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BLAKE DAWSON WALDRON

L A W Y E R S

Date 26 October 2004

Our reference
ISW.RLD.02-1366-1734

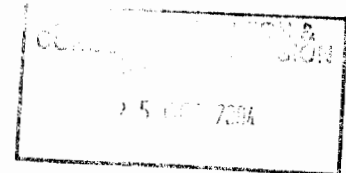
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Please see attached.

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26 October 2004

BY FACSIMILE

Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
470 Northbourne Avenue
DICKSON ACT 2602

Dear Sir

Insurance Australia Group Choice of Repairer - Notification of Third Line Forcing

We refer to your letter dated 21 October 2004, received on 25 October 2004.

We confirm that the IAG Insurers are of the view that the conduct described in the notification does not constitute conduct within the meaning of section 47(6) or 47(7) of the *Trade Practices Act 1974* (Cth) (TPA). This view is consistent with the findings of the Court in *Australian Automotive Repairers Association (Political Action Committee) Inc v Insurance Australia Limited (formerly NRMA Insurance Limited) No 6* [2004] FCA 700 (AARA) in relation to very similar conduct involving IAG's preferred smash repairer network. However, the decision is on appeal and this, coupled with the technical nature of the third line forcing provisions, creates uncertainty for our client.

Accordingly and notwithstanding the view expressed above, the IAG Insurers have taken the approach, as they have on previous occasions¹, of lodging this notification:

- (a) for the avoidance of doubt; and
- (b) in the event that, contrary to their views, the policyholder does acquire a good or service from a Repairer when the policyholder chooses their own repairer and the IAG Insurer provides the policyholder with an additional benefit as a result.

In our view the approach of the IAG Insurers is prudent in view of the AARA appeal and current inquiries into the relationship between the smash repair industry and motor vehicle insurers. It is also consistent with previous practice which was accepted without query by the ACCC.

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¹ See for example Form G Notification of Preferred Accident Towing Operator Program lodged by IMA, Insurance Australia, SGIO Insurance, SGIC General Insurance, CGU Insurance, NZI Insurance Australia, CGU-VACC Insurance on 22 August 2003.

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26 October 2004

Mr Tim Grimwade
Australian Competition & Consumer Commission

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We also note in passing that the IAG Insurers have discussed the Choice of Repairer Policy with the ACCC in meetings and felt it was consistent with those discussions to provide full details of the proposal to the ACCC in writing.

If you have any further queries please do not hesitate to contact us.

Yours faithfully

Blake Dawson Waldron