



MTAA submission to Treasury Department Discussion Paper on Disclosure in General Insurance: Improving Consumer Understanding



Motor Trades Association of
Australia Limited

PO Box 6298

Kingston ACT 2913
(02) 52008239

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PO BOX 6298
Kingston ACT 2604
Phone: 02 51008239
Email: admin@mtaa.com.au

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1. Executive Summary

- 1.1. The Motor Trades Association of Australia Limited (MTAA) and its members, the State and Territory Motor Trade Associations and Automobile Chambers of Commerce, supports the recommendations of the Senate Economics References Committee into the general insurance industry and welcomes the Treasury Department's role in further defining proposals and actions to improve consumers' understanding and access to information through better transparency, and enhanced disclosure practices in the insurance sector.
- 1.2. By necessity MTAA's submission concentrates on the general insurance market category of motor vehicle insurance and the relationships between Consumers, Car Insurers and the motor body repair businesses. However, it is the view of MTAA that conduct, concerns and behaviours in car insurance are likely to be similar in other general insurance categories and suggested improvements equally applicable.
- 1.3. As a result of increasing complaints and concerns by MTAA member organisations, motor body repair businesses and their customers, MTAA and Member Organisations are of the view that current Product Disclosure Statement (PDS) requirements are inadequate.
- 1.4. MTAA has submitted to other recent investigations that some Car Insurers, routinely engage in a range of conduct to:
 - i. Design and implement practices that create false and negative impressions to policyholders over the standard, quality or suitability of services by motor body repair businesses that are not owned by, contracted to, or the preferred suppliers of, Car Insurers;
 - ii. Mislead, or deceive, or exert undue pressure, on the policyholder to steer the policyholder toward the motor vehicle insurers' preferred smash repairer;
 - iii. Give false impression to policyholders that requirements to comply with insurance contract provisions are not reasonably necessary particularly in exercising policyholder choice;
 - iv. Fail to transparently and properly inform policyholders on their rights under the insurance policy;

- v. Potentially disadvantage consumers by electing to cash settle claims against an insurance policy where the consumer persists with a choice of repairer other than one owned, contracted to or as a preferred supplier to the insurers;
 - vi. Inconsistent conduct, treatment and engagement with motor body repairers, as weaker market participants, as small business consumers as opposed to treatment of insurer owned, contracted or preferred suppliers;
 - vii. Fail to abide by the intent, purpose and clauses of the Voluntary Motor Vehicle Insurance and Repair Industry Code of Conduct (**Code**);
 - viii. Demand requirements that were not disclosed at time of engagement and/or could not have been foreseen during contract negotiations, particularly relating to elements of motor vehicle body repair process and price; and
 - ix. Fail to act in good faith.
- 1.5. It is the view of MTAA that such practices and others may contravene sections of The Corporations Act 2001, the Competition and Consumer Act 2010, Australian Consumer Law, and the voluntary *Motor Vehicle Insurance and Repair Industry Code of Conduct* and directly and indirectly impacts consumers, starting with their understanding of the PDS and its application.
- 1.6. Also of importance is the continuing growth and reliance by consumers on companies providing product comparison services, particularly for motor vehicle insurance, and the intersection of disclosure requirements for these companies and their operating environment and motor vehicle insurance products and their providers.
- 1.7. Disclosure requirements, particularly motor vehicle insurance products has been a feature of numerous Commonwealth and jurisdictional inquiries and reviews over the past two decades including: the Wallis Report (1997); Financial System Inquiry (2014); The NSW Legislative Assembly Select Committee on the Motor Vehicle Repair Industry (2014); and more recently the WA Parliamentary inquiry into that State's smash repair industry (2018) and the Banking, Superannuation and Financial Services Royal Commission (2019).
- 1.8. This submission will present the key areas of consumer disadvantage relating the to the current product disclosure regime for motor vehicle insurance, and outline potential reforms for consideration by Treasury aimed at enhancing the level of understanding, transparency and choice for consumers.

2. Recommendations

MTAA Recommends:

1. **Choice of repairer is instigated as a default right for consumers in motor vehicle insurance policies and is made explicit in Product Disclosure Statements and new requirements for consumers be provided for upfront disclosure concerning choice of repairer and parts under a policy; and penalties for practices that prevent a customer exercising his or her choice of repairer under an insurance policy that provides for that right.**
2. **Insurer websites provide explicit information concerning the methods and choices available for the repair of vehicles for consumers.**
3. **Insurer demands for monetary payments from consumers for consumers own choice of repairer, be declared illegal and removed from insurer's Product Disclosure Statements.**
4. **Product Disclosure Statements (PDS) be required to be written in simple English so that a "reasonable person" would be able to understand the terms within it.**
5. **Single page explanatory facts sheets should accompany PDS's, each in plain English and / or with a pass/fail (IE Tick/Cross) graphical representation.**
6. **The fact sheet should be a template design uniformly applied to all car insurance policies, which demonstrates to consumers their rights and obligations under the contract. This should take the form of a graphical representation.**
7. **Standardised Definitions of the terms, and therefore the threshold of Pass/fail, should be determined by the Government or an appropriate enforcement agency to allow for enforcement actions against an insurer who misled clients through the PDS or fact sheets.**
8. **Specifically, fact sheet should include:**
 - a. Clear standardised definition of choice of repairer without condition or limitations imposed by the Insurer.
 - b. Whether the use of non-genuine parts will impact their warranty, and inform consumer if any changes to repair methods, parts supplied, including the use of marketing or misleading terms to describe non-genuine OEM parts in attractive, materials or significant materials have been made to the repairers recommended methods of repairs.
 - c. Whether the insurer requires OEM methods for repairs where available, and that they meet the insurer's obligations under relevant legislation, regulation and Industry Codes of Conduct.
 - d. History of premium increases over the preceding 5 years. This should be provided at the point of sale and will empower consumers to make direct comparisons between policies without relying on interpretation.

