



19 August, 2019

# **MTA NSW welcomes AFCA finding. Protecting consumer and motor body repairer rights**

The Motor Traders' Association of NSW (MTA NSW), an Employers Association representing thousands of automotive businesses in NSW, has welcomed a finding of the Australian Financial Complaints Authority (AFCA) as validation of the need for an independent consumer complaint handling authority for those experiencing difficulties with financial and insurance firms. MTA NSW supports the work done by our national body, the Motor Trades Association of Australia (MTAA), and the Australian Motor Body Repairers Association (AMBRA).

In this benchmark ruling, AFCA found that an insurance company was bound, under the terms of its policy, to settle a policyholder's claim in accordance with the consumer's preferred car repairer's quote.

The car insurance policy entitled the policyholder to choose their own car repairer, but the policy also gave the insurer a discretion to determine how much it would pay for those repairs.

The insurer argued that the amount quoted by the preferred repairer was excessive and unreasonable and refused the policyholder's claim. In arguing that the preferred repairer's quote was excessive, the insurer relied on a quote from another car repairer which was substantially lower. But the insurer did not engage a qualified assessor to inspect the damaged vehicle.

AFCA found that the insurer had to exercise its discretion under the policy reasonably and in good faith. AFCA considered that it would have been reasonable for the insurer to engage a qualified assessor to inspect the damaged vehicle to assess the reasonable costs of repair and that a lower quote from another repairer was insufficient for this purpose.

AFCA went on to find that the insurer had not shown that the preferred repairer's quote was, in fact, unreasonable and excessive. AFCA directed the insurer to pay the policyholder the amount quoted by her preferred repairer plus interest.

MTA NSW supports the comments by AMBRA that this case was significant as it underscored two recent determinations of longstanding disputes that centred on breaches of the Motor Vehicle Insurance and Repair Industry (MVIRI) voluntary Code of Conduct by some car insurers that impacted consumers and motor body repair businesses. Together these cases, which have involved significant resources and assistance by State and Territory Motor Trade Associations' and Automobile Chambers' of Commerce, ensured consumers and motor body repair businesses impacted by the decisions of some car insurers are addressed.

"The MTAA, its Members including MTA NSW, and AMBRA, will continue to take the necessary measures to protect consumer rights and the rights of motor vehicle body repair small businesses to fair, reasonable and good faith-based relationships," MTA NSW CEO, Stavros Yallouridis said.

**The Australian Financial Complaints Authority case and findings are available by clicking here:**

<https://www.afca.org.au/what-to-expect/search-published-decisions/> and place the Case No. 620915 in the 'Case Number' field. Code determination orders can be viewed at <https://www.abrcode.com.au/resource-centre.aspx>

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