

8 February 2018

Australian Competition & Consumer Commission
GPO Box 3131
Canberra ACT 2601

ALSO BY EMAIL: adjudication@accc.gov.au

Attention: John Azzopardi

**AA1000408 – Application by The Royal Automobile Club of Queensland
Submission by the Motor Trades Association of Australia**

We thank you for a copy of the submission of the Motor Trades Association of Australia (“MTAA”) dated 29 January 2017 to RACQ’s application, and welcome the opportunity to respond.

1. It is pertinent to appreciate what the RACQ Approved Repairer network is and is not. The RACQ Approved Repairer network is a collection of independently owned and operated motor vehicle mechanics and repair specialists carrying endorsement by RACQ, to assist those businesses market and differentiate themselves in the eyes of the public, and in particular RACQ’s 1.6 million members. It involves use of RACQ’s brand and reputation to establish credibility, based on agreement to minimum standards. The RACQ Approved Repairer network is not for use by RACQ itself, nor is the network approved to undertake work for RACQ’s motor vehicle insurance operations.¹
2. We note MTAA’s acknowledgement that the scheme provides “surety and clarity between independent businesses”, and “prevents potential disputation, gouging and other unwanted behaviours in the conduct of warranty repair work”.
3. RACQ disputes the assertion by MTAA of any potential broader impact of the RACQ Approved Repairers agreeing to a uniform labour rate for reciprocal warranty work, noting:
 - a. The uniform labour rate is not applied (or of any relevance) to rates charged by RACQ Approved Repairers to customers, including RACQ members. Rather, the uniform labour rate is used only as between RACQ Approved Repairers themselves for the reciprocal warranty and back-charge arrangement.
 - b. There is price transparency between members of the RACQ Approved Repairers. From a customer perspective, there is no charge and the rate between the repairers is not visible (or of any concern). It cannot therefore influence the broader market or expectations of the customer, or affect market prices.

¹ RACQ Insurance operates its own unrelated panel of authorised repairers for insurance work.



4. RACQ acknowledges the concerns expressed by MTAA in ensuring that the RACQ Approved Repairers receive fair and equitable payment for their work and are profitable. RACQ shares similar goals. In this respect:
- a. RACQ has no financial interest in the uniform labour rate used in the reciprocal warranty arrangement. The uniform labour rate operates between RACQ Approved Repairers. RACQ makes no payment to RACQ Approved Repairers and so is unbiased and has no interest in depressing the rate. Rather, RACQ's interest is in ensuring a fair rate is agreed with all participants to facilitate the quick and uncontentious resolution of consumer warranty claims and payment for the reciprocal warranty work.
 - b. The fact that RACQ Approved Repairers may be both the payor and the payee under the reciprocal warranty, serves as a natural balance. RACQ has received no feedback, either as part of the survey undertaken in preparation for this application and attached to its submissions dated 1 December 2017 (the "**Original Submissions**"), or at any other time, that the uniform labour rate is inadequate or otherwise not appropriate.
 - c. The absence of a uniform labour rate for the reciprocal warranty work would substantially undermine the arrangement and the consumer benefits. In particular:
 - i. An acceptable labour rate would need to be negotiated on each and every occasion between the original RACQ Approved Repairer and the warranty RACQ Approved Repairer. Negotiation of a labour rate may slow the repairs for the consumer, put smaller or less sophisticated repairers at a comparative disadvantage, and/or may increase the risk of gouging;
 - ii. As a result of the uncertainty around pricing of others in the RACQ Approver Repairer network, the original RACQ Approved Repairer may require or encourage the consumer to return their vehicle to the original RACQ Approved Repairer;
 - iii. The warranty RACQ Approved Repairer may decline to perform the warranty work until labour rates are negotiated with the original RACQ Approved Repairer;
 - iv. The risk of dispute between the respective RACQ Approved Repairers would rise significantly, and significant delay may be experienced by the warranty RACQ Approved Repairer in recovering payment. Timely cash flow is of vital importance to small businesses and the uniform labour rate for the reciprocal warranty work facilitates this.