9. **PDS should be in effect for the duration of the contracted period. Mid-term variations should be prohibited. If an insurance contract is being renewed, a fact sheet, which contains the specific clauses, as it is, the clauses as it will be, and the impacts of change should accompany any variations to terms on the policyholder.**
10. **Provide improved options for complaints and dispute resolution for consumers, including the service provided by Australian Financial Complaints Authority, to review the dispute in the event they are not satisfied with the insurer's findings on their complaint.**

3. MTAA and Member organisations in context

- 3.1 The Automotive sector and the multiple industries within it, are undergoing unprecedented structural adjustment brought about by external global influences including automation, the rapid application of advanced technology, increasing influence of increasingly larger and consolidated market participants, and changes to consumer purchasing behaviours.
- 3.2 Modern motor vehicles are now highly complex, integrated, and increasingly inter-connected products. Increased safety, efficiency, environmental, mobility and connectivity outcomes are being achieved with increasing reliance on computerisation, often with multiple third party Original Equipment Manufacturers (OEMs) creating and supplying technologies particularly in advanced systems and sub-system integration.
- 3.3 MTAA Limited is the national association of participating State and Territory Motor Trades Associations and Automobile Chambers of Commerce Members, and discrete national industry associations that exist under the MTAA umbrella providing unparalleled coverage and access to the nation's automotive and related businesses.
- 3.4 MTAA and members represents and is the national voice of the 69,365 retail motor trades businesses which employ over 379,365 Australians that contributed \$37.1 billion to the Australian economy in 2015/16; which equates to 2.2% of Australia's GDP. ¹ The vast majority of these businesses are small and family owned and operated enterprises.
- 3.5 MTAA member constituents include automotive retail, service, maintenance, repair, dismantling recycling and associated businesses, that provide essential services to a growing Australian fleet of vehicles fast approaching 20 million (expected by 2020) and growing annually by 2.1%² that has rapidly advancing technological systems and capabilities.

¹ Australian Automotive Directions Industry Report, August 2017

² Australian Automotive Directions Industry Report, August 2017

3.6 MTAA Limited Members have almost all industries (more than 95%) of the automotive sector represented as business member constituents. This allows MTAA Limited Members the ability to understand the operations, issues, concerns and risks of participating automotive industries including but not limited to:

- *New car retailing (including service)*
- *Used car retailing (including some who service)*
- *New and used motorcycle retailing (including service and recycling / dismantling)*
- *Vehicle body repair (smash repair)*
- *Independent automotive servicing*
- *Service station and convenience stores (franchise and independent)*
- *Auto recyclers, dismantlers and part suppliers*
- *Farm and industrial machinery retailing (including service and in some cases dismantling and recycling)*
- *Tyre retailing, retreading and recycling*
- *Towing*
- *Bus and coach*
- *Heavy vehicle*
- *Specific service professions including glass, transmission, engine replacement and reconditioning, brakes, steering, automotive electrical and air- conditioning*
- *Vehicle Rental*

3.7 Most MTAA Limited members are also automotive sector training providers and possess extensive operations and facilities in apprenticeship training and skills development and post trade qualifications. In many jurisdictions MTAA Members are the largest employers of automotive apprentices and trainees.

4. MTAA Member input to this submission

4.1 As part of preparing this submission in response to the Treasury Discussion Paper, most MTAA members have provided significant input and feedback based on individual consultations with their motor body repair and other constituents and mutual customers of car insurers and motor body repair businesses. Some MTAA members may have provided separate submissions and these should be read in conjunction with this MTAA submission.

4.2 South Australia

- The Body Repair Division of MTA-SA discussed the Treasury consultation paper in a well-attended workshop during February.
- In particular, members discussed the current status of disclosure requirements in Product Disclosure Statements in relation to car insurance, and the ease of understanding felt by consumers and consequent impacts upon collision repairers.
- Key points arising from the Working Group included:
 - Members found that consumers often do not read their PDS.
 - Those who did find it confusing, densely worded and relevant information to key obligations and rights were contained within disparate sections of the PDS, without cross-referencing.
 - This led to consumers having insufficient or incomplete knowledge of the implications of choice of repairer, the use of genuine, non-genuine or parallel parts in terms of vehicle warranty, and how variations to the PDS would impact their coverage.

4.3 Western Australia

- MTA-WA sought the views of members including motor body repairers in February 2019. The West Australian Parliament has recently concluded an inquiry into the WA Smash Repair industry where disclosure was also a topic of consideration. Many of the responses from industry were similar to testimony presented to the Parliamentary inquiry. Other repairers and consumers provided additional examples and comments, which are provided at [Appendix 1](#) of this submission.

