMMOND: There's increasing evidence that consumers are becoming more aware in their choice of the financial strength of the insurance company, the strength - - -

MR RENDALL: HIH would have helped that.

MR DRUMMOND: Yes. The extent of the terms and conditions, the size of the excess, for example, these are all now factors that are showing an increasing trend in awareness but it still remains by far and away the single most important driving factor, is cost.

MR MASON: The other important development which is really a new environment is the introduction of the financial services reform legislation and this massive new effort around the disclosure regime and informing consumers has changed the nature of the information being delivered to consumers and available to them. The whole intent of that legislation is to put the consumers in a more informed situation in making a purchase.

Again, we tested that out in this market research, bearing in mind that this is still in transition, the FSR is, and there are early signs in our market research that the consumers are welcoming this added information that they're getting. I mean, I know there's been a lot of complaint about the volume of it but the consumers seem to be responding very positively to this additional information and their ability to comprehend it. So that's all changing, I think, the nature of consumer behaviour.

MR FITZGERALD: Just on that, this morning and previously we've heard the general agreement, and many of our preliminary findings indicate greater disclosure

or transparency in relation to a number of issues - parts, the issue of choice and so on - you've supported that. Leading from what you've said is, one can continue to provide more and more information; the question is whether it's actually effective in informing consumers. We've heard that whilst it is true that the insurance companies are in fact disclosing various things - (POWER FAILURE) - you know, it's somewhat hidden. How do you as a council deal with that? How do we actually deal with this greater volume of disclosure, but the real issue is whether it's effective disclosure, in order to truly inform choice or decision? How as a council do you - or how as an industry are you dealing with that?

MR MASON: I suppose I'll answer that in reverse, in that the industry some 14 years ago set a consumer dispute resolution process which is now the insurance ombudsman these days. The proof of the pudding is in the eating and the ombudsman - I'm just confining myself to car insurance issues at the moment. The volume of complaints that goes to the insurance ombudsman is, I think, 0.3 per cent of car insurance claims and less than half of those complaints are actually determined in favour of the consumer. So the level of lack of consumer understanding and consumer concern around car insurance claims is absolutely minimal, and this is on a service that has been in place for 14 years now and very well established.

So I think my answer is that evidence would suggest that the market is actually, from the consumer point of view, functioning very well and there aren't any real fundamental consumer concerns around this product so from that I deduce that there's not a lot of challenge to deal with. Where you put your explanation of consumer choice of repairer or things in your PDS is of course a challenge because the PDSs, as you note, are quite long because insurers have got to provide the consumers with a huge raft of information. All sorts of different people would like their point to be number one in the PDS but that's just a question of presentation which is down to individual companies as to how they do it.

MR RENDALL: In terms of other insurance products that your person in the street might use are the percentage - you know, is it still .3 per cent for everything - household - - -

MR MASON: No, I think the average across the industry is about - just under 2 per cent is the disputed level of claims.

MR RENDALL: So you're saying that's really lower again than the average.

MR MASON: Yes, motor insurance is probably far lower than the average. There's more disputation around household insurance and contents claims than around car insurance.

MR FITZGERALD: In relation to dispute resolution you were talking about the consumer side of it. If there were to be a voluntary code or a mandatory code one of the key elements of those codes is dispute resolution and that's obviously the case. Does the council have a view as to the appropriate nature of dispute resolution between repairers and insurers, how that would be facilitated at this stage?

MR MASON: We haven't really done any work yet to see how you would address that in detail. I mean, there are various dispute resolution models out there. I mean, we've got one currently in our privacy code which is a committee that reviews complaints. In the general consumer code we've got this whole ombudsman service that deals with complaints, so that there are different models and that's something we'd have to take on notice and look at as we go forward and develop a code.

MR DRUMMOND: The federal government of course have produced guidelines and characteristics of what they believe should be the essential elements of a good alternative dispute resolution process - its accessibility, transparency, fairness; there are seven or eight of these criteria that are set out in the government's guidance notes. I may say that in developing that guidance paper the government drew very, very heavily on the General Insurance Industry Code of Practice. So we have very considerable experience in designing dispute resolutions that are effective but essentially work in favour of the consumer. So we certainly, in developing any ADR, would be looking to the government guidelines.

MR FITZGERALD: Moving to your submission in relation to a voluntary code of conduct - sorry, a voluntary code of practice, could I just ask if, given that an industry-wide code was mooted in 1995-96 and again in 2002-2003, what do you think the fundamental reason for the failure of the two industries, the repair industry and the insurance industry, to arrive at a code of conduct to this date? Obviously we welcome your comments this morning, but what do you think has been the primary factors that have led to a situation where there has been no industry-wide code?

MR MASON: Robert can probably expand on this, but basically I think the previous proposals proposed to include matters that we thought were the province of commercial arrangements between businesses, and that was one of the real stumbling blocks.

MR DRUMMOND: It was very difficult for us to read some of the draft proposals that came forward without the view that fundamentally they were attempting to protect the smash repair industry against competitive forces and that they were really seeking to impose an artificial, if you like, climate that would protect the smash repairers against normal economic rationalisation.

MR FITZGERALD: Which of the elements of previous proposals do you think

most fall into the category that has caused you concern?

MR MASON: They're probably in the matters that you've listed to exclude from a proposed code which are things like minimum hourly rates and prices, standard hours, mandating types of parts to be used, the weightings for PSR selection criteria, terms of payment. Those, we think, are fundamentally the province of negotiation between individual insurers and their suppliers. So it's that - I suppose those were the core basket of issues that led to our many years, I suppose, of resistance to previous proposals.

MR FITZGERALD: Some participants both in submissions - and I should make the comment the commission has never received as many confidential submissions in any inquiry in its history as it has on this one, so the public submissions are only a small number of the overwhelming, but one of the recurring themes is a fundamental lack of trust by repairers in insurance companies and the insurance industry generally. In the comments this morning and others about a voluntary code that seems to still be the case, that there is as fundamental lack of trust between the two industries. What in the current climate would give us confidence that notwithstanding the history of mistrust one could move forward in a positive way between the two industries?

MR MASON: I acknowledge what you say about the lack of trust and if that's going to change we've got to start on a new road somewhere. I genuinely hope that a process of putting a voluntary code of practice in place will actually start that process of developing trust and engagement where the parties actually get these issues out on the table and see how they're addressed. I honestly think that notwithstanding what the previous speaker said, if we leap from where we are now to a mandatory code any prospect of improving the trust relationship between the two sectors is gone out the window for all time because a mandatory code means that there is no need to engage. You know, someone else is going to write black letter law and say that's it - and that's going to do nothing to improve the relationship between the parties. So I think a voluntary code of practice is probably the best opportunity we've got but it will take time. I mean, you don't change these sorts of attitudes overnight but I'm sure that's the best opportunity.

MR RENDALL: What sort of time? How much time, do you think?

MR MASON: What, to rebuild trust?

MR RENDALL: No, to prepare a voluntary code?

MR MASON: Our past experience on consumer codes is that these are issues that you can't do with the wave of a wand, but we would think it would be realistic to say

that we could complete a code of practice in this calendar year, would be our expectation.

MR DRUMMOND: I think it's worth making the point too that in developing a code it will not just be a question of discussion between insurers and the smash repair industry. There will have to be consultation with the public and that is a process that can't be skimmed and has to form an integral part of any development of a code. There has to be public consultation.

MR FITZGERALD: If you could just elaborate a little bit further on that - obviously we've heard throughout this inquiry that all parties believe that the consumer's interest, the insured interest and the owner of the car is paramount. Notwithstanding that, nearly all the issues we've been dealing with have been about that interrelationship between insurers and repairers, albeit with an impact on consumers. So just explore, Robert, why you believe and how you believe the public would need to be engaged in the process, not in precise detail but generally your - - -

MR DRUMMOND: Well, I suppose it's driven by our experience of developing and at the present time we are redeveloping our own code of conduct. Unquestionably the input that we got from the period of public consultation has greatly informed the process and we will have a significantly different code from the one that we set out as a public consultative document as the result of the comments we've had from the wider public. Inevitably this code is going to be for the benefit of the consumer - the improved relationships will benefit the consumer - but we have to be certain that what we are saying and what we are proposing to do makes sense to the consumer. So I really see that it would be unrealistic to think of developing such an important code as this without a very full process of public consultation.

MR FITZGERALD: Just in your experience, voluntary codes of conduct - and you have them, as you say, with consumers - can I ask this: does the Insurance Council or its members have voluntary codes between suppliers of services and insurers?

MR MASON: Not at present, not at all.

MR DRUMMOND: The Insurance Council does not.

MR MASON: Individual companies may well address those issues themselves but the Insurance Council doesn't.

MR DRUMMOND: Some of our member companies do have suppliers codes not just relating to the smash repair industry but to all types of suppliers.

MR FITZGERALD: But not an industry-wide basis to your knowledge?

MR MASON: No.

MR FITZGERALD: Just a couple of comments. If there were to be a mandatory code of conduct what do you believe to be the negatives of moving to a mandatory code? You've indicated that you believe that would be an antithesis to developing trust. What are the other disadvantages that you believe would be incurred by either your industry or the repairers in a mandatory code?

MR MASON: I suppose there are a range of issues but one of them - as we said at the outset, this is actually a market in which - of our members, and we don't cover the entire insurance market. We've got 36 insurers transacting motor insurance business. Some of those are niche players or very small, et cetera, and a mandatory code might be quite inappropriate for some of them. So therefore a voluntary code provides the opportunity of catering for special niches and special circumstances the way special segments of this market are dealt with. If you are an insurer that just insures petrol tankers, for the sake of argument, well, you know, there's probably special arrangements that they have with very selective parts of the repair industry to deal with those things. So I think a voluntary code gives you the opportunity of dealing with market differences and special circumstances.

I suppose a voluntary code will be active. My understanding of a mandatory code under the Trade Practices Act is that it becomes of the nature of regulation under the Trade Practices Act and therefore it is no different to black letter law which is applied and enforced by the courts and by the ACCC based on dispute or complaints referred to the ACCC. So a mandatory code under the Trade Practices Act I don't think fits the concept of whatever he's talking about, about a code of practice that sees a living development of behaviour and relationships and things. It just becomes another part of regulation.

MR DRUMMOND: But if I could add perhaps a more subjective point. I think it comes down the word "ownership". One of the most successful features of the General Insurance Industry Code of Practice is the enormous sense of ownership of industry, "This is our code and we developed it willingly and voluntarily. We will stand by it. We will behave by it because it is our code and it has not been imposed on us." This sense of ownership is something that is very compelling in developing a code that members will subscribe to and stand by.

MR FITZGERALD: But one of the advantages of a mandatory code as distinct from a voluntary code is that a voluntary code by nature allows for opt in and opt out; opt in and opt out by insurers, but also opt in and opt out by repairers. A mandatory code by its very nature because of the legislative base covers all insurers that are determined and all repairers, whereas the voluntary codes have this opt in

and opt out. As you say, ownership is the contra to that, people stay in it because they believe they own it. But one of the people proposing the mandatory indicate that where you cover everybody they don't have to own it, they don't have to like it, they're all in on both sides of the fence.

MR MASON: Just to clarify something; our understanding of a code, whether it's voluntary or mandatory, is a code that applies to insurers not to the repairers. It deals with the insurer's issues.

MR FITZGERALD: It can and that's how a voluntary code would normally be done. A mandatory code like the franchising code, applies to franchisors and franchisees and I might say advisers. So you get in fact in a mandatory code, say, these people are required, whereas a voluntary code would traditionally be in your case the insurers.

MR MASON: Yes.

MR RENDALL: With the differentiation, just looking at the premiums between the personal motor vehicle and the commercial stuff, should a code differentiate between those or should there be two separate codes or does it need to be different at all for those two groups, do you think?

MR MASON: It's an area of some complexity which I think when we get to the point of drafting a code is going to be one of the issues we have to look at. I mean, if you take fleet motor insurance, for example, some of these fleet insurance arrangements could be subject to very large deductibles where the fleet owner manages the claims and the repairs up to a limit within his policy, and only after that does the insurer engage in it. But they're not all like that. Some work from the ground up, so when we sit down to look at a detailed code, this issue about whether we're talking about private cars or the whole spectrum of motor vehicle repairs is something that we're going to have to think about.

MR FITZGERALD: If I can ask a question and you may not have a view about it. We've heard of some tensions between the manufacturers and suppliers of motor vehicles and issues around, for example, the failure to provide what is called intellectual property to repairers and so on in relation to repairs and we've seen an increasing move by manufacturers to control themselves. For example, Mercedes, BMW and others are setting up their own particular type of preferred repair arrangements. Do you have any views about the relationship between insurers and manufacturers at this stage as a council?

MR DRUMMOND: So far it's not an issue that any of our members have brought to us as a matter of concern, so I'd have to say it's not on our radar screen at the

moment, no.

MR FITZGERALD: All right, thank you, very much, that's terrific. Alan and Robert, thank you. We'll now take a break for 10 minutes and after that AAMI or Promina will present.

MR FITZGERALD: Thanks very much. If you could just introduce yourselves - your name and the position you hold in the organisation.

MR ARNOLD: Good morning, commissioners. My name is Ron Arnold. I'm the general manager corporate affairs and executive office for AAMI.

MS JOSEPH: Maureen Joseph. I'm AAMI's national repairer manager.

MR PEPPARD: I'm Frank Peppard, the manager of national corporate affairs for AAMI.

MR FITZGERALD: Okay. Over to you.

MR ARNOLD: Thank you. Firstly I'd like to thank the commission for the opportunity to present our views on the draft report of November 2004. From AAMI's perspective, the commission processes again provided a sensible approach and framework for any issues that are clearly in the mind of insurers and repairers, and in working through those issue, the commission has provided some balanced recommendations on the way forward, and to that end we do believe - AAMI believes that the draft report is going a long way to bringing some clarity to many of the issues that have been highlighted over many years.

In that respect, it's AAMI's view that the commission has correctly concluded that consumer choice of repairers should not be mandated, as adequate choice exists in the market. Preferred smash repairer arrangements benefit consumers, insurers and many repairers, but cannot be inclusive of all repairers. No clear evidence exists of systemic safety issues arising from PSRs. There is no justification for regulating an industry standard hourly rate or imposing industry standard hours. The existing IDR processes and external disputes resolution process that exists in the insurance industry for consumers is working adequately as it relates to issues between insurers and customers, and finally that rationalisation and productivity improvement in the smash repair industry will continue due not only to the actions of insurers to reduce costs, but changes in the market for smash repairs. We would agree with all those conclusions in the draft report.

We would add on the issue of rationalisation and profitability that we're aware, and it's evident, that in many of the submissions and no doubt in the presentations at the draft report hearings, that there are concerns about the profitability in the repair industry, and the commission itself has described the situation as many repairers, if not all repairers, are facing a cost squeeze. Whilst we accept that, as a broad generalisation, is the case, we would make the point that there are many repairers who are currently operating very profitable businesses, and indeed there's significant evidence that they're investing in the future, be that in the form of equipment, be that

in the form of property, be that in the form of apprentices, which indicates, as the commission has suggested, that there are people who are in a position where they believe there is a future in this industry. Not all repairers believe that it is gloom and doom.

In its submission we did provide considerable evidence in support of that view of the world and we will be providing further evidence in our final submission, and we believe it's important that this is acknowledged in the commission's final report as the report will be a critical reference document, as the previous report was, for policy-makers and others going forward. Against that background, we'd like to focus on the scope and content of a voluntary code and the disputes resolution process as described and as rationalised by the commission.

AAMI supports the commission's view that the code should be voluntary and not mandatory in the first instance. I should add; should focus on minimum standards and matters of process, transparency and dispute resolution; should not address issues of consumer disputes with insurers; should not unduly affect the normal commercial relationship between insurers and repairers or be anti-competitive, and should not prescribe consumer choice, and should not prevent the development of individual corporate codes. We agree with those positions.

Overall we've interpreted the commissions' intent as seeking to enhance the understanding of the risks involved for repairers by clarifying and bringing greater certainty to critical aspects of the business relationships with an insurer. It is fair to say on the evidence presented and the history of the relationship between repairers and insurers that that's perhaps not an area where the insurance industry has done itself great credit, and certainly it's an area where there's scope for considerable improvement, and there should be some focus.