In the absence of a uniform labour rate applying between participants, the reciprocal warranty arrangement will likely be unworkable and be discontinued.

- d. The volume of reciprocal warranty claims is modest², and the value generally small³. The convenience of a uniform labour rate for what is quite small and quick jobs facilitates the effective operation of the reciprocal warranty arrangement between independent repair businesses. The speed and simplicity are key strengths.

² Somewhere in the region of 80 jobs per annum across the RACQ Approved Repairer network – refer paragraph 13c of the Original Submissions

³ The majority of RACQ Approved Repairers responding to the survey indicated an average of \$75 to \$200 – refer paragraph 13d of the Original Submissions



- e. Ultimately, the concerns expressed by MTAA are theoretical and no evidence is presented in support. It is pertinent that not a single RACQ Approved Repairer has suggested that the uniform labour rate is low or uncompetitive, or causes loss. To the contrary, ACCC can take comfort from the fact that:
- i. All RACQ Approved Repairers were invited to participate in the survey conducted by RACQ and annexed to the Original Submissions. Any RACQ Approved Repairer dissatisfied in any way had an opportunity to present their concerns.
 - ii. The survey included space for free text under a question “*Do you have any comments / feedback / areas for improvement in relation to the warranty scheme amongst RACQ Approved Repairers?*” No RACQ Approved Repairer made any comment about the uniform labour rate or suggested it was inappropriate or uneconomic for them.
 - iii. In seeking submissions on RACQ’s application for authorisation, which includes the uniform labour rate for the reciprocal warranty arrangements, no RACQ Approved Repairer made any submission to the ACCC or raised any concern that the uniform rate was inappropriate or uneconomic for them.

RACQ confirms that the uniform labour rate would be adjusted from time to time if requested by RACQ Authorised Repairers, in accordance with feedback received.

5. As to certain discrete comments made in MTTA’s submission:

- a. MTTA expresses concern that the uniform labour rate “*may ultimately be used as a benchmark for a potential widening of scope for an hourly labour rate for all Applicant repair work by its Approved Repairer*”⁴. While the submission is speculative, RACQ states:
 - i. RACQ is not a material user of the RACQ Approved Repairers. RACQ employs its own staff who repair and maintain its own fleet of vehicles. Furthermore, RACQ’s volume would drive any negotiation, and it is difficult to see what relevance a uniform labour rate used for small value and minor volume reciprocal warranty work between repairers would have.
 - ii. If the reference to the “*Applicant’s repair work*” is a reference to RACQ Insurance’s motor vehicle insurance repairs for its policyholders:
 - RACQ Insurance operates as a separate business and has no involvement in the RACQ Approved Repairer network. RACQ Insurance has no visibility over the uniform labour rate used for reciprocal warranties in the network;
 - RACQ Insurance maintains its own panel of authorised insurance repairers. While there is overlap, the panel is unrelated to the Approved Repairer network.
- b. MTTA raises a query regarding the industrial dispute mechanism used by RACQ to resolve disputes between RACQ and the RACQ Approved Repairers when undertaking warranty repairs⁵. This may suggest a misunderstanding of the operation of the arrangement. RACQ is not a party to reciprocal warranty repairs,

⁴ Page 3, point 2.

⁵ Page 3, point 6.



nor does it oversee those repairs. It is not the customer, nor are repairers its subcontractors for performance of work. As such it is not a party to disputes. RACQ plays no role in the process, save where it is asked to by the parties to assist to resolve an issue. This has occurred on just one occasion in the more than 4 years that the arrangement has operated, in what were unusual circumstances (refer paragraph 12b of the Original Submissions).

RACQ otherwise relies upon its Original Submissions.

If you have any further queries, or would like to discuss any aspect of the application, please contact Matthew Payten on 07 3361 2373 or matthew.payten@racq.com.au.

Kind regards,

A handwritten signature in black ink, appearing to read 'Darryn Hammond'.

Darryn Hammond
CRO and General Counsel
RACQ