4.4 New South Wales

- NSW, as the only jurisdiction with enforceable regulations impacting the car insurance and motor body repair industry, significantly investigated the issue of disclosure and related impacts during a 2014 NSW Government Legislative Assembly Committee Inquiry. Outstanding actions arising from this inquiry are revisited in this submission as well as other matters highlighted by MTA-NSW motor body repairers during the consultation under other headings of this submission.

4.5 Victoria and Tasmania

- Likewise, feedback from the Victorian and Tasmanian Automobile Chambers of Commerce and its members has informed key aspects of this submission including recommendations. Victorian consumers and motor body repair businesses have been particularly hard hit in terms of consumer choice issues and aggressive tactics by Car Insurers, which have led to increased dispute mediation and determination and negative impacts on policy holders.

4.5 Northern Territory and Australian Capital Territory

- Input from Member business constituents in the two Territories largely reflected those provided by businesses in other States. However there was feedback that because of smaller markets, fewer providers and a range of other issues, problems being experienced were likely to be exacerbated.

5. Major issues to be addressed by improved PDS

5.1 Choice of Repairer for Consumers

- 5.1.1 In the event of accident claim, motor vehicle insurance policies have always afforded a choice of repairer for the consumer, and this has been a given right for consumers over many decades. This right has been traditionally disclosed in the PDS by insurers, as well and being verbally communicated at the point of sale or in the event of a claim. Choice of repairer allows the consumer to nominate their own vehicle repairer that meets their expectations concerning the quality of repairs, price and other particular requirements such as convenience, location, long established relationship etc.
- 5.1.2 Increasingly over recent years insurers have removed this right for consumers from the PDS. This means that in the event of an accident claim, the damaged vehicles are sent to the insurers own preferred network of repairers, with no say on the part of the consumer. This is essentially a cost cutting initiative introduced by insurers that invokes the use of a repair network that is vertically integrated within the business operations of insurance companies. This network of repairers undertakes repair work to a standard average cost and quality of repairs, sometimes utilising non-genuine branded parts, and regardless of the type of vehicle involved.
- 5.1.3 MTAA Member businesses are receiving increasing complaints from many consumers that they are unaware that their right to select a repairer of own choice is no longer a given right within their insurance policy. Furthermore, this fundamental policy change is not made explicit in the PDS, nor verbally communicated to consumers at the point of sale or renewal of an existing policy.
- 5.1.4 In MTAA and Members experience, most consumers are loyal to their insurer if they have never made a claim, and therefore will continue to renew their policy year after year without even looking to see if there has been a change in the policy conditions. This makes the issue of upfront disclosure for new policies and renewals, all the more critical. It would also be advantageous for consumers if insurer websites were more explicit in identifying the methods and choice options available for vehicle repairs.
- 5.1.5 A further disturbing development relates to the fact that if consumers want the right to select their own repairer, insurers are now charging people in the order of \$100 extra in their premium for this 'privilege'.

- 5.1.6 Chapter 7 of *The Corporations Act 2001* highlights the fact that insurers must provide a PDS, and this PDS must include information about the features and benefits of the policy being sold, including its terms and conditions, limits and exclusions. Therefore, to charge a purchaser for the right to choose a repairer, insurers must outline the benefits to the consumer. In effect, this amounts to predatory behaviour, as there are no benefits to the consumer, as the vehicle has to be repaired under the guidance of the insurer, with the insurer being the main beneficiary.
- 5.1.7 MTAA and Members regard these developments as unacceptable, only serving to misguide consumers as to their rights, limiting both their choices and ability to make informed decisions on motor vehicle insurance policies. MTAA and members consider this a key area where Treasury can help develop protocols to improve transparency and consumers' understanding and access to information through enhanced disclosure practices.
- 5.1.8 While the Code of Conduct specifies that Choice of repairer should be upfront in the PDS, MTAA and Member analysis has shown there is a lack of consistency to how this matter is treated in PDS with some references not occurring until some 40 pages into the PDS.

5.2 Steering Policyholders

- 5.2.1 MTAA respectfully suggests that an example of where consumers are often 'caught' by a lack of clarity and transparency in a PDS is when an accident or incident occurs and the Policy is activated. For many this may be a new experience and great reliance is placed on communications from their chosen insurer and for many this will be their first realization of the benefits and limitations of their chosen policy.
- 5.2.2 The PDS should be improved to avoid a significant concern regarding the 'steering' of customers. The term 'steering' refers to the practice by Car Insurers of directing policyholders, who have made an insurance claim, to the insurer-preferred or insurer-owned repair shop even though the policyholder has asked, and is contractually entitled, to have his or her car repaired at a repair shop of his or her choice.³
- 5.2.3 Since a Productivity Commission Inquiry into the car insurance and smash repair industries in 2004/05, insurance companies have steadily increased the provision of choice in smash repairer as an additional cost option.
- 5.2.4 Anecdotally many policyholders like having the freedom to choose a smash repairer that they already have a relationship with, and trust, or a smash repairer that is situated at a convenient location, or for a range of other factors.

³ NSW Parliament Select Committee on Motor Vehicle Repair Industry, July 2014, at 55.