Having said that, another critical foundation piece for any principles underpinning the code we do believe is that the code should not remove the normal business risks that are faced by businesses, be it insurers or repairers. We think that is consistent with the commission's direction. So while in broad terms we agree that the commission has established the right foundations for the code, in moving to the detail as to what a code might comprise, AAMI has two primary concerns, and we note that a number of the other parties that have made submissions and presented at the hearings have raised some of these.

The first one concerns incorporating a provision in the code that requires the cessation of funny times, funny money. I think the VACC referred to this issue this morning. We appreciate the commission's endeavours to find a solution to that issue; something that most participant have freely acknowledged exists, that is we are in a situation where we have funny times and funny money for some companies. As

we've stated before, AAMI does not rely on this system. Our concern however is that a requirement to cease the arrangement will necessitate its replacement with alternatives. The replacement with alternatives in itself is not a problem. The problem is what are the alternatives. It is not clear.

Indeed all one-quote oriented frameworks will have a dimension of unreal times and/or unreal money. That is the reality in AAMI's view, and from our perspective, everywhere we've looked in the world, wherever one-quote oriented frameworks that rely on time and rate, time manuals, all these options and approaches have the very same problems that we see in Australia. Hence we believe to burden the code to come up with terms will slow down if not halt the process, and that would jeopardise reaching agreement on the balance of the positive code components recommended by the commission.

Our other prime area of concern relates to disputes resolution, an area where the commission has specifically requested comment. On page 116, the commission recommended that the disputes resolution procedures should not deal with disputes about choice of repairer or individual quotations, such as disputes about the scope of work required, repair method, types of parts to be used or price. We agree with the statement and consider that should be reinforced in the final report.

The commission also suggests that disputes resolution could deal with disputes about selection or non-selection for PSR status, removal of such status, performance under PSR contracts, payment times, whether agreed work was undertaken, work quality and guarantee disputes. AAMI accepts that a repairer should be able to challenge an insurer's compliance with the code as it relates to transparency of the agreed processes and adherence to the minimum requirements.

The commission has also acknowledged that individual companies could have their own codes reflected in their particular business needs. In AAMI's view, great care needs to be taken therefore that the parameters for the disputes resolution function are clearly specified, so it does not find itself in a position where it is making determinations or establishing precedents that impinge on individual insurer's approach for meeting code obligations. We believe that's the detail, and that concerns the relationship between the repairer and the insurer.

This is critical, as repairer groups may have different expectations on the role that can be played by the codes disputes resolution body, seeing it as a body that plays a far more active role in shaping the repairer/insurer relationship. If a disputes resolution framework were to have this role, even if it were by default, if it's to establish an industry code, whether it is mandatory or voluntary would be undermined. A good example of this concerns selection or non-selection for PSR status which is in the commission's list as an area that the disputes resolution process

could deal with. While AAMI accepts the view that insurance companies should bring greater transparency to the selection criteria and the notification process, we would not agree that the actual selection itself should be dealt with under the disputes resolution mechanism.

Other than if an insurer had simply not followed its own stated process, any other decisions by the disputes resolution body would be making judgments regarding the efficacy of an insurer's selection parameters the repairers and insurer chooses to deal with. We don't believe that should be in scope for the disputes resolution private body. Similar problems would arise if the disputes resolution body were to engage in disputes regarding an insurer's performance management criteria as opposed to the compliance with the agreed criteria. The same could be said of quality issues.

On a different note, it is not clear to AAMI why work quality has been included as a stand-alone issue that can be subject to disputes resolution. Presumably work quality must relate to disputes concerning removal of PSR status, guarantee obligations or performance under PSR contracts. As such, we believe reference to work quality is redundant and should be removed, otherwise there is scope for confusion as it relates to pre-repair issues - eg, repair method, repair costs - all of which have been ruled out, or to consumer concerns with post-repair quality. Neither are relevant here. It is also not clear to AAMI why the matter of whether work was undertaken is a matter for dispute resolution, and we seek the commission's advice on that.

More generally as it relates to disputes resolution, AAMI supports the commission's recommendation that insurance company disputes resolution processes should be accessed prior to a dispute being referred to an industry code disputes resolution process. We also agree that the unsuccessful party should bear any costs involved with an EDR appeal.

To wrap up, we believe that the commission's report has provided impetus for insurers and repairers to focus on a workable code that can be a circuit-breaker to many of the current relationship tensions. This has only been possible because the commission has brought clarity to the areas that need not be included in such a code, areas that have been stumbling blocks to any agreement in the past. We look forward to the final report and the commission providing greater clarification on the path already set to ensure there is no ambiguity that may give rise to a further stand-off between the parties, and that's both the insurers and the repairers.

Finally there have been a number of issues presented to the commission through the inquiry directly relating to AAMI's conduct. We're not intending to canvass those here, but we will be providing our view of the complete and accurate

details as it relates to those particular issues in our final submission, and we'd like to thank you for the opportunity to present to the commission.

MR FITZGERALD: Thanks very much. Any other comments. If I could just run through a few things, I just wanted to - with one of the last points you made in relation to dispute resolution around work quality, the issue there that's been put to us by repairers, there's two sets of issues. One is in relation to the quote itself, and there has been a strong view put by repairers that there should be a disputes resolution around the actual quoting and acceptance of that quote.

The second is particularly in relation to rework. We've heard a number of instances where repairers believe that, subsequent to the job being done, there's been a disputation with the insurance company and the repairer about the quality of the work, rectification of that work. Sometimes it's been rectified by an alternative smash repairer, and that cost has had to be borne by the first repairer. Our view was that that's a very significant issue. Whilst it relates to the initial quote, it's actually a separate issue, and some of the quoting processes are, at best, open to interpretation. So why would you be opposed to that particular element, that rework rectification, basically quality of work issue being subject to dispute resolution?

MR ARNOLD: I don't believe we would have a problem in ensuring that there was a rework issue. Insurers make it very clear as to whose obligations it is and how that process works, and to the extent, which I think is an issue you touched on, that an insurer has made a change or an assessor has made a change to a quote and that is a factor in relation to the rework, we believe that should be given due consideration also. So we believe we are consistent with the commission's direction or simply reading the black and white, if you like, of what the commission was referring to.

MR FITZGERALD: So when we use the words "work quality" - and we'll have to be more specific - I think we're referring to those issues that happen post the work being done.

MR ARNOLD: As it relates for argument's sake to the liability for the costs of conducting the rework. We're comfortable with the notion that there should be clarity around that, and should an insurer either not provide clarity in terms of the process or not indeed follow its own process, then we'd be comfortable that that could be disputed.

MR FITZGERALD: Going to the first part of it, a number of repairers even in this room have indicated to us that we should in fact have gone further with dispute resolution to actually deal with a dispute resolution around the original quoting process, and a number of repairers have presented in Sydney, and will do so today, that no doubt will reinforce that. Our preliminary view, as you've rightly indicated,

is not to provide dispute resolution at that point. Nevertheless, repairers have a point that if there is a dispute around the quoting process, they have nowhere to go, and they are very much at the control of the insurers. So I was just wanting your comments around that particular phase.

MR ARNOLD: As it relates to individual quotes, clearly ultimately someone must decide on the scope of works in a repair. In the case of AAMI's system, we obtain normally more than one quote, which gives us two perspectives on that scope. We have assessors who are qualified assessors who provide a third perspective, and a decision must be made. We don't see those as issues which would be well suited to a disputes resolution process as it would indeed stall repair of customers' cars, and provided the liability obligations that subsequently flow from any decisions made by an insurance company or an assessor are clear, we don't believe that those issues should be subject to disputes resolution prior to the car being repaired. They are post-repair issues, if I can put it that way.

MR FITZGERALD: We've heard this morning from the VACC and we've had submissions, both confidential and otherwise, that has indicated that there is, in the view of some, a systemic issue or a systemic approach by some insurance companies to in fact accepting a quote but then going back and renegotiating the quote down or alternatively renegotiating the quote up, but as a way of manipulating where the actual job goes to, and your company has been named, as others have been as well. Do you have a view?

MR ARNOLD: That's not a new claim. That's certainly not our standard approach for running our business. The issue, I think from AAMI's perspective, as it relates to that, is that quoting on cars is complex. As I think you noted this morning, there are many, many different views on how a car could be repaired. There is no one view. I mean, there are no doubt repairers in the audience here and they will give many different views on how to repair that car. They will also give many different costs or quotes on how to repair that car. It's not in AAMI's interest to allow a repairer to get a job for under what it's ultimately going to cost because we ultimately pay for it. We do allow repairers to put in supplementaries to identify additional work that needs to be done, and we still pay for that. It's not in our interest to allow that process to happen. One of the consequences, as we do monitor those things - supplementaries and so on from repairers. So if repairers are abusing the system in that way we do talk to them, but you understand that's a fluid situation. It's just simply not in our interest to allow that as a standard operating practice.

MR FITZGERALD: You've indicated manipulation by repairers. The accusation may be that it was the manipulation by assessors or what have you. The issue there that people have raised with us is that one of the weaknesses in the present arrangement is the lack of certification or accreditation of assessors, as well as the

way in which insurance companies require them to operate, and you've heard those.

MR ARNOLD: Yes, heard those. We appreciate those comments. We only employ qualified assessors who are ex-tradespersons. We can't comment on what the other insurers do. In the way our process works, our assessors are interacting with repairers on the ground daily in our centres, talking to repairers about repairing cars, talking to repairers about the new cars that are coming out, the issues associated with those cars. Whilst it's fair to say they are not involved in repairing cars on a day-to-day basis, they are involved and engaged with repairers on a day-to-day basis about the issues associated with repairing cars. We also do do some training and provide information to assessors around developments with cars and technology and so on and so forth.

So we do go to great lengths to try to ensure that our assessors do have a contemporary view of what needs to be done on repairing cars. But as I think the commission itself has identified there are lots of different views on any one car as to what should or should not be done as it relates to an issue which I think was raised this morning that cars are getting more and more sophisticated. That is clearly an issue and is clearly something I believe most insurance companies as repairers are concerned about that, and ensuring they can access the information to understand what needs to be done is an ongoing concern.

MR FITZGERALD: Just related to the same area, one of the points that has been raised to us is that some repairers feel that they have been excluded from obtaining work from insurance companies over a sustained period of time. If a repairer believed that was the case in the case of AAMI and its related companies, how would a repairer be able to have that issue addressed in your own organisation?

MR ARNOLD: I'll give you a high level answer and I might defer to Maureen who might give you some more details. It's no secret that AAMI has a two-quote system and we have, if you like, repairers on a panel. Those numbers have been fairly stable over the last few years, a bit over 500, 550-odd repairers. We do accept on register, interest from repairers who want to do work with us. But at the end of the day, whether those repairers are or are not appointed is contingent on our business need, and there are a series of other factors. We advise repairers of that accordingly and - Maureen, you might want to add to that.

MS JOSEPH: Is it regarding coming on to that panel or more specifically regarding having their quotes - - -

MR FITZGERALD: Well, you've raised the second issue of getting onto the panel, but the other issue was simply where people engaged in the competitive tendering process - - -

MS JOSEPH: Who feel they haven't had a fair shot at getting their quote?

MR FITZGERALD: Yes, and believe that there's a problem in the process or, as I've indicated before, that there's some sort of manipulation taking place. How would they have that addressed in your case?

MS JOSEPH: Repairers have the ability, and do, to either raise that directly with our people at our centre. We've now opened our IDR process to all repairers in the industry, so I would imagine a repairer with a concern about that would have no fear or anything to lose by taking something like that to Bob Davis and then we would go back and we would check out that issue. So we haven't ruled out that we - we know that we don't always get this sort of thing right. We do a hell of a lot of quotes out there and sometimes it doesn't work but it's just, as Ron said, not in our interest to throw a better, more competitive quote in the bin and end up at the end of the day paying more for the work just to have it done within our network.

If a customer really wants to go to a repairer, that repairer is submitted the best quote on the day for the job, the customer is going to be happier with the outcome, we've got a more competitive price. There is just no compelling reason why we would set out as a company to operate that way. In the occasions where something does go wrong though the IDR process is there. I understand the pressures repairers may be under in terms of - those within preferred repair schemes in terms of, "Oh, gee, we don't want to rock the boat" - that's a reality that we're trying to address constantly - but for those predominantly in this case outside those schemes with nothing to lose, that's what we opened the IDR process up for.

MR ARNOLD: Which followed the ACCC recommendations, I might add.

MR FITZGERALD: Just on that, you mentioned the second part which was about the panel being able to be appointed to a preferred smash repairer scheme. Again, the issue that has been raised has been - and I note your point that you draw a distinction between being able to have the actual decision as to who gets appointed being subject to a dispute resolution as distinct from whether the processes or the compliance was dealt with. But currently if a person wanted to be a PSR with AAMI or one of your other companies and felt aggrieved at that decision how would that be dealt with?

MS JOSEPH: Effectively the application process now is, "Send us an application. Make contact with us" - we have repairer managers in each state - "Put in your application." We consider those applications when we have a need in that area but as I think we probably have mentioned in our submission, the panel is not changing greatly in terms of numbers so there's not an ongoing process of putting new

repairers on a regular basis. But we go to the applications we've received in terms of determining who we will put on. We respond to every application, we'll do that within 28 days. We'll note the fact that it's on the file for reference and we then have a need in that area that's where we go looking at this stage.

Now, we may well with the recommendations that are being put forward go to the point of advertising each year for expressions of interest and maintain a record that way in the future.

MR ARNOLD: But I think to go to what I think is your point we do not currently within our framework have an explicit recognition that if a repairer is not successful it can elevate that to our IDR process and have it reviewed. That's not explicitly in our framework currently. Subject to the commission's recommendations that's certainly something we would consider.

MR FITZGERALD: All of the comments that you've made sit within this issue about rationalisation. If I can just deal with that broadly and then come back to some of the points you've made. You have heard this morning and in many of the submissions that repairers are not opposed to a rationalisation which is based purely on market forces but there is a view by many repairers and their groups that in fact what is occurring is a rationalisation not because of market forces but because of the way in which insurance companies now currently operate and in some way that's manipulating the rationalisation process. I wonder whether you have a view about that given that AAMI has in fact moved and changed the way it operates over a period of time as have a number of the other companies.

MR ARNOLD: I think it's fair to say that the actions of insurers, whatever they may be in any market, are going to impact on the markets they deal with in exactly the same way the actions of insurers as it relates to repairers will impact on repairers as the actions of repairers impact on insurers. I don't think there's any secret in that. I guess we're a bit perplexed by the notion of the fact that we are working with our PSRs trying to push more volume into those PSRs to give them greater certainty about work volume, to give them greater certainty about the relationship they have with us is a negative thing.

Clearly, if you're not in that PSR that's an issue and I think that is a serious issue for the industry, given particularly AAMI has a view there has been as a result of historical circumstances an over-supply of repairers and indeed, as we alluded to and put in our submission, we think that's something that the repair sector and the VACC also acknowledges that there is an over-supply of repairers and that the reality is some of those repairers may not be around in a few years. But the notion that what we're doing is somehow immoral or inappropriate I think AAMI just can't accept. We're pursuing our business.

We're trying to - as Maureen said, we don't get it perfect. We are trying to do the right thing by repairers. The commission, I think, will give us some insights how we can do better. The code will improve that and we will push on down that front. But that notion that we're doing something immoral or irresponsible or inappropriately shaping the market, whatever "inappropriate" means, we just don't accept that as a position.

MR FITZGERALD: Just in terms of - we've heard a lot about the way in which repairers have maintained that their profitability has been reduced. There's some contention about just how far that's the case. The commission has come to a view that overall the repairers have suffered a cost squeeze for a number of factors. To what extent do you think that the insurers themselves have contributed to that squeeze as distinct from general increases in business costs?