- 5.2.5 But there is evidence that Car Insurers ‘steer’ policyholders to the insurers’ own preferred smash repairers (even where the policyholder has expressed a preference to the contrary).⁴ These are smash repairers that Car Insurers either own (either wholly or in part) or who are subject to a repair authority.
- 5.2.6 Responding to complaints received from policyholders the MTAA developed a consumer complaint form to allow policyholders to formally record their complaint. A selection of these complaints is provided in **(Appendix 2)** to this submission. The MTAA has also received complaints from smash repairers and a selection of these complaints is contained in **(Appendix 3)**.
- 5.2.7 From the complaints received, MTAA is of the view Car Insurers steer policyholders toward their preferred smash repairers, by applying pressure, harassing or coercing and/or misleading or deceiving policyholders into believing that their repairer of choice is too expensive, not qualified, unprofessional, too slow or otherwise not a good or competent smash repairer.
- 5.2.8 In their 2003 report, the ACCC expressed concerns that policyholders could be given a false or misleading or deceptive impression by some comments made about non-preferred repairers. The ACCC reminded insurers and their representatives of not engaging in misleading or deceptive conduct and the obligation to provide customers with the most accurate and honest advice and information when offering advice and directions relating to the repair of their vehicle:
- ‘Insurers must ensure that their staff do not engage in misleading and deceptive conduct by way of representations made to the consumer about rights under their policy or conditions imposed by the policy, either when taking out or reviewing a policy, or in the event of a claim.’⁵*
- 5.2.9 The Productivity Commission recorded a finding in its investigations that ‘[Car] Insurers should not attempt to dissuade consumers from exercising their available choice options by misleading, inaccurate or unjustified comments about the quality or timeliness of repair of non-preferred repairers.’⁶
- 5.2.10 Other strategies employed by Car Insurers to make it difficult for policyholders to use smash repairers, other than the Car Insurers’ preferred smash repairers, include requiring the policyholder to engage a loss assessor or obtain several quotes for repair and/or processing the policyholder’s claim more slowly than the Car Insurer would otherwise process the claim.

⁴ See *Australian Automotive Repairs’ Association (Political Action Committee) Inc v Insurance Australia* [2004] FCA 700 at [81] per Lindgren J, Appendix 6 and Appendix 7.

⁵ ACCC issues paper, 2003, at 6.

⁶ PCI Report, Finding 5.4, at 118.

- 5.2.11 If policyholders persist with their choice of smash repairer there is some evidence that Car Insurers will 'cash settle'. That is, Car Insurers will elect to pay policyholders a sum representing their estimate of the repairs, usually on 'Funny Time Funny Money' rates, which more often does not represent the real cost of repair.
- 5.2.12 MTAA strongly recommends that a current lack of attention to the behaviours and conduct be addressed in Product Disclosure Statements, so that consumers are better informed.
- 5.2.13 In the Western Australia Parliamentary Inquiry of 2018, Finding 14 of the inquiry suggested further investigation was required, including at a minimum MTAA suggests the inclusion in PDS of appropriate clarity regarding consumer's rights.

Finding 14

'Where customers have a choice of repairers, the Committee heard evidence of insurance staff 'steering' customers to their preferred network of repairers in an effort to lower the cost of repairs. Direct evidence of inappropriate steering behaviours would indicate an abuse of market power and provide further justification for a Commonwealth Government-initiated inquiry into structural issues in the smash repair industry.'

5.3 Addressing previous inquiry findings and recommendations in PDS reform

- 5.3.1 In 2014 a NSW Legislative Assembly Select Committee inquiry on the Motor Vehicle Repair Industry, (*Report 1/55 – JULY 2014*) made a number of observations and findings of direct relevance to the Treasury discussion paper and need for improvements.

*'The Committee heard that insurers may offer inducements, such as a free car wash or quicker repair times if a customer uses an insurer-appointed repairer; and may offer incentives to their staff to steer customers to such repairers. The Committee also heard that consumers are often unaware of their rights in relation to choice of repairer and parts under their policy until they have an accident as this information is often buried in lengthy product disclosure statements. Such practices are anti-competitive and impact on genuine consumer choice.'*⁷

- 5.3.2 The Committee also heard that insurance companies may steer consumers to their preferred repairers or parts suppliers by failing to provide information, upfront in product disclosure statements, about parts policy and whether choice of repairer is available under the insurance policy that they are taking out as described above. As the MTA-NSW stated at the time:

'Consumers are not properly informed of their rights or obligations when entering into an agreement of insurance with an insurance company. Insurance companies typically include terms and conditions of an insurance policy toward the end of a PDS [Product Disclosure Statement]...some of which include important information which require customer approval prior to entering into the

⁷ Select Committee on the Motor Vehicle Repair Industry pp ix

agreement. Such information can include...conditional choicer of repairer [and] use of genuine/non-genuine parts; or second hand parts...'

- 5.3.3 The Committee recommended consumers be provided with up front disclosure concerning choice of repairer and parts under a policy and penalties be introduced for practices that prevent a customer exercising his or her choice of repairer under an insurance policy that provides for that right. MTAA and members support this recommendation and strongly urge the Treasury to consider such an inclusion with planned changes to disclosure requirements.
- 5.3.4 Recommendation 10 went further and included that such a disclosure should occur:
1. When the insured first enters into an insurance policy with the insurer;
 2. On each subsequent occasion when the policy is renewed; and
 3. Whenever the insured makes a claim under the policy.⁸

Insurance industry consolidation and transparency for consumers

- 5.3.5 The Committee also recognised in the report that the ongoing consolidation of the insurance industry, largely through merger and acquisition, was also creating confusion for consumers with many unaware that one car insurance brand and products of that brand are actually owned by another insurer. MTAA contends this concern has increased in the four plus years since the release of the NSW report. The Committee recommended that the Motor Vehicle Insurance and Repair Industry Code of Conduct should be amended to include a new Clause 9.6 that requires insurers to declare their umbrella and parent companies. It said that this information should be clearly visible, upfront in the product disclosure statement and/or advised to customers at the time they enter into the insurance policy.
- 5.3.6 Although the Code was amended to reflect the change and it appears in PDS documents of some insurers; it is not consistent and nor is it 'up front'. MTAA would argue that this recommendation must be enacted in full and consistently by inclusion of appropriate provisions within the PDS and be part of the changes to be considered by Treasury. MTAA argues that with increasing reliance by consumers on online comparisons, it remains as unclear today if an insurance product of one insurance company is part of a larger parent insurer.

The use of parts in completing a repair

- 5.3.7 The NSW Legislative Assembly Select Committee inquiry also noted concerns in regard to descriptions provided in some PDS regarding the use of genuine versus replacement or re-useable parts.
- 5.3.8 The Committee received evidence from a number of repairers during the course of the inquiry of instances when non-genuine parts have been authorised for use by assessors, contrary to the

⁸ Select Committee on the Motor Vehicle Repair Industry pp xii

wording of many PDS that specifies that only genuine parts will be used for vehicles under manufacturer's warranties except in relation to specified parts.

- 5.3.9 The Committee expressed the view in the report that: *'consumers should be notified by their insurer when a non-genuine part is used on their vehicle, if the vehicle is under a manufacturer's warranty as this would be considered a change in the contract agreed to by the respective parties.'*
- 5.3.10 MTAA is of the view that this should also be adopted by Treasury in the suite of changes to PDS and disclosure requirements to improve consumer understanding.

6. Improving the Effectiveness of Disclosure Documents

- 6.1 As reminded by MTAA member the VACC, the findings of the Financial System Inquiry (FSI) report released in December 2014, remain very relevant today. The FSI report noted that mandated disclosure can be insufficient in informing consumers, for many reasons.
- 6.2 Specifically, the report commented that while general insurance has a bespoke product disclosure regime, the industry lacks a standard practice in describing a policy's key features and exclusions, and this correlates with a risk that consumers may be misinformed or will not understand the policy. Furthermore, the FSI also tasked the general insurance industry with reducing complexity and facilitating consumer understanding of key features and exclusions, including consumer testing.
- 6.3 MTAA and Members concur with these findings, and in the case of motor vehicle insurance, there are several ways in which these objectives can be achieved. However, contrary to the views of the Insurance Council of Australia (ICA) and the National Insurance Brokers Association (NIBA), MTAA and Members do not believe that a reliance on insurance brokers to inform consumers in selecting appropriate insurance products is preferable to a mandated disclosure regime such as a Key Fact Sheet (KFS).
- 6.4 In terms of motor vehicle insurance, insurance brokers have little knowledge of the key problems confronting the smash repair industry and the implications for consumers particularly given the sometimes long periods that may occur before an incident or accident and the provisions of the Policy are activated. Furthermore, there is the potential for insurance companies to influence brokers to subscribe to their 'view of the world' when informing clients, rather than plainly list details on their own KFS.
- 6.5 MTAA and Members strongly suggest that a policy of mandated disclosure is in the overall best interest of consumers. There is scope however, for improving consumer understanding of documents such as the PDS and the KFS that would lead to more informed and better-quality decision-making by consumers. Key initiatives could include:

- **Summarising the content of PDS and KFS documents into key points** – this would enhance the readability of the information and reduce the visual bulk of the documents which can be off-putting for many consumers
- **Reducing the complexity of written language** – ideally all information should be presented in plain English which promotes easier readability and comprehension for consumers
- **Combining the PDS and KFS into one single document** – Combining the PDS and KFS into a single document would help reduce consumer disengagement by alleviating the need to refer to multiple documents for information. Furthermore, consumers should be required to tick-off that they have read and understood the document before purchasing insurance products.
- **Providing a more user-friendly visual display of information** – the way information is presented in documents can have a large bearing on the consumption of that information by users. The use of readable text font, appropriate colour contrasts and the layout of the information are key factors that need to be considered in the design of user-friendly disclosure documents.
- **Providing optional digital disclosure** – given that many consumers are digitally savvy and use a variety of digital communication methods, disseminating product disclosure information electronically should be an option available to purchasers of insurance products.

6.6 MTAA and Members suggest that adhering to these principles of good-design and practice, including the validation of documents through appropriate consumer testing, would provide consumers with clearer information on general insurance products, thus enabling them to make better decisions on their purchases.