MR ARNOLD: I think once again as we noted in our submission there has been important changes in the dynamics of the market so - the commission itself identified there are in essence a smaller number of large players dealing with repairers. Those insurers variously are paying more attention perhaps once than they did to their relationship with smash repairers for a variety of reasons. One of those things are the cost of repairs but other factors are the quality of repairs and the service their providing their customers. When three or four players make that decision - because AAMI hasn't fundamentally changed its model for 15, 20 years, but when the other players in the market change they way they do business that will impact on repairers. So to the extent that they are paying more attention to those things and putting in place different frameworks we would acknowledge they are impacting on that.

We would go on to say, however, that - which I think as the commission noted - there's no obvious detriment here to consumers and we would go further to say there are some repairers for whom that is a good thing, having more certainty about the relationship.

MR FITZGERALD: Just on that, repairers continue to maintain that one of the critical elements that is necessary for a really effective marketplace is in fact consumer choice, and we have dealt with that at some length and you have as well. Your company, as we understand, takes the view that it exercises the choice, not the consumer. You have heard this morning there has been some query about the way in which that's disclosed in your documentation and in other insurance companies' documentation. What would be your view about the level of knowledge or information that your consumers receive in relation to the issue of consumer choice of repairer?

MR ARNOLD: I'll answer that in a few ways. Firstly, to go to the very high level

issue in terms of our documentation, our sales approach, they are required and do meet the relevant legal requirements around disclosure, so we're comfortable with that level. That is a requirement within other frameworks - FSR and so on - so we're comfortable there. It's interesting to note that our renewal or retention rates are stronger for those people who have been through our claims process and have experienced the fact that we take charge of the repair. We have more success, albeit it marginally because we're well into the 90s, but more success in retaining customers for those customers who have been through the claims process. So almost in a bizarre sort of way we'd like all our customers to go through that process. I'm not sure we could afford that but - - -

MR RENDALL: The rains have come now so - - -

MR ARNOLD: Correct. So clearly customers appreciate that, and the last three or four years have been well over a million customers who have gone through that repair process. Word of mouth - if it's inappropriate, you would expect this strong - well, we would argue they're our customers and their friends are voting with their feet and choosing to insure with us. So we think one as a consequence of how we do disclose but perhaps more importantly as a consequence of the fact that we do do a lot of repairs and people speak highly of that. To the extent that people want to know, they know and they make a choice. They make a choice when they purchase the policy.

MR RENDALL: Is that a marked increase in retention?

MR ARNOLD: It's a few percent, within the 90s, so it's still high in any case. But without going into details, it is statistically a significant difference.

MR FITZGERALD: Yes. The issue there I suppose also is - we've heard this morning from the Insurance Council that it's a price-sensitive market to some degree, although it varies. Some would say that as a consequence of that, consumers at the time of taking out the policy are less concerned about quality than they are about price and that that creates a perverse incentive for insurance companies to reduce or to put pressure on quality in order to simply achieve a better price outcome. The commission has talked about that at length. Do you have a particular view as to whether or not, given the price sensitivity of the market, that quality can become a victim in that or is currently in some way a victim of that?

MR ARNOLD: No, we don't have that view. We try very hard with our repairers and everything else we do to get the quality right. I think as the commission alluded to, it's just not in our interests to go about doing silly things and having silly processes that adversely impact quality because as a big insurer, there are many people there looking for us to fall and to catch us out and to expose us. The anxieties

and pressures associated with large problems about repair quality are just far too great to worry about doing silly things to save a couple of dollars. In that respect, the PSR themselves and certainly our PSR, a fair bit of the framework and the performance criteria are focused very much on the quality dimensions of the repair output, not the cost dimensions. It is very much about quality, and in our case in recent years, we have seen an improvement in the quality of repair outcomes as a consequence of working closer with repairers.

MR FITZGERALD: If I can just ask, how are you able to measure or identify that increase in quality?

MR ARNOLD: We can see it in our performance statistics, because quality is not just about reworks, of course, it's about timeliness of the repair which is a big issue for customers, so we see it in the sort of critical dimensions. Critically, we look at a high level of the notions of cost quality and timeliness, where quality is the quality of the repair. Timeliness is another factor. As a generalisation, we've seen improvements in that. Having said that, we'd have to say we're not of the view that the repair sector does poor quality repairs. We think, in the main, the vast majority of repairers do very good quality repairs. From time to time, there are repairs that don't go well, but it's certainly not the norm, which is something we think the commission has identified.

MR FITZGERALD: Why do you think there's a view by repairers that quality is under threat or has been reduced, and insurers maintain that it's as good as it was or, as you've indicated, getting better? Where is this disparity, because it's so strong in this - - -

MR ARNOLD: I'm not sure.

MR FITZGERALD: You mentioned cost, and can we just deal with that. As I understand it, AAMI doesn't use funny time, funny money directly because of your competitive quoting arrangements, but how do you know that your competitive quotes are actually within the right ballpark? I mean, do you apply standards or are you simply using almost an exceptional reporting basis of saying, "Well, given all the statistics we gather, we know that these sorts of quotes are right"? I mean, the two quoting has a discipline in itself, but over and above that, or have you actually developed internally standard times and benchmarks which have the same effect as far as - - -

MR ARNOLD: No, we don't have a series of internal standard times and benchmarks which are used in reviewing quotes. We do put great faith - perhaps too much, some people might argue - in the ability of the two-quote system to give us a relatively solid perspective on a good repair cost. To that end, clearly it will not give

you the same sort of outcome as if we got 15 quotes. We certainly would be able to get lower cost, I suspect, repairs with 15 quotes but we believe that would be inappropriate for a whole range of reasons, one of which is purely the transaction costs of managing repairs that way. Experience suggests that repairers, whilst not overly comfortable with the two-quote system, would certainly be very uncomfortable with a 15-quote system.

That said, we know from our pricing and given that repair costs are the dominant component of prices or the costs of running motor insurance, 70 or 80-odd per cent, we are comfortable from our pricing and the expense numbers we can see from our insurers and our returns that our costs, as a general rule, are well placed relative to the competitors, so we have no internal frameworks for trying to break things down into the minutiae of repair and replace and so on and so forth. We rely very heavily and have great faith in the power of getting two quotes.

MR RENDALL: I'm sorry, but the other part of that - and I think I'm correct - is that to retain PSR status, one of your repairers has to win a certain number of quotes per month or - - -

MR FITZGERALD: We've set a benchmark to win 50 per cent and we regularly talk to repairers about it, so that in itself, to be fair - and it's a good point - does impose some pressure within the context of the two quotes, so a repairer, who consistently was unable to win quotes because their quotes were not sharp enough, we would talk to in terms of our performance management process.

MR RENDALL: Is it normally 50 per cent? I thought it was a bit higher than that.

MS JOSEPH: For the record, we've never performance managed a repairer off based on not reaching that success rate target; we have in terms of quality of work, but we have never managed anyone off in terms of not getting half the quotes they write. It's just not worth the repairer's time if they're coming in and writing quotes all the time and not at least getting - - -

MR FITZGERALD: Can I just clarify, in the two competitive quoting system that you have, do you do a whole-of-cost price or do you require that each of the component parts, painting, R and R and repair be separately quoted?

MS JOSEPH: We separate out, but we don't do it line by line, so we'll separate the general areas, so we will have a paintwork price, but we'll have a whole dollar figure. We can have some more detail there but in terms of assessing, we look in terms of that.

MR FITZGERALD: One of the issues that we've raised is that where labour rates

are used, be they funny time, funny money or real time, real money, that materials should be separately quoted, including paint and consumables. Do you have a particular view about that or is it not relevant in your method of operation? I just make the comment: we've heard significantly in relation to paint, the current costing arrangement where labour actually includes the cost of paint, that there has been a significant trend to using poorer quality or cheaper paints by repairers and there seems to be some justification for separating the actual cost of paint as distinct from the labour associated with applying it, but it may not be relevant in your system.

MS JOSEPH: In bottom-line assessing, it kind of all arrives at the same point, but it's not something we as a company have really considered, so I don't suppose we have a view one way or the other.

MR FITZGERALD: Okay. Just taking a couple of specifics, the issue of parts and what have you, we've indicated there needs to be greater disclosure of the parts policy at the commencement and at the time of making the claim and I understand the VACC has indicated that you have a good disclosure in relation to the parts issue. But one of the issues that's arisen in relation to parts is the warranties that are required of the repairers and we've made it very clear that we believe that repairers should only warrant parts for the length of the suppliers' warranties and that workmanship should only be required to be warranted for a reasonable period of time. Can I just ask you your current position in relation to warranties vis-a-vis the repairers and any views you have about warranties and lifetime guarantees?

MR ARNOLD: There's a number of things there. We, as you've correctly pointed out, do have positions on each of those things. We only authorise the use of OEM parts, whether the car is new, whether it's within warranty period or not. If it's within warranty period, they're only new OEM parts, so we will use recycled parts outside of that. In terms of the repairer's obligations as it relates to parts, we do not require them to hold a warranty in excess of the warranty that may come with parts, and in terms of the lifetime component, we ask them to provide that warranty which they would normally provide in terms of running the business, and anything thereafter is AAMI's warranty, including if the car is sold, so it is transferable.

MR RENDALL: So lifetime means - - -

MR ARNOLD: Lifetime means lifetime.

MR RENDALL: - - - the lifetime of the vehicle - - -

MR ARNOLD: Correct.

MR RENDALL: - - - rather than lifetime of ownership?

MR ARNOLD: Correct.

MR FITZGERALD: Which seems to have been a significant point of contention during this inquiry. Can I just go back a bit. You indicated that the repairer is required to give a normal warranty in relation to his workmanship. Does that mean that in relation to each repairer, he or she nominates the period of time that they would normally warrant, or do you actually specify that it's three, five, 10 years? So when you say whatever the normal business, how is that identified in the quote or is that an agreement only with PSRs?

MS JOSEPH: Predominantly we're talking within the PSR context here which is where a fair bit of our work gets done. We've put a minimum of three years on that workmanship guarantee but if a repairer is advertising, as many in the marketplace do lifetime guarantees on their workmanship as part of their advertising, then so be it, but the vast majority, we'd be looking at around three years.

MR FITZGERALD: Where is that recorded? If you use a non-PSR - because some of your work is done by non-PSRs?

MS JOSEPH: Sure.

MR FITZGERALD: A significant percentage; at what point do you identify what the warranty that the repairer is giving to you?

MS JOSEPH: In practice, it would be at the time of a rectification occurring and we haven't - and maybe it's something we should, but we haven't recorded, as part of the current records we have, what their warranty period is.

MR FITZGERALD: Because it seems to us, particularly in relation to rectification work, we've heard instances - and I'm sure this is not common, where a car has been returned for a paint job 11 years after it was originally done - and stuff like that. Now, they're at the extreme ends but what is very clear is there is a difference of opinion between the insurer and the repairer as to what is a reasonable warranty in relation to that sort of work.

MR ARNOLD: In effect ours is three, and if a repairer chooses to offer 12 and that paint problem happened to be associated with workmanship, then notionally they're in for that.

MR FITZGERALD: Okay.

MR RENDALL: Seeing that choice seems to be such a big issue, are you likely to

follow the trend of IAG and charge another 50 bucks to - - -

MR ARNOLD: It's fair to say we're always looking at opportunities to come up with product enhancements that will sell us more policies. At this point, I'd have to say that's not on the agenda for AAMI. We've had no problems growing with the way we do business. As I indicated, many people have been through the claims process. The overwhelming majority of that are very happy. Our research says in terms of people's perceptions of the claims process and claims experience that AAMI rates higher than our competitors going through that process which is another positive for us. However, if the market were to turn to a situation where choice was an option that, you know, allowed us to sell more policies, we would absolutely consider it, but at this stage, from our experience, from our research, from our observations, it's not a factor that has precluded us growing and clearly that must reflect that we're able to delivery a good quality product at a fair price because you can't keep doing it for 15 to 20 years if you're not.

MR RENDALL: I was interested in what the Insurance Council was saying about their consumer research and that 30 per cent of consumers are actively shopping their insurance policies annually. I don't even know how to frame the question but do you have similar experience? I don't even know how you'd measure that. You've already said your retention rates are pretty high anyway.

MR ARNOLD: That is consistent, broadly consistent with our data in terms of the volume of people who shop around. If I could go a bit further - which is in our submission - the evidence is that that is the order of magnitude in terms of shopping and in terms of what then prompts them to purchase or stay where they are, the predominant factor is price which varies, depending on what you look at. Some of the MTAs have done some work and that's sort of 60 or 70 per cent of the purchase decision if you define it that way, but the other factors are reputation of the company, word of mouth from friends' previous claims' experience.

MR RENDALL: Is there any differentiation between, say, the business client that you would have and just mum and dad in the street?

MR ARNOLD: We have small business customers but we're not into commercial - that's not a line we sell, so by and large, most of our customers reflect, if you like, the households.

MR RENDALL: The consumer.

MR ARNOLD: The small consumer, yes.

MR FITZGERALD: Just a couple of issues: the code of conduct, you've made

reference to the fact that it's the content that matters and so on. What do you believe has been the significant reasons for the failure of the mystery of industries, I suppose, to be able to come to an agreement? Today we've heard from the industry council and they had a number of views, but from your specific point of view, where do you believe the greatest stumbling block has been to achieving this code to date or a code to date?

MR ARNOLD: There's probably a couple of areas. One is on the issue which has clearly been up and down the flagpole and discussed at length which is on the issue of choice. Some of the suggestions around codes have put in place a whole variety of measures which seek to enshrine the choice of a customer as it relates to a smash repair and put a series of other processes in place that make it exceedingly difficult for an insurer to exercise any ability over where the car is repaired, so that has been a fundamental stumbling block. Relatedly, I believe the other major stumbling block is around issues pre-repair, in terms of cost and scope of work, putting in place processes that would bring the repair of a car in some instances, if not many instances, to a halt, because their argument is over, for argument's sake, scope or the amount that an insurer is prepared to pay for particular tasks. From what we've seen of the various frameworks that have been put forward, they contain a variety of mechanisms that include those things or which would give rise to those outcomes.

MR FITZGERALD: Right.

MR ARNOLD: I might add, which is also in our submission, following the commission's previous inquiry, AAMI did approach a government in one state and an MTA in one state with a view to talk about developing a code. There was no interest at the time. Also, as it relates to an earlier draft that was circulated by one of the motor trades associations the industry did respond, did highlight the issues that I mentioned, and there was no response to those. So whilst, you know, the emotive argument is that insurers have refused to engage, I'm not absolutely sure that's correct and there's evidence around that suggests that's not the case. We certainly refused to engage on a code negotiation process that has immutables around things like choice. It appears that's just one area we're prepared to go to.

MR FITZGERALD: In relation to the codes generally and the preference for voluntary code, again just to raise the issue, mandatory codes have some benefits as well in terms of they lock in participants and parties. What would be your primary objection to a mandatory code?

MR ARNOLD: Two levels. AAMI believes that there's actually scope to make more progress in bringing transparency and certainty within the confines of a voluntary code. That is, insurers may - certainly AAMI may be prepared to make stronger commitments around certain things, for instance, payment times. We may

well be prepared to commit to 30-day payment times in a voluntary code. We can't speak for the other insurers, recognising the commission said that we shouldn't necessarily have them, but we may well be prepared to do that. That is not something we would do in a mandatory code. We would only be prepared to commit to stating what our payment times would be, payment times and terms. I guess at that level concerns about flexibility and coverage in terms of a code which may not be to the benefit of repairers.

The other one which the ICA alluded to is that once you're into a mandatory code framework you are into a framework which is far more clunky and clumsy and not as flexible in terms of going forward and moving to meet the circumstances that are, you know, revolving in the market. From what we've seen of the other codes, perhaps with the Franchising Code aside, some of them are very, very high level and certainly in our view would not cover the types of things that the insurance industry may be prepared to cover in a voluntary code. So we're not sure they necessarily, on the presumption we can get to a voluntary code, will give the repairers the same clarity, transparency advantages, for want of a better word, than a voluntary code might.

MR RENDALL: What would be a reasonable time frame, do you think, to put a voluntary code in place?

MR ARNOLD: I think, without going to dates - as we understand it the commission will submit its final return to work on 31 March. Then it is a time during which the government can table a response in parliament. So that could be June, July, something.

MR RENDALL: But from that date?