7. Conclusion

7.1 MTAA welcomes the opportunity to contribute to participate in the consultation process for improvements to Product Disclosure Statements and remains available at any time should the review team wish to pursue matters raised in this submission further, or to access other confidential information that has been provided to other inquiries.

END OF SUBMISSION

1. Appendices

APPENDIX 1 – INPUT FROM WESTERN AUSTRALIA REPAIRERS & CONSUMERS

Repairer:

'A couple of points re the transparency bit.

The public is not made aware that both IAG and Suncorp have multiple brands that compete with each other. Customers jump from one brand to the other believing they are buying a different policy with a different company when in fact they are not.

With a couple of minor variations, both companies treat every claim the same no matter what the brand. Therefore customers are just changing the brand for a different price, but getting exactly the same thing.

Insurer X (name supplied) say they don't steer but they do. Although they vehemently denied steering, in the next breath, they said that under their contract with another very large repairer, they needed to fill their shops and acknowledged that they did move (steer) vehicles to them.

18 months ago, Insurer X claimed that all of their contracted shops are required to achieve I-Car gold class training. This was published in Panel and Paint Magazine as well as Bulletins and it is in their operating agreement. When Insurer X were asked about how many iCar Gold Glass businesses did they give work to, they said they 'we are not going to enforce it'. So first they put it in their contract as a requirement, and repairers spend money and time to comply and then it appears when it suits them they change the rules. The question is: do they utilise ALL of the repairers that meet their requirements to repair customer vehicles? It appears not. For example the very large repairer mentioned above do not meet the insurance companies requirements but are used to repair vehicles as the 'price is right'.

Insurer X say that they do not steer. They do steer. Remembering that all they policy holders are told in the PDS that they have 'choice of repairer'.'

Repairer:

'We have had clients steered away with methods stated below. How many? No way to know.

We used to be a preferred (1st tier) for insurers A, B, C (names supplied). However our customers were told that because we are no longer on their preferred list (even though we did nothing wrong, they just made a decision to remove us) they would have no warranty. Figure that one out. Nothing has changed. Our work is the same quality as it was when we were preferred by the insurer.

In response to Assessors who have said "If you don't like our rates and allowances don't quote our work." I have said "please don't steer my customers".

Repairer:

I am writing to you to let you know of a recent incident we had with Insurance company A (name supplied and part of one of two market leaders) in regards to an 84 year old lady who came to us for a quote and wanted repairs to be carried out by our business (in regional town in WA). She phoned from our office to lodge a claim and was told quite bluntly that her vehicle has to go to one of their shops in Bunbury. The claims officer passed the request to someone higher as the customer said she did not want to drive to Bunbury as she did not drive those distances.

But no joy there and was told it was only a 24 minute drive to Bunbury that she would have to take her there for repairs. As the dear old lady does not drive to Bunbury herself it was going to be a major task to travel in for a quote and then arrange to take her vehicle back for repairs and then have to collect her vehicle. After a very long phone conversation our customer decided to not claim for the damages to her vehicle as it had become far too stressful. She was told it was in her Product Disclosure that she had no choice of Repairer and they were not going to budge from that even though their repairer was in another town.

I feel it is very cruel for an Insurance Company that targets elderly customers to be so unaccommodating when they need to lodge a claim.

Customer Experience:

'I like to go to a particular repairer because he does good quality work and has a quick turn-around which I need for my vehicles as they are mainly work vehicles. So I took out a policy that gave me choice of repairer. However my experience is that every single time I need to claim they heavily try to steer me away from my choice of repairer by telling me that they can't warranty his work, can't warranty his quality of work, it will take longer and I won't get any of the benefits like free taxi pick up and drop off etc.

When I state that I want to take it my choice of repairer they tell me that they can't find that business, he is not in their database. This is despite me telling them about this repairer on the previous claim and I took my vehicle to my repairer for repairs. So he is on their books, not sure why they can't find him.

The insurance company saying the above to me, would make me think that there is something wrong with this business, they've done something bad, or they don't do good work. As I know this business from years of experience, I know this not to be true but someone who doesn't know them well may start to doubt. As a business owner I believe this conduct by insurers to be unconscionable as it casts doubt and reflects badly on the business. It gives the impression that this business may be dodgy. This conduct by insurers can destroy any business but small business in particular.

Many policy holders and in particular the elderly are likely to say 'Oh OK so who should I take it to if I can't take it to the repairer of my choice?'

Despite my courage I am not keen on arguing with an insurance company in case there are any repercussions.

Repairer:

We were the only repairer that the customer got a quote from. I did tell him that he just had to let his insurance company know that he wanted to come to us and that they would try to sway him but to stand his ground.

Most of our customers do stand their ground but all say that they have to be very strong with the insurance companies as they are persistent in getting them to go to a shop of the insurance companies choice.

APPENDIX 2 - STEERING POLICYHOLDERS

Complaints from policyholders

Example 1

When I called my insurer for a claim "SAIC" number I feel I was being pressured into using their supplier to carry out my repairs. I told them I have a trusted, preferred supplier who has already assessed the damage to my car and I didn't have time to take it anywhere else. I feel I was being ~~put~~ under pressure to the point of harassment and being coerced into using a supplier of their choice. I was asked on 4 or 5 occasions which is not fair as I pay to be able to use my own supplier.