MR ARNOLD: But from that we would like to think - and once again, we can't speak on behalf of the other insurers but we can certainly take the essence of what's in the commission's report and perhaps start thinking about how that might be managed. But of course there's still the detail, the final conclusions. But, you know, I would think, in the context of all that, a year is a reasonable period from start to finish. There may be some companies who have transition issues. We would argue we are well down the path of doing many of the things that the commission has suggested anyway. So perhaps for us it's a bit easier than some others who don't have some of those frameworks in place. But having said that we would think a year for most people is satisfactory save and except some people may have some transition issues.

MR FITZGERALD: Can I just go back to the broad - I will bring it to a conclusion shortly, but the concern in the repair industry is that there appears to be a

spiralling down in terms of a number of areas: profitability, the difficulty of attracting apprentices and so on, removal of goodwill from businesses and so on. If you take that view of the world - and many would claim whilst their external factors the insurer pressure is part of that and we talked a little bit about that. One of the things that is clear is that there are significant difficulties in terms of skilled labour, and we're starting to see that emerge, and the loss of goodwill in some businesses and so on. How do you see the industry over the next four or five years, the shape of that? I mean do you have a particular view about where the rationalisation will eventually lead to? I suppose a more positive way is, is there a platform that emerges or will emerge under the repair industry? I'm not trying to get you to be crystal balling here but we don't want a report that's only about today. We do want one that actually looks forward a little bit.

MR ARNOLD: - - - - lot of different concepts and areas.

MR FITZGERALD: I know. So you can take whichever ones you like.

MR ARNOLD: Look, on the tradesperson issue certainly that is a concern for AAMI. We see that also. In our own little way we have an apprentice subsidy scheme which we believe does something. It doesn't solve the problem. Having said that, the tradesperson issue is not unique to the repair sector. It's something that seems to be being confronted by all trades: electricians, plumbers, carpenters et cetera. But that clearly is an issue. To be fair to our competitors, some of our competitors have apprentice subsidy schemes and so on with a view to try to deal with that.

MR FITZGERALD: Some of those other industries you mentioned though they don't seem to have - like the plumbers, the carpenters don't seem to have the pressure down on the gross or the top line.

MR ARNOLD: That's a fair comment which raises an interesting juxtaposition as to why can't they get tradespersons? I'm not sure why those industries they can't. In terms of profitability, as we indicated earlier, there are repairers - in our view and certainly on the basis of comments both by the trade associations, repairers themselves, some of the surveyed data - who are profitable and are optimistic about their profit and indeed are becoming more profitable. Clearly that's a factor for recruiting tradespeople, the ability to support them while they're becoming productive. The evidence that we have certainly says some people are investing in their businesses. We anticipate that we will see bigger rather than smaller shops. The level of investment skill, expertise, business nonce required is increasing. That demands a reasonable revenue and reasonable profits to support that. So we anticipate still fewer repairers, which I think people are saying, but bigger ones.

Now, in terms of the platform going forward, not sure how you solve that or how you suggest that. The commission, this morning, I think, alluded to the fact that it's not in our interest not to have repairers. We need repairers. So certainly the notion that we're going to drive them all out of business and be left with one is not really in our interest. You know, we need to be able to have cars repaired at a competitive price. So I'm not sure. Somewhere in all of that there is some balance that will come through. We would suggest there is already some evidence that the investment is starting to return for some repairers. They are looking to put on apprentices and so on and so forth. So there is - if you like, the invisible hand is working to a degree as we speak.

MR RENDALL: Is it just investment that really, you know, is going to pull these businesses out of a - - -

MR ARNOLD: I think they need supplies, certainly; is critical.

MR RENDALL: Sure, I appreciate that.

MR ARNOLD: Which is what we think PSRs do do for repairers. Save and except all the other issues people have raised we think they do do that. We think an environment where they don't have supply certainty would make it very difficult to justify their investment in the items that they need to run their businesses. So we would say supply certainty is another critical factor if you're going to make those investments, which I think raises some of your issues in relation to goodwill and so on. We have provisions in our code that we do have goodwill and provided that the repairer meets the performance requirements post taking on a business from someone else they stay on. We have no ability to kick them off, so to speak. So we already have those provisions which we think are appropriate provisions.

MR FITZGERALD: If I can just ask you two final questions, and by nature we tend to move around and I just come back to the PSRs. We heard at the hearings on Monday, again this morning and in a number of submissions that one of the reasons why PSRs were developed was in relation to the concern by insurance companies about probity, criminality in the industry. Repairers have taken exception to the insurers' view in relation to this. We've had submissions both from insurers and repairers on a confidential basis around that issue. But I just wanted to see if you have any comments in relation to the general probity arrangements that are required for insurers to deal with repairers and the level of concerns that you have in relation to that.

MR ARNOLD: Look, certainly - and people can be prone to exaggeration and perhaps we do that also. In our view there is - no doubt there are those unsavoury elements in this industry, I think as the VACC said, but that's like all industries. I

don't think that's particularly unusual. They are issues that have to be dealt with. I don't know that we favour, as some people have suggested, a national licensing regime. We think that has a lot of attendant issues, risks and costs in terms of how that might happen, how that might be executed. Those things tend to go very much to an input view of the world where we are very much interested in an output view of the world, what the customer gets, not how you get there. Specifically on the issue of probity it's not an explicit factor in our selection of repairers. However, we do, you know, understand and take into account our history with a particular group or a particular repairer in considering whether we put them on.

MR FITZGERALD: You've raised the second question that I was going to ask, which is just your views about a national certification or registration or licensing scheme of repairers and the quid pro quo for that was also national certification for assessors.

MR ARNOLD: Yes.

MR FITZGERALD: You've touched on them but if you just - more explicitly on those two issues.

MR ARNOLD: As I indicated, we don't favour a national licensing regime for repairers. We'd have the same view with assessors. Interestingly in an environment where there are a lack of tradespersons a requirement that all assessors were qualified will act as a further drain on repair shops, given that our understanding is it's necessarily the case that insurers employ only qualified assessors. We believe AAMI is the only company that does that now. So were such a regime to come in those - if that was a requirement of such a licensing regime - which you expect it would, which is, that you have to have a trade certificate - then they can only come from one place and that's out of the repair trade, which would set off another train of events, which would be interesting. So, you know, on - we don't see that there is any great argument that the issues around problems with repair outcomes as a consequence of actions of repairers, we just don't see any great evidence of those issues. So to create regimes to deal with things which the evidence suggests are not significant issues is just not the way to go.

MR FITZGERALD: All right, we have - on time. Thank you very much for that. Good, thanks. We will now resume at 1.30. If you want to put some comments on the public record after our next two participants you can see our staff. You just have to fill out a registration form. I just make the comment those would be brief comments for the purposes of the public record. Okay, so we'll resume at 1.30, thanks.

(Luncheon adjournment)

MR FITZGERALD: Thanks, very much, for coming back. Okay, Gerry, over to you. If you can give your full name and your organisation.

MR RALEIGH: Gerry Raleigh from Kerry Panels in Vermont. I presented a submission earlier on and there's just a few things I'd like to cover that weren't in there in detail. The first of which are assessors, incentive programs and qualifications for assessors including hourly rates. As I see it, an assessor's main objective is or should be to first of all identify the vehicle; see that that vehicle complies with the policy; establish the damage is consistent with the claim and foremost to allow a fair and reasonable figure to restore the damaged vehicle to its pre-accident condition.

Part of my original submission was a leaked document regarding the IAG staff incentive program and according to the document supplied the program pays more to call centre staff for steering of work to a selected repairer network than assessors for stripping body shop quotes, than they reward quality service, et cetera. Steering and stripping quotes received a reward of 0.5 per cent while the reward for quality was 0.4 per cent.

Often assessors who attempt to strip an honest quote state that the amount they arrive at is fair and reasonable and they can do no better. If the repairer stands firm and puts forward a fair argument and it appears that he will not be deterred, generally he will receive a better deal. If the repairer cowers and accepts what the assessor deems is fair in the first instance, then he is virtually being deprived of what he is fully entitled to. In the IAG instance the assessor has just helped IAG control the projected annual cost of repairs and this is also mentioned in the document that I had in my previous submission. If the assessing department achieved the 12-month projected average cost of repairs, the assessor is rewarded his bonus.

The question needs to be asked, how can you achieve a projected claims figure without making a conscious decision to go out and cut back estimates? Some independent assessors use the same tactics for reward; instead of a cash bonus they attempt to persuade the insurer to use their services more frequently. The mutual reward is obvious, greater savings for the insurer and more work for the assessor. Many shops will begrudgingly accept whatever is meted out by assessors because they are worried about reprisals by insurance companies such as late payments, late assessments, towing out of vehicles or diversion of work and any other penalties the insurer may wish to impose.

I have documents I will present or have presented to prove that both the insurers and independent assessors attempt to strip repairers of their rightful entitlements. But when the repairer stands firm or threatens to use the courts to obtain a fair outcome, the assessor relents and finds the extra that supposedly did not

exist. Using incentive programs and other such rewards is simply encouraging an assessor to perpetrate an unconscionable act with the backing of an insurer's size, power and position in the industry. I've presented documents and statutory declarations from clients and witnesses in relation to statements made by an independent assessor who stated that if he was to allow a realistic figure for labour and paint while assessing, his company would not be given any work by the insurers.

All, if not almost all, body shop proprietors would have had both staff and independent assessors make the statement that, "Yes, the hourly rate is inadequate, but my hands are tied," or "I am audited by the office," or "If I allow what is reasonable, I would be out of a job," and this brings me to assessors and qualifications. Unfortunately there is a great deal of mistrust by the auto body industry regarding insurers and their front-line assessors at the moment. Much of this is brought about by assessors not being allowed to assess a vehicle at proper hourly rates, being audited by head office and by using paint sheets, designed to be a guide only, as a bible and waved in the face of the repairer with such statements as, "There it is in black and white, I can't give you any more."

It's hard enough for a panel shop proprietor to endure this type of tactic from someone who has an industry background and admits to knowing what the real hourly rate should be. I wonder how many shop owners in the industry realise that many of these people they have assessing vehicles in their shops, do not have any industry background other than a short course and are handed a red pen and told to, "Go out and assess as we have instructed you." A list of assessors from various insurance companies has been presented to the inquiry which will show that many so-called assessors have never worked on a vehicle a body repairer and would not know how long a task or a full repair would take, what materials it involves and how to solve a problem when it arises whilst carrying out that repair.

With the lack of knowledge and expertise required to assess a vehicle and then if required to discuss or negotiate an alternative repair method and or a figure, many of these so-called assessors are from mechanical backgrounds. There's one in there that's an auto electrician and there's another that had two years marketing experience. The body repair shop must be staffed by qualified personnel, have an extensive and expensive equipment level, be audited and pass an occupational health and safety audit regularly and upgrade equipment and staff knowledge as technology determines. After doing what is required and investing large sums of money and time to comply with insurer's and government demands, the repairer is then expected to accept an assessment and reduction in his assessment carried out by an individual who is less than qualified to do so.

For many years there has been a call for assessors and repairers alike to be licensed. Part of that licensing agreement should be a minimum criteria for

assessors. Insurers are boasting record profits. IAG, for instance, 665 million after tax for 2003/4. Insurance premiums have risen by up to 130 per cent over the past years. Excesses in the period that the hourly rate in the past 13 years have gone up from 200 to 450 and some beyond that, yet when the auto body industry has approached the insurers or the ACCC regarding a rise to the stagnant hourly rate - it's 1991 since we had a rise - we are told, "It's not possible to lift the hourly rate as this would impact on the consumer."

All of us in business are aware of how important the consumer is to our livelihood, but it's time the ACCC and other government bodies realised that insurers are using the policy hold as nothing more than a shield to be waved in front of them when questions such as the hourly rates are discussed. In my original submission I included the VACC hourly rate document which explains fully the rises in labour, materials and general overheads required to run a body shop. The document presented is up to date, self explanatory and it's filled with irrefutable facts.

There are a few facts I would like to present to the inquiry regarding insurance company motor premiums and comprehensive coverage, the documents are also supplied. Motor insurance premiums rise annually, most cases by up to 15 per cent, some even higher, and due to depreciation or whatever terminology the insurer wishes to use, their liability drops by 5 per cent or more. This in fact is another annual win for the insurer by some 20 per cent per year. If you were to question the insurer regarding this occurrence, the reply would be, "A rise in incidents in your suburb," or "A rise in theft in that sector." In other words, next year we would forecast a loss if we did not lift your premium.

The panel industry in Victoria has had to endure 13 years of rises in all aspects of body shop operations. We have had meetings with government officials, the ACCC, the insurers and anybody that will listen. You don't need to be Einstein or an academic to realise that the situation between the insurer and the repairer is way of balance. If this situation continues the panel industry will all but collapse and because of the loss of expertise, et cetera, it will have an adverse effect on the consumer. The last inquiry into the repair-insurer relationship had a total of 30 recommendations made and not one of those was acted upon. Not a single change to the industry was made which insured it was a total waste of public money and a waste time and effort by all concerned.

I and repairers nationally hope the imbalance, or some it that is in place at the moment will be removed with the current inquiry. I think the VACC code of practice is the perfect vehicle, in my opinion anyway, to achieve a balanced and even-handed approach to this industry. Can I make mention of funny money, funny times? It's something that was brought up by the insurance industry. I don't know why it was done, but it's nothing more than a memory now because most insurers

will use R and R sheets from the MTA Times Manual, they use paint sheets. Now, all of these have strict guidelines, they are adhered to and the hourly rate that these are used in conjunction with is still between \$23 and \$25 in Victoria, that hasn't changed in 13 years. So on one hand you've got the R and R times at that rate, you've got the paint sheets which are 50 per cent made up by materials - all those have gone through the roof, and you're still talking around about the same labour content for both these items in the make-up of a repair.

So given that, there's only the actual repair times to panels, et cetera, and you cannot possibly make up those sorts of times, and with the advent of the technology regarding imaging and what have you, the insurer keeps a tab on what the repairer is doing with the repairs. They are audited, so funny money, funny times is a thing of the past. It is dead; it died a slow death like our hourly rate, and the insurance industry seems to throw that up as a smokescreen. It's nothing more than a furphy; they throw it up whenever anything regarding the hourly rate in this industry comes up, and it's nothing more than a smokescreen. There is no such thing as funny money, funny times, especially with PSRs. It is gone.

One other issue that really gets under my skin is the supposed oversupply of repairers. No-one has ever done a proper estimate on the number of repairers required to look after the number of vehicles on the road here in Victoria or nationally, and I think the only way to work out which repairers are qualified, which are bona fide repair shops, is to do a physical check. I'm sure that if the sausage factory element didn't exist in our industry, they weren't force-fed, if the industry was left to more or less fend for itself, I think you would find that there would be enough work. If people went back to doing quality repairs rather than, as I say, being force-fed and having to work on quantity rather than quality, I think you'd find there would be more than enough work around for the whole industry.

Until that is done this oversupply argument is nothing more than that: it is something dreamed up again that is also thrown up by the insurers. Every time there's an argument regarding the hourly rates or what have you, or the amount of work, that comes up, that's usually on the front line. It's ridiculous because no-one has ever done a proper survey, and until that is done it's just nothing more than another smokescreen, and it's used to muddy the waters. I've got another issue I'll discuss. You've obviously got a question.

MR RENDALL: Gerry, look, it's probably a dumb question, forgive me.

MR RALEIGH: That's all right.

MR RENDALL: But the times - is it still taking - I know there's all different materials now, but a panel - let's say a mud guard on any sort of Holden Commodore

- is it still taking the same amount of time today to fix a dint in that as it did five years ago, 10 years ago?

MR RALEIGH: Most definitely. A lot of them are harder to repair because the actual metal is thinner and you have to be more careful. You can stretch it when you repair it, which requires then shrinking, or you throw a heap of filler in it, which is - the quality shops won't do it. Mention should be made of the MTAA times. They're all based on brand new vehicles. They will bring a vehicle in and pull it down. When you're repairing it you don't have that luxury; these things are all crumpled and bent, things aren't easy to get it. So we're behind the eight ball time-wise from the very get-go.

MR RENDALL: The MTAA, with that times manual of theirs, do they do that every time a new vehicle is released?

MR RALEIGH: I believe so, yes, and there's a lot of vehicles that are being assessed at the moment - there are a lot more clips and intricate parts to remove in order to pull off a certain panel, and a lot of the vehicles on the road now, the more upmarket and the later models, the assessors usually base their argument for times, et cetera, on - in my instance I had a Mazda Eunox with a towbar and everything attached, and it takes at least two and a half hours to pull that bumper bar off. I got the manufacturer and the dealer involved to back my argument, and the assessor said, "It's only a bumper bar." He said, "What, are you making a career out of this job, are you?" I said, "Do you have any idea?" He said, "A bumper bar is a bumper bar," so I got straight onto the dealer and I proved him wrong.

A lot of them don't have time sheets for some of the vehicles they're assessing; they just don't, and they're changing all the time, but we're still on \$23 an hour, and we're still on these times that are based on brand new cars. A lot of people just wear it, and that then promotes people to take short cuts, which was mentioned in my original submission. People have got to try and make a living, and a lot of these sausage factories, they have people breathing down their necks. They can come in and do an audit, they have performance margins that they have to adhere to, and there's nothing to stop the assessor coming in and saying - or in the IAG instance, they've got to open their books, they can come in and look at how they've been performing: "You've been doing rather well," or, "We want you to drop your bottom line 1 or 2 per cent." That's absurd.

MR RENDALL: Can I ask, because you're a real live repairer, when you need information on vehicles - we were sort of talking about it this morning, with newer vehicles and the like. Are the manufacturers forthcoming?

MR RALEIGH: No. Some are, but most of them like to keep that - for whatever

reason, we're trying to work out why. We think we know why.

MR RENDALL: So when you've got to repair something back to their - and they want it repaired, and their badge product - - -

MR RALEIGH: Usually you can call around the industry, and somebody will know somebody with the knowledge, rather than just guess and go ahead and do it as per - you know, you might be doing a Mercedes or something, and do that as per a Commodore; you can't.

MR RENDALL: But if you rang the manufacturers - - -

MR RALEIGH: Some will give it to you. Most don't. I had an instance with a BMW; I rang a BMW repairer not far from us and got a little bit of information. I probably shouldn't have said that, but they know the position you're in, and most of them are pretty good, they will help you out.

MR FITZGERALD: Do you just want to finish the point, then we'll raise some more questions.

MR RALEIGH: Yes. I probably shouldn't do this, but Mr Mason from the Insurance Council of Australia mentioned earlier the fact that they had - was it .3 per cent? .03, thank you. In relation to complaints they had .3 per cent or something. In my original submission I had a statement that was made by Mr Mason on Today Tonight, where he said they had a total of nine complaints over a 12 month period, which related to almost 1.5 million claims. Now, that's in the submission. In that submission I have their own internal documents and their own audit, and it was over 800, I think it was something like 845 went through the full process, got to the end of the line as far as disputation. That was 845 that got that far between the three different bodies. There was another 1200, I think, that didn't quite go that far. Now, that's a lot more than nine, and that was in their own documents, which you have. I dispute those facts that he put up. That's about it from me.

MR FITZGERALD: No, that's fine. Just a couple of queries, if I can. Basically what we're saying is in relation to the R and R, you're saying that the hours have become standardised, using the MTAA.

MR RALEIGH: Yes.

MR FITZGERALD: But the money remains fictitious, it remains at the lower rate.

MR RALEIGH: 13 years.

MR FITZGERALD: In the paint area we've got a more complex position, because we've got appearing to be a standardised rate, but that includes materials.

MR RALEIGH: Yes.

MR FITZGERALD: Then you've got the repair part, which is subject to funny time, funny money, but what you're effectively saying is that the time part has become tighter and the money side remains the funny part of it.

MR RALEIGH: Funny money, funny times does not exist.

MR FITZGERALD: We've basically said go to a real time, real money, but just put that aside. Let's assume for a moment you took the current arrangements and you increased the hourly rate from whatever it is - just under \$30 - through to a more realistic rate; you know, 50 or 60 dollars, whatever the right figure is. What do you actually think would happen in practice? Do you think the insurance companies would say, "Fine," or do you think the hours allocated would drop, or what do you think would occur?

MR RALEIGH: In my opinion the insurance company would manipulate it as far as they can to make sure they pay as little as possible. That's business, but that's the idea of the inquiry, and unfortunately every aspect of our industry is determined by the insurance company. What I have a problem with is we have three parties involved in the insurance industry: you have the insurer, you have the consumer, and you have the repairer. Every aspect of this, which is totally absurd, in my opinion, is determined by the insurer, with a vested interest - and they've got shareholders to answer to and what have you. Every aspect of our industry is determined by one party. That's the same as us saying, "Well, we're going to determine every aspect of it for our own benefit," and it's so far out of kilter it's not funny.

MR FITZGERALD: But if you say - I mean, taking IAG which has - the NRMA has its own times which are less than the MTAA times, as I understand it, but there is a point at which even an insurance company can't reduce the times considerably lower than real time, or do you think that that can continue to happen? There must be a point at which, if you were to use a standardised time basis - I'm not saying we recommend that - and you increased the hourly rate, you can't continue to screw down on the hours to the point that it's unrealistic, or do you think that would happen?

MR RALEIGH: On past record, if the insurance companies are allowed to run unfettered and do as they wish, nothing would surprise me. They will go as far as they can get away with; they've proved it. 13 years we're still on the same hourly rate. As I said, the chamber went to the trouble of doing a fully survey of everything

involved in a repair process, in a paint process, they've come up with their own figures, and these are bona fide figures. They were put to the insurance companies, and they didn't want to know, and they said, "Well, we're not interested." We need somebody to oversee this with a clear view to finding the middle road. The whole thing cannot be bent to suit one of the players in the game. It's a ridiculous situation, and that's what's happening: they've got a vested interest to keep us as low as they can on the hourly rate. It's money in their pocket.

MR FITZGERALD: I just should say that we've had a meeting with Gerry previously, and he's provided very fulsome submissions - in fact very large submissions. But I just want to ask this: would you agree that there is a point at which it's not in the best interest of insurers to put at risk the quality of repair, so that if you continue to squeeze there is a point at which it's counter-productive to insurance companies to do that. Whether we're there or not is another issue, but do you agree that that's the case?

MR RALEIGH: Yes, but I don't think they believe they've found that yet. When the proverbial hits the fan, I suppose, that's when they will probably say, "Okay, we'd better back off," but that hasn't happened yet, and as I said in my original submission, until somebody is killed or maimed because of short cuts because of the pressure applied to repairers because of the high volume, low bottom line - until that has happened, and I wouldn't be surprised if it's happened already - until that happens and is glaringly obvious, I believe they will just keep pushing the envelope.

MR FITZGERALD: You've made a comment in relation to assessors and your concern about their qualifications and what have you.

MR RALEIGH: Extremely so.

MR FITZGERALD: This morning we heard that if you were to go to an accreditation or certification system of assessors, and one of the requirements of that was that people that were actually trained in repair, that that in fact would simply bleed staff from the repairers' workshops and so on. Given that there is a skill shortage across the repair sector at the moment, what's your view about that, Gerry?

MR RALEIGH: There are already a lot of assessors who have left because they don't like the pressure that's put on them to perform. There are plenty of those out there that would probably come back if things had changed, and they're bona fide assessors that have a trade background. I'm sure that there are plenty of people out there that have left the trade that would make very good assessors and would probably come back if qualifications were required that you have to have at least a ticket of some sort and on the floor experience. I'm quite sure a lot of those people are doing other things and they only left the industry because these sausage factories,

they are flat out.

I know of a few people that are in them. They are always complaining and moaning that they don't know where it's all going because the goalposts keep changing and I know for a fact a lot of them are losing staff. Now, these people go into another area because they cannot handle the pressure and they get pushed so hard. I'm quite sure - I would go as far as to say that there's probably only 60 per cent of assessors in the industry that should be assessors. There would probably be more than enough out there to fill that 40 per cent void if the position arises. I honestly don't believe that's an issue.

MR FITZGERALD: You've made the point that in your mind that assessors are being rewarded through bonuses or performance payments, to use your term, you know, for stripping down the costs or the quotes. I think some of the insurance companies have responded to that in their submission indicating that's not so. But it's also true that even in your own figures, if it is right that there is a performance bonus, it's based on a combination of factors, one of which is cost-effectiveness or cost saving, the other one is of course quality and other issues.

Again, we haven't found any evidence that simply reducing the cost is the main reason for an assessor's performance; it's a combination of factors. Why do you feel so strongly that assessors are in fact being - - -

MR RALEIGH: I have a real problem with that document that you have regarding their performance. They get rewarded. For an insurance company to project 12 months down the line, "This is what we want to achieve our profit margin," and to hand an assessor a document that says, "If you average out the repair costs per vehicle over a 12-month period, you will pick up that bonus." Now, maybe I'm looking at it in the wrong light, but I don't think I am. If he's got this preconceived idea in the back of his mind that, "Okay, to achieve this figure" - and I'm quite sure they get monitored and they're asked why their figure is so high, for instance, they've got to go out there with the idea that, "(a) I can get a bonus and, (b) I won't be dragged over the coals if I achieve this figure."

MR RENDALL: It's not unreasonable though just from a good business practice point of view for any business to budget and have some sort of guidelines that operate. I know where you're coming from but - - -

MR RALEIGH: I agree.

MR RENDALL: - - - as a general principle - - -

MR RALEIGH: Sales staff, for instance, if they sell X amount, that's fine, but this

is a totally different concept, the fact that you have to achieve a certain figure on your assessments. The only way that can be achieved is by keeping the average assessment to a certain figure. The only way that can be done is by cutting back the figures, the assessments.

MR RENDALL: Do you find that at the end of the year, in the last month of the fiscal year when the wrecks roll into your yard, that they want them all done for nothing so that they can meet their - do you know what I mean?

MR RALEIGH: Well, again you've got - - -

MR RENDALL: When we talk to the insurance companies they give us an average. They say, "Our average cost of" - you know - "We did 300,000 repairs this year at 2 and a half grand a shot on average."

MR RALEIGH: Well, the PSRs, for instance, have got a performance criteria to meet. They're all measured. Again, AAMI admitted that they have a system where if they have 50 per cent - if they lose over 50 per cent of their jobs or don't retain 50 per cent of their quotes, they're asked questions. Again, that's trying to drive the price down and it's a similar scenario. I just don't believe that sort of behaviour is conducive to quality of work, and I think that's being unfair to the consumer as well.

MR RENDALL: Taken too far in the generic sense it can be.

MR RALEIGH: Well, the possibilities are there.

MR RENDALL: From a management point of view - - -

MR RALEIGH: Yes, it's all about - like I said, sales staff, they've got to sell X amount of product but this is - and I think incentives are good, we have them at work, but this is a different kettle of fish, I believe.

MR FITZGERALD: We heard earlier today and on Monday and others about the prospect of licensing or certifying on a national basis repairers. You've indicated you believe something like that should happen for assessors.

MR RALEIGH: Definitely - and repairers.

MR FITZGERALD: What would be the benefits, do you think, that would flow from a national licensing or certification scheme for repairers?

MR RALEIGH: Rotten apples have been discussed. I believe there's a lot of insurance companies that - I know for a fact. I've done rectifications against most of

the major insurers and some of the shops that have gone in and quoted very low figures on these particular vehicles, I don't believe should be in the industry, and I don't believe that the insurers - one group in particular that does a lot of work for one of the major insurers, has a consistent record of failure as far as quality of work goes.

MR RENDALL: That's not in the interests of the insurer to allow that to continue.

MR RALEIGH: But they keep using these repairers because they're bottom line. The whole thing is out of kilter and I just think licensing - there could be, I guess, inserts in the licensing agreement that say, "Three strikes and you're out, three serious misdemeanours." I believe there's certainly a few shops that probably shouldn't be operating and I think the licensing would pull a lot of these shops into line. It would also be good for the consumer, it would definitely be good for the consumer. We had the Occ Health and Safety Board go through our industry a while ago and I know that there was quite a few shops that got shut down. Now, they wouldn't have been found out if it hadn't been for that purge by the Occ Health and Safety Board. That was good but there are other aspects as well that they don't go into.

I think if licensing came in, it would certainly help our industry tidy itself up which has got to be good for the consumer. I'm mentioning the consumer because that seems to be paramount in the mind of the ACCC and it seems to be the only thing they listen to, according to the insurance companies. It would weed out the bad repairers and likewise I think the assessors have to be - clean their act up and have people that are qualified and have the qualifications to be an assessor come out to your business - half of them, and I've got to be careful how I put this. But we've had discussions with a few of them and they admit that they're out of their depth.

MR RENDALL: The assessors.

MR RALEIGH: That's a fact. I'll fax you a stat dec tomorrow. It is a serious situation. It's a bit of a slap in the face for our people to have to comply with everything we have to do, and somebody can do - pardon the pun - a crash course and become an assessor. That's the state of play with a lot of them. All the insurance companies in that list, you've got something like 11, that's independents and the major insurers as well, and you can check and they are all from backgrounds other than the panel industry. They have no real workshop experience.

MR FITZGERALD: You just mentioned occupational health and safety. An issue that you haven't touched on but it came up in Sydney on Monday, was just the use of - I'm not sure what the right term is but contractors who fix windscreens and others that come into the work centre and that. There were some strong feelings by some of the repairers that, one, that was a problem from an occupational health and safety

issue but, secondly, there was no payment for the space and the costs of that. I just wanted to get a perspective down here in Melbourne on that.

MR RALEIGH: That's another, I guess, sticking point. We're becoming more and more like a sublet agency. We bring the car in, we do all the work, the insurance company sends out whoever tenders the lowest for them to come out and work on our premises. A lot of them - windscreens, for instance, they fit non-genuine screens. Duty of care rests with the repairer because it's done in his premises. I know somebody that bans them. "If you want to fit that windscreen, you take it outside and do it off my premises." I'm now doing that, because duty of care comes back to the repairer. It's done on his premises, he's in charge of the job, he signs off on it and the buck stops with him. A lot of the PSRs and other people don't get the say in who they have come into their premises and perform work. I use a lot of the small places because, being a relatively small shop, if I don't perform I don't get my customers back, and you find that if you're just a number with a lot of these large companies that are contracted out by the insurer, you're just a number, in, out, gone.

If you've got a problem, the customer brings the car back to you. You've got to rectify it or at least make your apologies, either put him in a car or pacify him enough, get them out and redo it. We're losing control of the radiators, wheels, for instance. I had an insurance company that wanted to repair a wheel on virtually a brand new vehicle and I said to the so-called assessor that, "Duty of care stops with me. Unless this wheel is x-rayed" - and, mind you, it was a brand new vehicle. I just said to them, "Well, you'd better talk to the owner." I think the vehicle was about six weeks old. It got hit in the side, the other side hit a gutter and took a reasonable size chunk out of the wheel. I said, "Unless you're going to x-ray that wheel I don't want it done at my place. You can take the vehicle away when I'm finished with it and do what you want. I'll be instructing the owner what's going on," and they supplied a new wheel. We're just losing control of our businesses for the sake of cost-cutting and saving money to help the insurers and the assessors achieve their individual goals.

MR FITZGERALD: All right, Gerry, I think we're out of time. Thanks for that and thanks very much for your very detailed submissions.

MR RALEIGH: Thanks for the opportunity.

MR FITZGERALD: Thank you.

MR FITZGERALD: Frank, if you give your name and position, and company.

MR COTTONARO: My name is Frank Cottonaro. I'm the managing director of a company called Claims Made Easy that's situated in South Melbourne. We mainly do a lot of work through New South Wales, Victoria, and some occasional work in Queensland.

MR FITZGERALD: Okay, over to you.

MR COTTONARO: Pretty much what our company does is represents consumers that would appear to have taken a line throughout the insurance companies and pretty much have come to no resolution and finally the buck stops with us to try to get a resolution for them in their repairs. Normally our customers, our clients, come to us after they've had dissatisfaction with the insurance company, prior experience to insurance companies. So what would then happen is that instead of going through their own or going through another person's insurance company they would then come to us and we would act as a claims manager for them.

MR RENDALL: Is it always after the repair?