Example 2

Hi [REDACTED]

In regards to the below highlighted,

1. I think you have been misinformed or are making this up... I have in writing, me sending an email to [REDACTED] asking for the vehicle to be priced. I have never talked to the estimates guy on the phone or in person, and who I believe you have been speaking too is the estimates manager not the owner.
2. You requested I take the vehicle to another repairer and I quote "I don't mind where you take it, you just need to get me one more quote that is fair and reasonable"
3. Please provide evidence on where I am managing the assessment, I purely sped up the process and obtained additional quotes for you as you have been sitting on them for over 4 weeks, you also refused to escalate my matter to a senior and refused to discuss things further until I gave you permission to pick up the vehicle and take it to your preferred repairer, as you felt [REDACTED] and I quote [REDACTED] is difficult to deal with, does things his own way and is unreasonable and overpriced"
4. Furthermore when I called to start the claim, the operator asked me if I would like to use their repairer or my choice, she also advised I only needed 1 quote as this was a third party claim and I provided all their details. I encourage you to request the transcript from this call. Date of call 24th February at approx. 11.00am.
5. Your reference to the \$11k, you advised me you were in the trade and your professional opinion is and again I quote "these works would be around \$11k not what [REDACTED] has priced.
6. Also on Tuesday the 20th of March at 3.00pm I met [REDACTED] at [REDACTED] where he requested I leave the vehicle there until such time as this claim is processed. He also advised upon his return he was going to get IAG [REDACTED] to manually assess and process the claim as he had viewed the vehicle and noted damage.
7. I also contacted CGU and requested my matter be reassigned to another assessor, which they advised you had to agree to this in which you declined as you felt it was being handled appropriately.

I have given you 3 quotes that are around the same price, and I believe you are misusing your market power by setting the price at a sufficiently lower level.

FYI on the 26th March, I submitted an application with FOS to review this matter further.

Example 3

Thank you for sending that quote through. I'm on to XXXX (name supplied) as I am writing this email. At 7.22pm they still hadn't sent through the invite to you as they said they would at 9.30am this morning. Now I have asked to speak to a supervisor regarding this bad service I'm receiving from them. As we spoke this morning the following is what has happened after I contacted XXXX regarding this accident of a person reversing in to me.

Friday night I contacted XXXX regarding what had happened & was told that I needed 2 quotes as I had a preferred repairer that was not one of theirs. They really wanted me to go to their XXXXX, but due to me having a bad experience with them I said no so they then said XXXXXXXX, which I agreed to.

I was not told about making an appointment to see XXXXXX so I went there this morning 24/4/18 at about 8.15-8.30am. I was spoken to quite rudely, asked did I have an appointment which I replied No (if I knew I needed one I would have made one), he then told there was 4 cars in front of me, I asked when could he do it, he disappeared for a minute to come back with earliest is 10am Thursday morning. I walked out to contact XXXX.

I rang XXXX told them what had happened & they had me on hold for 5 minutes then I was disconnected, they rang me back & said they were trying to find someone to get me a quote. Whilst on hold for more than 15 minutes I decided to ring XXXXX smash repair to see if they were preferred repair the lady on the phone (XXX) said we are not preferred repairs but we do work for XXXX so I asked if they agree can I bring my car down the XXXXX said yes by all means.

When XXXX came back to the phone which was less than 5 minutes after I hung up from XXX, XXXX told me they couldn't find anyone to do the quote for me this morning, I asked them about XXXX smash repair & they told me that they had just spoken to a lady their & they couldn't do it.

I told them that I had just spoken to XXX & she had just told me that XXXX could do the quote for me. He told me it was the difference between a customer ringing & and insurance company ringing. XXX had told me that XXXX had not even rang them. So XXXX lied to me about contacting XXX. XXXX told me they were sending through the invitation to XXXX Smash repairs so they could send a quote through. Up until 7.22pm no one had sent the invitation through to XXX, so once again I was lied to from XXXX.'

Example 4

The phone conversation that I had with the assessor [redacted] contained the following statement on words to that effect.

"Why are you using [redacted] they are really expensive!"

My response was that they were referred to me. I further asked what do you mean? His response was the following.

"Yeah, I've had issues in the past with [redacted] being too expensive on their cost."

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act, 1936-1969.

Example 5

When I submitted my claim I asked to have [redacted] as the repairer but I received advice that I should use Capital Smart instead. Shane's advised me that my claim would be processed faster and the repairs would be ~~be~~ finalised quicker if I used their ~~repairer~~ repairer. After I insisted they agreed to allow me to use [redacted]

Example 6

When phoning call center, they told me to go to their chosen repairer, but we insisted then they phoned back and said OK.
But this was very off putting

Example 7

'Spoke with CGU and was told this repairer was not one of their preferred partners, so I would have to arrange my own assessor and then get back to them.'

Example 8

'Sorry for the delay in getting back to you. I am right to have the work done on the bumper of my car.

However, I am still waiting for Insurer to get back to me with details of the bonnet claim. I lodged a second request to them on 2 May 2018 as the first one was for the wrong claim. They told me that it will take up to 30 business days. I rang them this morning but nothing yet. If I haven't heard by 15 June 2018, I will call them again.'