MR COTTONARO: No, it's generally when an accident happens. Through their prior experiences they feel that they don't get their full benefit through their insurance company, so they then make contact through us. It's generally through word of mouth. They express their concern with the way their car is going to be repaired or the premium is going to go up, whether at fault or not, that they're going to get charged their excess and they believe they're not at fault. They're not going to receive their full benefits such as hire cars and the loss of wages, which seems to be quite an ongoing concern, that through the insurance companies there's this unwritten law that they won't advise their own clients of their full benefits.

MR RENDALL: Full rights.

MR COTTONARO: Yes, their full rights, and that is that if you're not at fault that you are entitled to a hire car. If you have lost wages they don't advise them that they're going to reclaim them for you. A lot of times, you know, you can have a self-employed plumber or a contractor that has equipment in their van that gets damaged. That normally doesn't get taken care of. They normally come to us on a separate occasion. So they will make their claim for their van or their truck through their insurance; that gets repaired - and have no satisfaction in recovering loss of wages or loss of stock. So they then follow it through with us and we then proceed to recover the rest of the amount for them.

MR RENDALL: You're paid, what, a fee by the person who owns the vehicle?

MR COTTONARO: Yes, pretty much. What happens is that we run what we call a "no win, no fee". So if we can't recover any money for them we don't charge them and in Victoria we pretty much run a set fee of \$200. Now, we don't want to exclude anyone from our services, so generally if someone comes to us with a 3 or 4 hundred dollar claim we would do that complimentary for them, just for the sheer, I suppose, goodwill of them coming back to us in the future.

There's just a few things that I picked up in today's comments. We probably stand in the middle of the insurance company, the consumer and the repairer, and we stand and, without actually being involved, get to see what the disputes are between each one of them, and generally from there the consumer comes to us after dissatisfaction from one of them and we generally find that it all stems from the insurance companies. There has been a huge increase in denial of claims. So where someone hasn't disclosed that they had a speeding fine six years ago they just straight out tell them that they're not going to indemnify them, didn't tell them that they had a different set of wheels on their car so they just refuse to indemnify them. So we get a lot of these referrals on to us.

So there's quite a lot of dissatisfaction from the general public and just one point I suppose that was brought up, that a third of people shop around for insurance after 12 months. Well, you'll probably find that most consumers only would rely on their insurance probably once or twice in a lifetime. I think the average estimate is once every eight years that they actually rely on it. So to actually state that it's only a third, it's probably not a true reflection of what's really happening.

A true reflection would be how many people have made a claim during the year and then how many of them have gone to look for different insurance at the end of their policy would probably be a true indication of satisfaction of the insurance. So there's a lot of sort of figures that are put forward through a lot of these submissions that when you take in the true variables of how these figures actually came up, it's probably more important than the actual figure itself.

MR RENDALL: What about breaching confidentiality? Are you handling thousands of claims a year or what?

MR COTTONARO: Per year, yes, absolutely, and if we had the potential to do a full-on marketing campaign as do the insurance companies, I would, without a doubt, estimate that there would be tens of thousands. People just do not know that we're there. We don't have obviously, you know, the million dollar or two million dollar marketing budget that the big companies do and we're constantly being advised that, "I wish we knew you were there before because we would have used you before."

We've got into so many complications," and it's this kind of feedback that we get from our own clients.

In response to - I think it was the ICA, about how many complaints - I think there was .03 complaints through the ombudsman. Probably the best example of that is a personal experience I had myself yesterday. I was actually trying to get the direct number for the ombudsman. I called AAMI. I called AAMI on six different occasions. On six different occasions I got the same phone number of the internal disputes resolution of AAMI. Now, I'm a professional within the industry and I can't get the ombudsman's phone number. So I couldn't imagine how anyone else, any consumer, could even go to the point of getting in touch with the ombudsman. Probably the true reflection of how many complaints there are is to ask how many people have inquired through the internal disputes resolution. That's probably a more precise indication of how many disputes there really are.

On the issue of choice we find that people come to us purely because of choice. They feel that after their experiences with the insurance company they don't get a say. They don't get a say on how their car is repaired. They don't get a say on who's going to repair their car and through the service that we provide, we actually involve the consumer pretty much every step of the way: they get to choose.

MR FITZGERALD: Can I just ask a question. From the consumer's point of view do the consumers that want choice - do they understand what their policies are saying in relation to choice? In other words, they have purchased policies which do provide or don't provide various levels of choice.

MR COTTONARO: Yes.

MR FITZGERALD: Is your experience that they understand that at the time of taking out the policy or not?

MR COTTONARO: No, generally they don't understand it at the time. They come to understand it through experience. So what happens is, let's say they purchase a policy in 2001 and don't have an accident for three or four years and continue the same policy because they think it covers everything that they need. Four years later or five years later they come to depend on that policy if they have an accident, it's their fault, and then realise that in the fine print that they're not covered for quite a few things and then the dissatisfaction comes about.

Normally it's like I said, a denial or a refusal. We have a lot of people that come to us that have had cash payouts from the insurance company because they refused to deal with the repairer, saying that they don't agree with the repairer, "Here's your cash settlement. You do whatever you want with your car."

MR FITZGERALD: Can you just talk about that. In the submissions, the written submissions, we received a number of comments about cash payouts and in the discussions we had. That hasn't come up in the public hearings yet. What's your insight in relation to the way cash payouts are being handled?

MR COTTONARO: We believe that the consumer feels that this method of settling the claim is like a punishment to them for going against what they have tried to dictate upon them. So as an example, the insurance company would say, "Well, we're not going to give you a choice of repairer," and what they then do is get their own repairers to quote it. The owner would bring someone outside, with an unbiased opinion, to overlook the method. There would be a discrepancy in the way it was fixed. There would be an argument between the insurance company and the consumer, and I suppose effectively the insurance company would punish the consumer by just cash settling them and wiping their hands of the whole situation.

MR FITZGERALD: In that arrangement where is the weakness in that? The company might be entitled to offer a cash settlement or a cash payout to a client. Where is it going wrong? Is it the undervaluation of the work or is it - - -

MR COTTONARO: I think it's more - it generally comes to the repair method, where a repairer will quote in a certain manner and the assessors will impose a different method, and from the reaction of the people involved it would be a cost-cutting exercise. Just generally, things that shouldn't be repaired that are repaired; plastics shouldn't be repaired. We know that you can never repair plastics in a certain way, or the way they go about repairing them doesn't bring it back to its original state.

MR RENDALL: So the amount that's paid out under that method is what, the insurance company's assessment figure?

MR COTTONARO: Determined - yes.

MR RENDALL: Not what the cost of - - -

MR COTTONARO: That's right. So if then they - let's say the consumer has been paid this cash settlement and then they go ahead to have their car fixed, and the repairer then, upon stripping, finds extra damage you can't go back to the insurer and say, "Hang on, it wasn't a true reflection of what was damaged in the vehicle," and they've wiped their hands of it. So they've got no recourse. The customer nor the repairer has any recourse back to it.

MR RENDALL: There's an issue, isn't there, if that person then tries to get new

insurance? Isn't there - - -

MR COTTONARO: That's right.

MR RENDALL: - - - a box they've got to tick which says, "Have you been paid out on - - -"

MR COTTONARO: Yes, absolutely, because the question is, "Have you been denied insurance lately?" - and yes, you've just had a comps.

MR RENDALL: Is that classified as a denial?

MR COTTONARO: It's not a denial. It just makes it extremely hard for that consumer to then get new insurance and normally the premium will go up. So what happens in our situation is, that client will actually come to us and ask them to represent them in these matters to sort out the differences between the insurance company or the assessors and the repairer, and we're pretty much a legal-backed firm that uses the law to determine differences or opinions.

MR FITZGERALD: But what would you be saying to the insurer or, sorry, what would be the right of the consumer in that case, that they've accepted the cash payment and they've, no doubt, signed off a legal disclaimer on that? So what would you be going back saying, that the actual quotation or the methodology for working out that figure was fraud?

MR COTTONARO: Yes. Well, there's a lot of differences of rights, depending on whether you're at fault or whether you're not at fault. So if that particular customer made a claim through their insurance company and wasn't at fault and agreed upon this payout, then he had recourse to recover the remainder through the other person that causes the accident. If he was at fault then he would have no recourse. It would be a huge loss the consumer would have suffered.

MR FITZGERALD: Any other comments, Frank?

MR COTTONARO: I actually worked for Dunalley and Myers as an assessor myself and pretty much can substantiate a lot of comments that Gerry Raleigh made. At the time when I was employed by them the rectification rate was approximately 20 per cent through the - I also had my own panel shop. I employed about 12 people there and it was an AAMI recommended repairer and 90 per cent of my work was AAMI work. At that time, unwritten, I was considered probably one of the top 10 repairers in Victoria for AAMI.

What would happen is that - and I think you brought up the fact that wouldn't it

be detrimental for the insurance companies to have this rectification rate. But what would effectively happen is that the consequence of this happening would not directly fall back on the insurance company. The insurance companies would hold the repairer responsible for poor workmanship. So what would happen is that the car would be under quoted, the repairs would be taken out. Obviously short-cuts would be taken to try to at least break even on the job. Obviously the job wouldn't be done right. The consumer would complain. The insurance company would then go back to the repairer and tell them, "You haven't done a good job. You've got an opportunity to rectify it. This is your problem," and the insurance company or the assessor - and that was the position I played while I was there - would then blame the repairer for doing bad workmanship.

MR RENDALL: 20 per cent seems - that's a huge number.

MR COTTONARO: Absolutely.

MR RENDALL: You'd have a lot of ticked-off customers, I would have thought.

MR COTTONARO: Absolutely, but the insurance companies or the assessors were taught to pull this off over the repairers and put the blame on the repairers, where in fact they were directed to repair a car in a certain manner. Now, that's coming from personal experience on both sides of the party. These figures aren't disclosed. When they talk about - - -

MR FITZGERALD: Obviously you're aware it's on the public record and I presume AAMI will clarify if it believes the figures are not correct.

MR COTTONARO: Absolutely.

MR FITZGERALD: Can I just ask, in relation to rectification work generally which has a source of major contention by repairers, again what you're saying is that an industry won't practice is to unfairly or inappropriately find fault with the repairer that did the job. But what is the incentive for insurance companies to act in that way? What is that incentive?

MR COTTONARO: Bottom line, we had monthly meetings as an assessor, and our performance was based not on customer satisfaction, but on bottom line dollars. How many dollars we allowed for new parts, how many dollars we allowed for repair, how many dollars we allowed for second-hand parts, non-genuine parts therefore, and your monthly I suppose objective was to get under each other month. So it was to continually bring each amount down, and we were never ever judged on customer satisfaction or quality of repairs.

MR FITZGERALD: Just in relation to the rectification work, what do you think the appropriate way of handling rectification work is then? We've talked a bit about lifetime warranties, guarantees and so on and so forth, but how would you deal with this issue or the concerns you've raised in relation to rectification? Does it come down to simply insurance companies acting in an appropriate and ethical manner, one assumes, or do you have some sort of proposal that goes beyond that?

MR COTTONARO: I think the basis behind it would be to get someone involved that has no financial benefit from it, but rather a consumer's point of view of priority quality of repairs, and I think the insurance company having their own assessor is biased because there's an economical benefit to what they're doing. I really don't know. It's a complicated issue, but as a general - - -

MR RENDALL: But if you go the other way, like what Gerry was saying, you know, in his submission that you get independence, the independence won't get to work for insurance companies unless they're - you know.

MR COTTONARO: Through our business we use only independent assessors, and we find that our rectification rate is pretty much zero because the assessor and the repairers are given the opportunity to talk to each other and discuss proper methods before the economic cost of it. What generally happens is that if the economic cost of repairing that vehicle to its proper standard exceeds its market value, then it would be deemed a total loss. So first and foremost would be the quality of the repair put forward, and then whether it is viable to repair it at that cost.

MR FITZGERALD: Just on this rectification, is the problem that when the car comes back, a motor vehicle comes back for rectification work, is there a disagreement as to what was originally - the quality of work that was originally, you know, agreed between the insurer and the repairer or is it simply, in your mind, a waiver which insurance companies just deal with the problem? In other words, irrespective of what the quality of work was meant to be, this is simply a way of appeasing a consumer or an insured party.

MR COTTONARO: Normally the rectification comes from two things I suppose: one is from a disagreement in how the repair should be carried out, and second to that is the amount of time and economic value allowed for someone to carry it out properly. Obviously if enough is not paid to - put it this way: you pay in peanuts and you get moneys. It's pretty much what you're getting. You're getting unskilled tradesmen because there's not enough money in the job to pay a proper wage, and what I'm saying is a proper wage, it's not just the old tradesman digging up a hole in the backyard. You need skilled tradesmen, and the majority of tradesmen outside this industry - call it electricians, plumbers - would be on considerably a lot more, probably taking a stab in the dark, between 25 and 50 per cent more than what a

tradesman panel beater would be on, and obviously you're not going to attract people into our industry.

Just getting back to the process, what would happen is that generally in the case of AAMI, they would call for two competitive quotes, and once they determined who the cheapest quote was, they on top of that would then assess the costing down. Our theory on assessing is that if you have one quote, then you send out an assessor to assess that quote. If you have two quotes, then you don't need to assess the costing on it. Whoever wins wins, and it should be granted without any cost adjustments to it, because that is the competition in itself. To actually get two people or three people to compete and then physically adjust the costs after that I think is extremely unfair.

MR RENDALL: Does that occur?

MR COTTONARO: Absolutely. One very single job - every single job.

MR RENDALL: After they've won?

MR COTTONARO: After they've won, it is then assessed on cost.

MR: Absolutely. Every single job.

MR FITZGERALD: In your experience, does that apply across the board or is that peculiar to that company?

MR COTTONARO: Pretty much across the board. I don't know why, but a lot of insurers portray to their consumers that if they've had an accident, you must ask that other person for at least three quotes. The law quite plainly states you only need one quote. So why they would be portraying this is beyond reason I suppose. You only need one quote. If you're not happy with that quote, you've got the opportunity to send your own independent assessor to overlook it to make sure that the procedure to carry out the repairs is fair and responsible and carried out all right, and obviously the cost involved in it.

But to get people to actually compete and then to go - it's like - I don't know, the best example is getting a safety switch put in your house. I mean, these are grudge buys, as is insurance and smash repairs. They're a grudge purchase. No-one likes to do it. But they're things that have to be done for safety issues. If I call upon an electrician and I ask one electrician to give me a quote for a safety switch and then ask another electrician to give me a quote for a safety switch, one charges me \$400, the other one charges me \$380, I pick the one that charges me \$380 and then confront him and say, "Well, now do it for 300." It's not comprehensible. You go

for the one that's giving you the cheapest and you accept it, and you say, "Thank you. Do the job for me." It's not happening within our industry.

MR FITZGERALD: As an assessor, how is that recorded? How did you - or was it not recorded at that process? In other words, if you were in fact discounting the agreed competitive price, was that recorded anywhere? Is that part of your performance?

MR COTTONARO: Yes. What would happen is that you would submit your daily sheets to your supervisor, and then the numbers would get entered into a computer obviously, and a printout every month would tell you exactly how much you allowed on labour, how much you allowed on paint, and actually the labour would be broken up between repairs, remove and refit, new parts, second-hand parts, subleasing, mechanicals. It would take a good four to five hours per month to go through the figures, and you were pretty much told that if you weren't to come up to scratch, you'd be - - -

MR FITZGERALD: My question is precise. If you have two quotes - you know, one is a thousand dollars, one is \$800, you accept the \$800. You're saying that as an assessor you would then, as part of almost company policy you're indicating, seek to reduce the 800 to 700.

MR COTTONARO: Yes.

MR FITZGERALD: How does that hundred dollar differential get picked up or it doesn't?

MR COTTONARO: It does. It shows how much you've reduced your assessments by each month, all them figures picked up. Just in relation to that, I think there was a point mentioned where if your 50 per cent rate wasn't met, that - well, you were expected to win 50 per cent of your jobs. I think the lady there from AAMI said that no-one had ever been dismissed for producing less. I can put my hand up that I actually was for not winning more than 50 per cent. So that was a straight-out lie.

MR RENDALL: Are you a classic under-achiever?

MR COTTONARO: No. I insisted on quality and I charged what I thought I had to charge to get the right job, and towards the end of it, I couldn't win anything because I kept getting underquoted, and they brought me in two or three times to discuss the situation. I told them I couldn't do it if they expected quality. If they expected a substandard job, then I would reduce it, but they insisted that I do the top-quality job and underquote myself, which once I had my accountant in the books,

he pretty much said if I kept doing it, I was going to go broke. So I actually refused to do any further work.

Just another reference to the assessing, another common practice: if there was a PSR that had quoted against a non-preferred, and the non-preferred - let's say the PSR quoted at \$900 and the non-preferred quoted at \$800, what would then happen is that you would go back to the preferred and then ask him if he would like to do it at the same price it was assessed.

MR: Bravo.

MR COTTONARO: So you would give an unfair advantage to the preferred just to throw a bit of work his way.

MR: Happens every day.

MR FITZGERALD: Are there any other comments you want to make before we conclude?

MR COTTONARO: Yes. Just in the voluntary code of ethics. I've got an opinion on it. I think that everyone involved should be given the opportunity to produce a voluntary code of ethics, and probably that should operate for 12 months under a voluntary system, and then once that had settled and appeared to be working in a proper manner, then that would then become a mandatory code of ethics. The only problem I find with the voluntary is that it's too easy to claim that you're going to do things and then just pull out. So claim that you're going to build a fun park for everyone and then when it comes crunch time to actually build it, they say, "No, we've changed our mind." Let them make their own voluntary code, let them abide by it, let it happen, make sure it works effectively and then enforce it is my view on it.

MR RENDALL: So why did you set up Claims Made Easy?

MR COTTONARO: Claims Made Easy was set up through consumer demand, obviously through my experience in the industry, I was probably one of the outspoken ones and pretty much stood up for what I believed in, and just got a reputation for helping people out, and it wasn't always just a business thing. It was generally just to help people. I knew what the - I had a personal experience with AAMI myself through illness that I don't want to get into, but something that sort of said well, money is not always the underlying factor, and from that I've pretty much got a reputation for helping, and through just word of mouth. I actually tried to get out of the industry. I went and did a university course for approximately three years and tried to get out, but just through - - -

MR RENDALL: It's not just AAMI policyholders that you're helping. I mean, it's across the - - -

MR COTTONARO: Absolutely not. We'd probably find - and I would agree with the representative from AAMI that their methods haven't changed that much and they have been relatively stable in their approach. I'm not agreeing that their approach is foolproof. They've got a lot of mistakes in there, but probably the biggest shaker at the moment is NRMA, being the IAG group. RACV was quite stable in Victoria for quite a while, but since it's been taken over there's been quite a big shake-up in the whole industry.

MR RENDALL: We roughly know the percentages of the market that the different insurers have. Your work broken down would reflect those - - -

MR COTTONARO: Yes, our work reflects - absolutely, yes. What we find is that the bigger the insurance company, the more problems they have as far as their own consumers go. The personal liaising with their consumers is not there any more. So we find that the smaller insurance companies are much easier to deal with and much more balanced, I would say, in the way they conduct themselves - more ethical - and it would appear that the bigger the insurance companies, the more they don't care about their own consumer, because it's not a matter of holding onto anyone any more and it's not a matter of customer satisfaction; it's a matter of - and this is only my opinion, obviously - the bottom dollar is the driving force behind them.

MR RENDALL: You must get cases though, Frank, I assume, where the consumer really is trying to pull the wool over somebody's eyes.

MR COTTONARO: Absolutely not. We're talking about people's cars here, which is their second-biggest asset, and they are genuinely concerned about devaluation. When they go to sell their car, if the car is not repaired properly and someone can think that it's been repaired, it's going to be a huge devaluation upon sale. From our end, the harder the economy is, the more work we get from it, because there seems to be a higher denial of claims in a difficult economic time. So the tougher the times, the more claims we actually get from it.

MR FITZGERALD: All right, thanks very much, Frank.

MR COTTONARO: Thank you.

MR FITZGERALD: I'd now invite any other participant here or those present, if you want to make a formal statement or a public representation - we had a couple in Sydney who came forward. Anybody?

MR KREYMBORG: Brad Kreymborg, Lustre Panels.

MR RENDALL: You just need to fill out a registration form.

MR FITZGERALD: You're looking very spivvy, Brad. Last time we saw you, you had paint all over you and - - -

MR RENDALL: I was looking at you in the audience and I thought, "He's dressed to speak." I'm sorry, you can fill that out in a moment. If you can give us just your name and organisation for the record.

MR KREYMBORG: Brad Kreymborg, Lustre Panel Works, body repairer.

MR RENDALL: Okay, Brad. Over to you for a few minutes.

MR KREYMBORG: I think a lot of the issues have been touched on today. As you're aware, I sit on the committee with the VACC. I think at the end of the day what needs to come out of this inquiry is there definitely needs to be a code of conduct. The issues over quoting, whether it be a one-quote process or a two-quote process - clearly there are flaws with both systems. They are being used, abused and manipulated by insurers and repairers.

I think what we need to get out of this and come to a common agreement on is there needs to be a code of conduct. The issues that are being discussed need to be wound up into a code of conduct and then the recommendations need to be put forward and monitored. Clearly the industry can't keep going the way it is at the moment, and I think the positive thing that we need to do is at least identify the issues, which I think we've done, and I've got confidence in the commission that the questions they're asking, they're aware of them, and I think the recommendations need to be put forward. Let's get on with the code of conduct and let's see if we can get some positive resolutions out of it.

What Frank has said, I personally have experienced the same and still am. Clearly, if these issues aren't addressed, quality repairers will go. We're training apprentices. Hopefully in the future, with the outcomes of this inquiry, we might be able to train tradesmen for the long-term future of the industry. If we don't get resolutions out of this inquiry, I do fear for the industry. The insurers will pay, they will pay big time, because they will not have quality repairers to use.

In relation to a couple of quick things off the top of my head, the insurers are not paying for the poor quality work. It is getting thrown back at the repairers, who are rectifying the work at their own cost. I have personally done rectification against other repairers, who have taken my customer base away. It is the only time I will

ever do it. I don't like doing it, but at the end of the day I've got a customer base that I work on, thrive on, and we need them, and if I have to compromise my quality and service standards to survive, we've gone backwards 100 miles an hour.

Don't out of this inquiry lower standards for the sake of cost. Certainly do not jeopardise quality repairers or methods of repairs on vehicles for the sake of the almighty dollar. The competitive element needs to be there, but let the competitive element be on quality first, then let the cost determine what that outcome is. Don't let the bottom line be determined by the inferior, substandard methods of repair and quality. Set the standard, then let the repairers compete on that.

There are issues on the hourly rate. In my second submission to you I try to address those. I feel that the hourly rate should be varied from shop to shop. Some of the bigger shops will have higher overheads, but they're probably better equipped to do them and quicker, and their hourly rate might be higher but their hours taken to do the job might be less. But at the end of the day it is still determined by the price of the parts. For example, if a bonnet is \$350 and my hourly rate is \$90 per hour, I quote three times 90, I think it's 270 bucks - I haven't got a calculator - but at the same time, with the funny money, funny time, I'm still quoting 12 times 23 to get around that similar figure. But if I quote 12 times 65, you've got 6, 7 hundred bucks. The insurer is going to put on a new bonnet. Whether it be a bonnet, a headlight or a bumper bar, if you want to repair and you're capable of doing it, the dollar figure will determine how that's happening.

It's just in my opinion fraudulent and misleading that I've got to put down 12 fictitious hours for something that I know I might be able to repair in three or four. That needs to stop. So if we're going to talk about funny money, funny time, my recommendation would be to just quote them all in dollars and let the dollars determine whether it be repaired or replaced, or second-hand. If there's a second-hand bonnet available for \$250, you've got to repair on it for \$300, you put a second-hand bonnet on it. I can't see where the costs are going to go up. Some of the R and R items may, but the repairs that were inflating with the hours, not in dollars - we're doing that - instead of quoting 12 hours, I'll quote three hours. But you know it's a genuine three hours' work that I'm doing.

I've been asked by the chamber to go and teach kids how to quote. I refuse to, because I am not going to train and educate the next generation of body repairers to quote fictitious times and money. It's misleading and it's wrong. It's got to stop. At the end of the day, the dispute resolution process needs to be the number one priority of this code of conduct. The issues of dispute resolution will fix quotation disputes, it will fix the manipulation of the work, it will fix, in my opinion, PSR issues. If we can't have a dispute-resolution process in an industry that revolves around billion-dollar repairs, we've failed miserably.

I've had a number of disputes with probably most of the insurers. I've resolved them with most of them. One of the major insurers I'm having continual complaints with, I can't even get a phone call returned. I can submit further files as of yesterday where we were \$300 cheaper on a 2 and a half thousand dollar quote, cheaper than one of their preferred repairers, a better method of repair, and guess what: the job has been directed elsewhere. Where do I go with that? I don't know. I can give it to a solicitor, I can go to the IEC and wait six months for a resolution, or I can just walk away from it. I won't walk away from it - - -

MR RENDALL: The car owner wants you to do it?

MR KREYMBORG: She's been having her car repaired with us for 30 years, Curt. The problem is three or four years ago she had a claim - AAMI. I advised her, "If you want us to do it in future, please consider your insurance when it comes due." She did. She went and insured with Australian Pensioners. Guess where the dispute was yesterday? At the AAMI assessment centre. So don't tell me that the consumers are aware of what they're getting when they get insurance. They're not. This can be easily fixed if there's a dispute process in place that I can access and the consumer can access quickly to have it heard. She was told last night, "If you don't get another quote, we're not accessing the claim."

MR RENDALL: In that case with Australian Pensioners, and she changed to them, was she aware of the choice issue, or the denial of choice? Does their stuff say you get a choice or - - -

MR KREYMBORG: It only happened last night. I was very busy picking my suit for today, and I haven't had the opportunity to discuss those details with her. But very clearly - and I don't want to go on here - I think most of the issues have been discussed. I've read the report. I think most of the issues have been discussed. Very simply, there needs to be a code of conduct. I don't believe it will be voluntary because I believe - and I may be a bit sceptical after nearly 30 years of repairing motor cars - that the insurers, if they wanted to do something, would have done it by now. In my opinion the VACC and the industry in Victoria have been very active in trying to get a better position for the industry as a whole, and if we don't get recommendations from the commission on the methodology of how this is to be implemented, I think we'll have another inquiry in 10 or 15 years' time with the same problems, just bigger issues.

All I'm encouraging out of this room today is the endorsement for the implementation of a code that addresses all these issues with dispute resolution that can be accessed by repairers and consumers without fear of retribution. That's not unusual.

MR FITZGERALD: Brad, the area where we have a slightly different view - we agree that dispute resolution as part of a code is critical: agreed. The question is - and where we differ from your earlier submission - in relation to dispute resolution around individual jobs and quotations on individual jobs, not the quality of work in relation to rectification and some of the issues. The difficulty here is a number of the insurance companies and others have indicated - and I suppose our own assessment - that the costs of a dispute resolution scheme around individual job quotations would fair outweigh the benefits of that. We're talking about a \$300 difference on a quote or what have you.

So the question there is - your view, I gather, is still very strongly that dispute resolution should go down as far as the individual job quotation. My question about that is: is that a cost-effective way or are the real savings or the real gains to be made in trying to get some of the structural and other issues right.

MR KREYMBORG: The VACC were encouraged, I forget how long ago it was - probably three or four years ago - to come up with a code of conduct. One of the major priorities that the committee put together was a dispute facility where an at-fault party was not going to be financially penalised. I hope everyone, and I hope the commission, has read the VACC code of conduct, because the dispute resolution process in that code is based around a no fault, no pay and, similar to what Frank is saying there, no win, no fee. Very simply, this case that I'll just touch on today - I reckon I'm right. I'll back it in, and I'll put my money on the table, that I've been unfairly treated, as has my customer here yesterday. I'm happy to put it up on the table in front of an independent panel, but if I'm right I want my money back and the at-fault party should pay.

Very simply, if I am at fault, I know and I'm not going to jeopardise losing the job and another 500 bucks. So very simply, the dispute resolution process put forward should be an at-fault party pays. It's not dissimilar to what footballers go through; jockeys go through. They go up there and if they get an unfair hearing at a tribunal, they put their money on the table and they can get a second hearing. Sometimes they get off; sometimes if it's frivolous, they lose their fee. The clubs won't put the money up, and that's what similar should happen here. So simply if I'm at fault, I cost my business money and lose the job and if I keep continuing doing that, I'm not going to be around long.

MR FITZGERALD: Okay. I don't want to go into the details of the actual quote itself, but there are two elements to it. One is the price, and you've come in at a lower price. The second thing is you've mentioned, as I understand it and correct me if I'm wrong, that the method of repair between the two quotes, yours and the other party, might be different.

MR KREYMBORG: They were.

MR FITZGERALD: So in that environment, where you've got not only a price difference but a methodology difference, some might say that the insurer has to look at all of those factors and it can't just be on price; it can be on methodology. Even if they came to a dispute, it still might be the insurer saying, "We prefer that particular method, even though it's a bit dearer." That's a possible outcome, so again I suppose pushing you a little bit on this, would a dispute resolution procedure actually help resolve that particular matter, where in fact the insurance company might say, "We look at a number of factors, not simply the bottom line." You might dispute that but I'm just putting it.

MR KREYMBORG: The code of conduct once again, I think, addresses that issue, or the proposal endorsed by all state bodies. I believe if that dispute process is there with a fee to be paid, it will encourage negotiation between a repairer and an insurer. What I feel would happen - for example this job here, I'd ring the assessor and say, "Look, I've got a customer; she's rung me; she's not happy. I reckon I'm right; I reckon you're wrong. Can we come to a compromise?" and I reckon you will. If we don't, "I'll put my fee up; will you put your fee up and then we'll let someone else," but I reckon just to have something there that can be quickly, easily accessed, that can't be abused, where the at-fault party is the only one who pays, will encourage the repairers and the insurers to get together to talk about a job, to negotiate the right method.

I'd say more often than not Allianz Insurance don't have these issues. We come in; we start the job. I might think I'm going to repair this; he might say, "Do we need it," but it's a negotiated process and we get to the final result. Here we are losing work without any recall, without any negotiation process, because someone doesn't like the colour of my eyes, and there is no resolution to it at this moment. All we need is dispute resolution incorporated in a code - provided someone who is doing something right, and I'm talking insurance companies here - and we talk about a bad element in the industry. Yes, we've got repairers who have done the wrong thing and the chamber have written to all insurance companies asking them to put them forward. I can't recall probably more than one or two in the last 10 years coming forward. Where are they? Bring them to the chamber; the chamber will talk to them.

It's the same with this dispute process. If there are inflated quotes or if there's fraud, that all goes through your code of conduct. Weed out the bad but don't let the good go, and don't drag the good down to that level because I have had repairers tell me - PSRs, no insurance company names mentioned - "We will deliberately misquote to win the job, then we get it in, then we book it in for supplementaries." I'm standing there trying to write the quote properly, accurately; it goes off to the

insurance company and do you know what they say? "You're not competitive." All right, I'll write an uncompetitive one. Do you know what they say? "It's incomplete." What do I do and who do I talk to about it? No-one, because I can't get a phone call returned.

MR FITZGERALD: Thank you very much for that.

MR KREYMBORG: Thanks.

MR FITZGERALD: Good. Any others? You do need to fill out that form, by the way. Yes, if you can just come down. Can we just have a two-minute pit stop, and in that time you can fill out a form if we've got enough. John is going to get you one. Just take a seat.

MR FITZGERALD: Okay, Malcolm, if you could give your name and organisation, for the record.

MR MONAGHAN: Malcolm Monaghan. I'm acting on my own behalf. I had my own shop for 21 years. I came in as an observer with no intention of talking, but with a number of things that have been said I felt I had to speak up on a couple of issues.

MR FITZGERALD: That's fine. Just a reminder, it's on the public record and if you want to make a few brief comments, please proceed.