Example 9

'I had an accident 3 weeks ago and was advised to use the local Insurer Preferred Repairer. The repairs were booked in to start 2 weeks after the claim.

I was contacted by the local insurer repairer and advised they could not start for another 4 weeks due to prior work commitments. I was advised by insurer that their preferred repairer would have instant authority to start repairs, but when I asked about possible alternative motor body repairer, told they would have to go through the same process, which was not true.'

APPENDIX 3 - STEERING POLICYHOLDERS

Complaints received from smash repairers

Example 1

The Dispute Resolution process set out in section 11 of the Code applies to disputes arising from sections 4 to 9 of the Code. As such, section 1 of the Code is not within scope of this process.

However, we wish to advise that after having reviewed the claim and the phone call between the customer and the consultant, we agree that there were misleading statements made to the customer about their ability to choose their repairer.

We apologise for the error by our consultant and thank you for bringing it to our attention.

Example 2

'This owner has lodged 2 claims and paid 2 lots of excess. The insurer on the 18.04.18 and 20.4.18 has received the quotes, we have already had the owner booked in once and left the car with us for assessment, but no assessor arrived.'

'We contacted the claims department and were promised they would get an assessor organised. Today 09/05/18 we called claims assessing to see what is happening, they advised an assessor has still not been allocated and they are still trying to organise it. The girl on phone would not comment on why it was taking so long and did not seem to care and was not interested in contacting the client to advise him of the delays.'

'In this case I am not privy to how much excess has been collected but guess it would be around \$800 per claim so \$1600 all up. This insurer has had the client's money as of today for nearly 20 days while the owner is no closer to getting his car repaired.'

Example 3

'For our customers not to be harassed and repeatedly directed to the XXX partnered repair network. We have successfully worked with XXX for many years. Recently we have had instances where customers have been physically standing in our office and rang XXX to lodge their claim starting with- "Hi, it's XXXX from XXXXXX, I have Joe Bloggs here" and the consultant still tries to steer them to their partnered repair shop being XXXXXXXX after the insured has made the choice to have their vehicle repaired at XXXXX.'

We have heard conversations about 'lifetime warranty' and 'your car won't get detailed or cleaned'. Both of these services we provide (but never funded by the Insurance companies).'

Example 4

'Our customer spoke with their insurer today complaining (XXXXX/XXXXXX claim MXXXXXXX) about the length of time it has taken to assess his car. They've had estimate and images since 10/4/18, They took the customers excess straight away telling him they will not action the claim unless his excess is paid up front. Customer asked why things are taking so long the claims handler advised can't discuss for legal reasons. *(I'm not sure what that is all about)* and then they said.... "for safety reasons can't assess vehicle at XXXXXX."

Example 5

THE ASSESSOR WOULD NOT NEGOTIATE A REPAIR PRICE HE SAID HE WOULD DISCUSS WITH XXXX AND GET BACK TO ME THEN RANG BACK SAID HE WAS SHIFTING VEHICLE TO THERE REPAIRER IN XXXXX. I ASKED IF OWNER WAS NOTIFIED HE SAID YES. I THEN RANG THE OWNER TO SEE IF SHE WAS HAPPY GETTING CAR FIXED IN XXXXXX SHE WAS TOLD BY ASSESSOR I WAS BOOKED UP FOR 2-3 WEEKS AND WOULD NOT BE ABLE TO FINISH THE JOB IN THE TIME FRAME. THIS WAS NOT THE CASE AT ALL. I COULD OF FINISHED IT ON TIME AND AT NO POINT DID XXXX AND I HAVE A DISCUSSION ABOUT TIME FRAME. THE DISCUSSION WAS PURELY ON PRICE TO DO REPAIR. THE CAR WAS REMOVED FROM MY STORAGE SHED WITHIN TWO DAYS.

Example 6

'XXXXXXX would like to quote and repair the vehicle as per the owner's request. XXXXXXXX would also like an explanation why they are "not certified" to do the repair. That is a misleading term, which could place doubt in vehicle owner's minds whether we are capable of completing the job. XXX should allow XXXXXXXX to complete the quote and repair. XXXXX should also refrain from making misleading statements about the quality, capability or timeliness of a repairer.'

Example 7

Client lodged a claim on their AAMI policy on 25/04/18 a quote was sent to their insurer via their PNET system the following day 26/04/18.

21 days latter no authority has been issued or inspections performed by an assessor.

Example 8

'The insurer caused delays by refusing or neglecting to assess my customer's vehicle in a timely fashion because the assessor (i.e., the insurer) failed to conduct a motor vehicle assessment in less than 5 business days from the time I submitted the estimate and/or quote to the insurer, and the breach is that they failed to communicate with me on this matter within the 5 day period as stipulated within the Code.

I am also concerned about the knock-on effects of assessment delays one being is that the customer now has a lower opinion regarding the quality, timeliness and efficiency of my repair work and repairers because of the delays.

They are also becoming more discontented when they become aware that they are forced to wait so much longer than others that cave into pressure for them to have one of the insurers preferred repairers do the work.

I also wish to make the insurer aware that time is money and the extra administration incurred because of negotiating and following up on assessment delays outside the current industry practice period can cost me more than \$45.00 per day.

More concerning is the frustration the customer experiences and then 'vents' on our business.