MR MONAGHAN: I don't have problems with that. Firstly, a number of the panel beaters that have been up here today I consider as close friends and very honourable men. I sold my business because of pressures by some insurers and was approached at the right time, so I baled out at that stage. I used to be on the VACC; I was past chairman of the body repair division of the VACC. At that particular time it was designated at the previous industry commission inquiry that approximately 15 per cent of business came from the insurance industry; approximately 15 per cent of their clients wished to select their own repairers. At that particular time we said, "Just give us our 15 per cent; that's all we want." If a client is happy to ring the insurance company and say, "Mr Insurance Company, I've just had an accident. What do I do?", he's asking the insurance company for advice, and he wishes to accept that. We have no problems with that.

I was a selector repairer for one of the insurers and we used to have quarterly meetings, and at those quarterly meetings you'd go in and it was always the same thing - party pies and drinks; shaking your hand; making you feel good - and the meeting always started on the basis of, "Our claims costs are always higher than everybody else's. This is a partnership between you and us to reduce those costings. You will start quoting more second-hands; you will start repairing more than what you are repairing." They were telling us how to repair the motor vehicles. I used to oppose that and the breaking point was when they rang me up and wanted me to drop 10 per cent commission on the parts. I said I wouldn't do that, the reason being I believed it would jeopardise the quality of the repairs we put into place. I was told, "This does not necessarily jeopardise your position with our company." Two weeks later I was no longer a repairer for them, but that was my option. I knew the moment I opened my mouth what was going to happen from it.

I think the code of conduct - I was involved in the original setting up of the code of conduct - the disputes resolution situation is a very important part of it. It is self-funding if it's put together in the correct way and that is, as Brad said, the guilty party pays the bill. In other words, if I misquote and am ridiculous - with the chamber at that particular time we could implement a panel of independent assessors

that had been accepted by both the insurance industry and our industry. They would be on a rotationary basis. We wouldn't know, the insurance industry wouldn't know, who you were going to get. If you had a dispute, within 24 hours you could have an independent assessor out to the car; therefore, the owner, the consumer, wouldn't be mucked around. If the independent assessor came out and said, "Mal, you're being stupid with your figures, you're not competitive. Bang, here's my bill." I lost the job and I paid the bill.

This was the discussion originally with the VACC, so as far as that side of the code, it would work. It would be self-funding. It would be like the New South Wales system where they ended up with money in the coffers, so as for that side of it, I reiterate it would work. Consumer choice - I had a vehicle there, six months old, not with the company I was a recommended repairer for. I quoted the car up, all brand new parts - six month old car - in came the assessor and changed it all. So that's fine. I rang the insured and said, "Come down and look at what we're doing." He came down and he cracked the wobbles; went through the stages with the insurance company; got nowhere. That's fine.

He rang me back and he said, "I've been up to senior management and they just referred me back to the assessor." I said, "Leave it with me and I'll ring the assessor in the morning." I rang the assessor and we discussed it all. He said, "What's the problem?" I told him the story, "The owner doesn't want the parts that you've allowed on the vehicle. He's ordered me to stop work on the car." He said, "What's the difference in price on them?" At that particular stage it was about \$40 a panel; by three panels; just put them on new. That's fine. An hour later I got a phone call from him, "Stop work. I'm coming out to look at the vehicle." He came out with three files. He said, "I've got four jobs to inspect." I said, "I don't think I've got four of your jobs in the place." He said, "This one, this one, this one and this one." Fine.

We went through them and he said, "Don't you get the hint? If you're going to tell the owners what's going on, then you're going to be quality controlled till you're not making money on the jobs." That was straight to me. I know I'm - on oath and all the rest of the rubbish, so I'm not scared of that.

MR RENDALL: Sorry, Malcolm, how did you get the owner into the yard?

MR MONAGHAN: I rang the owner to tell him to come down and look at the assessment that was done on his vehicle.

MR RENDALL: Because you - - -

MR MONAGHAN: I was not a preferred smash repairer for this company, therefore they couldn't take 20 per cent or 50 per cent of my work away from me

because I wasn't one of their preferred anyway.

MR RENDALL: And you didn't feel what they were doing was right in that particular case.

MR MONAGHAN: Definitely. It wasn't justified. In the end the owner got what he wanted but it had to be via me and the back door. So what the gentlemen are saying, it's all fact. If you're talking truth, they said before that every quote is altered. The truth is not every quote is altered. You will get a minute per cent that will come back untouched. I've had them that way too. But it is an absolute minute per cent.

MR FITZGERALD: These are quotes that you've won on a competitive basis.

MR MONAGHAN: Yes.

MR FITZGERALD: Just explain to me how that occurred. In fact, when they came back was the discussion simply that your methodology needed to change or was it simply - - -

MR MONAGHAN: No, it was just a phone call to say, "Your quote has been accepted." The first question you ask is, "What's the alterations?" "Done." "Gee, okay." Your instant opinion is, "I must have been too cheap, I think." You want the truth and that's why I got up. I think it's about time you got truth. The insurers have got their good points, they've got their bad points. If they've got recommended repairs and it's an agreement between both parties and they're happy to do their work, that's fine. I personally made a stand against AAMI and refused to quote their work and I didn't quote it for probably 12 years. I didn't do used car work either and I didn't do taxis.

MR FITZGERALD: You're very determined and that's fine. Okay, thanks very much, Malcolm.

MR FITZGERALD: The gentleman here. Have we got a sheet? I'm told I have to get you to fill it out before we start for the purpose of the transcriber. Trevor, if you can give your full name and organisation for the purpose of record and just a reminder that it's on public record.

MR PARKES: Okay, thank you. Trevor Parkes is my name. I'm from Parkes Body Works. I realise the lateness of the day and I'll be as brief as I can.

MR FITZGERALD: That's okay.

MR PARKES: Please notice that I have no notes in front of me, I speak entirely from the heart. If I fluff my words and get it wrong, forgive me. I'm a great crash repairer but a lousy public speaker.

MR FITZGERALD: Very good introduction. Please - - -

MR PARKES: Gentlemen, I need you to give fair and firm consideration and far be it for me to tell you your job. But there is nothing to stop you guys, if you enjoy Melbourne's weather and our fine restaurant scene, to put your shingle up anywhere you like and called yourself Fitzgerald and Rendall Panels. There is officially no debarment to entry apart from the fact of getting council permission and in the correct zoning. When and if you put that shingle up, the insurance companies will deal with you without hesitation and without reluctance. The public will probably come to your door as well. Why should they? Because your name is there, because they have a blind faith, that they believe that you're proper, you're efficient and you're able to perform your duties and whether you're equipped or not, whether you are equipped or whether you're poorly equipped, that's the assumption that they presume.

Gentlemen, as I said, my apologies, but it would be less than prudent if there was not a recommendation in your report to say that there must be some requirements, qualifications proving acceptance to join this fine industry. There is for nearly every other trade. You see you're a licensed plumber, you're a licensed this, you're a medical provider, whatever. Those of the accounting profession will know that, those of the legal profession, let alone the humble trades industry. This is one of the few industries where the butcher, the baker, the candlestick maker can be a panel beater. You ask what's the benefit to the consumer? There's none if anybody can do it, there is none whatsoever. But if there is a licence, a number, a registration, there is a point that the consumer might be able to rely on it. He might be able to have some blind faith that you are able to perform your duties in a reasonable sort of a way, that you have a financial stability, you have a public liability or a public risk insurance in the event that you get sued or a job goes wrong or that you're able to indemnify when and if there is a job, for example, that goes wrong. That's that issue.

My next issue, and to try a little bit of mirth into it, when I was eight years of age I was very disappointed because I found there was no Easter bunny. At 10 years of age - - -

MR RENDALL: You still believed in Santa Claus at that time?

MR PARKES: That's my next line.

MR RENDALL: Sorry.

MR PARKES: At 10 years of age I wanted to commit suicide because there was no Santa Claus. 10 years later when I was 20 I was extremely disappointed because I found out that there was no such thing as a qualified assessor. I hear previous speakers that have sat in this seat and said, "I have a qualified loss assessor." I want the determination of what "qualified" means. I've got tertiary qualifications. I went to university. I've got diplomas and I'm still studying. I travel around the world to further my education about this fine industry. I looked you two gentlemen up on the Net and I see that you're entitled to put letters after your name.

But what does the word "qualified" mean in the truest adjectival sense of the word? Do we look to the dictionary to say what it is? Who qualifies it? Who makes it right? Who says you're qualified? Who unqualifies you? Are you a tradesman that went broke in your own business and wanted to send other repairers broke? Are you a tradesman that saw the natural progression down the track and joined an insurance company and did a three-weeks training course and you got your red pen, your Commodore and your camera and you became a qualified assessor? I ask you to think about this, gentlemen. I would ask you to think and those that laugh, please take it in the spirit in which I mean. We've got children to feed. We have a mortgage to pay. We have rent to pay. We have a lifestyle to support and it comes from what we produce. We produce it from our efforts, from our endeavours and our heart and initially because our heart and soul is in it.

That's why we're away from our businesses today, to get into it. We have a right to live, we have a right to trade and we have a right to trade without unusual encumbrances. We don't need to be prostituted in the truest sense of the word as our paymasters sometimes do to us. Now, I know the old story, "When you do the paying, you can do the saying." However, there are people out there that are on the breadline that can't meet their commitments, that can't meet their mortgage payments, the account is always in the overdraft and they live and can't support a lifestyle. Necessity being the mother of invention and this sort of thing makes piracy out of honest men. I would suggest that none of us in this room pleaded guilty to this sort of thing, but it drives people to that sort of behaviour when people cannot make

an honest, proper and legitimate living.

If we look at a full floating market economy where market forces truly apply, let them fully float. Let them market. Let's not manipulate them. Let's not again make us the whores of the industry because we've gone to the market for a competitive bid two or three times or whatever and sure enough, if there's a dispute over repair methodology or over technique, by all means everything is open to negotiation. However, when the lowest bidder is continually reduced and reduced and reduced and then forced into that opportunity under work withdrawal, we have to ask ourselves questions of what industry are we in and why are we hating it? And it's simply often because we have no choice. That is how we've all grown up with it. I've been at this industry for 40 years almost, and it has never changed. It has never changed.

The competitive bidding process has occurred, and if insurance companies have really got the you-know-whats to stand up and get counted, and really want to think about the competitive process, well, sack all your assessors, because you don't need them, or have them monitor the repair process. Have them see how they're doing it. Have them see whether it's done correctly. Have them see whether you're in fact getting what you paid for. See whether there's any costs savings at the end of it, because it is a two-way street. There has to be benefits to us and a benefit to them; it's got to be that proverbial "win-win".

How do we manage that in a full floating economy where that happens? Sure, I speak to you about addressing the concerns that we as repairers need to have encumbrances put on us and restrictions and registrations and levels of compliance. What would it do? It would make it better for the consumer. It would be a debarment of entry to stop some of the cowboys getting up and getting in there. It would make people more responsible, more accountable. It would give us the professionalism and the accreditation that we perhaps need. If we had some form of recognition as far as the assessors are concerned, it may do with them too.

Now, I've had some wonderful qualified assessors come into my place. I've had a chef who made a great assessor. I've had a pastry cook, I've had a carpenter and I've had an auto electrician, and they are my pay masters, and I can do nothing about them, because perhaps there is no debarment to entry at their end. They might have been this in a later life and moved into insurance through a claims or experience or again, to better their lifestyle, who knows? But these are the people that have the insurance company's cheque book in their hand and do control our destiny. Please give that due consideration in your report, gentlemen. Thank you.

MR FITZGERALD: Could I just ask a question. Trevor, just on the assessors, is it the lack of qualification that you're alleging of assessors that's at the heart of the

problem or, as some people have indicated in their submissions - particularly confidential submissions - that it's the way in which assessors are required to operate?

MR PARKES: It's a combination of both. There have got to be guidelines and targets, as I guess any company that employs anybody - "This is where you work, this is what you've got to do, these are your parameters." But however, we as the true professionals that are in the industry of getting someone to tell us how to do a job and how much it will cost and how long it will take and how much it will pay is not right. When you say it's all up to negotiation, gentlemen, I'm here to tell you there is little or no negotiation. We have the labour price fixed; we have the times fixed; we have the spare parts fixed by the manufacturer; we have the paint fixed by the type of car and by the person. I've got \$6 million worth of data that tells me that 15 per cent of \$6 million worth of trading is a subjective view. Now, in any marketplace where the price is fixed by the buyer at 85 per cent - I ask you to think about that. That is a very controlled environment.

To answer your question about how the assessor - he's got those parameters and his guidelines. He would give us a hundred bucks an hour if his boss said it's okay, but we all know that that's not feasible nor practical. But however, sometimes when we're dealing with guys that come from a lesser background or an inexperienced background, it doesn't make our task any easier, it doesn't make it any difficult to deliver a quality product at the end of it. Now, unlike doctors, we can't bury our mistakes; they come back to haunt us. We've got to keep fixing it or somebody buys it back from the insurance company. But let me tell you, a lid has been put on it. It's been hush-hushed. It doesn't get the papers, it doesn't get the environment. Somebody buys or pays their way out of it for their own safety.

MR RENDALL: If you are having particular problems with an assessor - - -

MR PARKES: Do I?

MR RENDALL: No, I'm saying if you are having particular problems with an assessor, are there mechanisms within the current corporate codes that the insurance companies have where you can go to his or her boss or - - -

MR PARKES: Well, you can, Mr Rendall, but however, they get the stock book out, and the stock book reads the stock answer to whatever the stock question is. So the short way to your answer is you may get a sympathetic supervisor that will come out and have a look; you may not. If it gets to an impasse where you ask him to disappear or you relinquish the job. If the job is dependent on economics, if it's dependent on safety, method of repair, quality of repair or his sheer ignorance, and you think it is not beneficial, it would be less than a prudent repairer to take that job

on. It would be best to decline it. You can sometimes go to the supervisor, but frequently when you go to the supervisor, you don't really get a clear and unbiased opinion; you get an opinion that is prejudiced because it's very difficult for the boss to go against that guy because there's the you and I thing and whatever. So no, I don't really think you get an absolute, unbiased, totalitarian opinion on mutual behaviour. No, I do not. I've never experienced it in 40 years.

MR FITZGERALD: Just one final question. You mentioned the fact that, in your view, there are fixed time for lots of things, and this strange hourly rate. But yet in a competitive tendering environment, you would think that the bottom line would in fact mean that that's not the case. In a case where there's only one quote, then obviously there's a different dynamic takes place.

MR PARKES: Sure. Look, competition keeps everybody free and honest. But in the repair trade - like, this is crystal ball stuff or magic wand stuff. I wish I had it to solve everybody's problem, and none of us would be sitting here. There has to be methods of adjudication, there has to be methods of inspection, but it's getting to quantum, and that's the whole guts of this matter. That's where we're at. Let me tell you, this business of driven by customer satisfaction and our CSI rating or whatever, that is absolute all nonsense, total nonsense. It is second to the bottom line, and that's why we are all here. We're all getting paid from it, and we're receiving the payment and we're making the payment. Most insurance companies, from what little I know, have cost-based incentives based into their program or their wage packet, which is fine as in to gauge a sales incentive to boost you along. No problems with that, but there are ethics on how you get to that bottom line, and it is purely driven by what ends up in your pay packet every fortnight without any of those checks and balances or any means of redress, that is unkind and disgusting, in fact.

MR FITZGERALD: Okay. Thanks Trevor, that's fine.

MR PARKES: Thank you.

MR FITZGERALD: Is there any other participant? Okay. Well, thank you very much. It just remains for me to conclude the say. The first thing I do is to remind you that if you wish to make further submissions, they're to be at the commission by 11 February. Our staff will go back to participants on points of clarification that have come up during the day, so it's not the end of the process. If you do have points that you want to raise as a consequence of these hearings, then by all means you can do so directly to our office, but I just make the comment again that if you can get your written submissions in, if you have any, by 11 February. The final report will go to the government on or before 31 March. I just want to say thanks to all of you for being here. Thanks very much to those that have participated in the hearings, to the staff that have facilitated today, to the transcriber, and to those that have shown a

general interest and supported the inquiry today. These hearings are now concluded. Thank you very much.

AT 3.31 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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