



Manager  
Small Business Ombudsman and Procurement Unit  
Small Business Competition and Consumer Policy Division  
The Treasury  
Langton Crescent PARKES ACT 2600

By email: [small.business@treasury.gov.au](mailto:small.business@treasury.gov.au)

23 May 2014

Dear Sir/Madam

### **THE SMALL BUSINESS AND FAMILY ENTERPRISE OMBUDSMAN – DISCUSSION PAPER**

I refer to the release of the Small Business and Enterprise Ombudsman Discussion Paper (Discussion Paper) released in April 2014. The Insurance Council of Australia<sup>1</sup> (ICA) appreciates the opportunity to contribute to the consultation process.

We understand that one of the key aspects of the role of the proposed Small Business and Enterprise Ombudsman will be to act as a concierge for dispute resolution for small businesses at the federal level.

The ICA represents members of the general insurance industry including those who underwrite motor vehicle property insurance across Australia. We would like to take this opportunity to provide you with some general information in relation to two self-regulation codes that may be relevant to small business.

The insurance Industry is involved in alternate dispute resolution mechanisms for disputes between small business customers and insurers, and those between the insurers and smash repairers. These operate under the General Insurance Code of Practice and the Motor Vehicle Insurance and Repair Industry Code of Conduct. These codes have also been the subject of external reviews which are at different stages of completion.

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<sup>1</sup> The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. December 2013 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$40.9 billion per annum and has total assets of \$112.8 billion. The industry employs approximately 60,000 people and on average pays out about \$107.9 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

### **General Insurance Code of Practice**

The ICA's members are signatories to a strong self-regulatory regime through the General Insurance Code of Practice (Code of Practice). The Code of Practice has recently undergone a comprehensive external review and is currently being revised.<sup>2</sup>

The Code of Practice is the instrument by which the general insurance industry sets standards for its own conduct and in particular its dealings with customers. It is binding on ICA member companies, and breaches are taken seriously.

The Code of Practice provides a framework for the resolution of a customer's complaint or dispute. If it cannot be satisfactorily dealt with via the insurer's internal process, the matter will proceed for external dispute resolution by the Financial Ombudsman's Service.

This external dispute resolution process is provided at no cost to the consumer and the Financial Ombudsman's decision is binding on insurers alone. It does not affect the consumer's right to pursue legal action should they wish.

### **Motor Vehicle Insurance and Repair Industry Code of Conduct**

The ICA and our members support the Motor Vehicle Insurance and Repair Industry Code of Conduct (the Code of Conduct). The Code of Conduct sets out principles to ensure the safety, structural integrity, presentation and utility of a vehicle repair, as well as training obligations for assessors engaged by insurers.

The Code of Conduct came into effect in 2006, with the objective of promoting "transparent, informed, effective and co-operative relationships between smash repairers and insurance companies, based on mutual respect and open communication."<sup>3</sup>

The Code of Conduct is a voluntary industry code in all States except NSW - where it was mandated in 2007. It allows a nationally consistent approach to disputes between smash repairers and insurers.

The Code of Conduct is considered by the ICA and its members to be operating effectively. All major insurance companies and smash repairer trade associations are signatories to the Code of Conduct.

It is underpinned by a complaints handling system and is administered by a Code Administration Committee (CAC). The dispute resolution system involves both an internal mechanism operated by insurers and a process of mediation administered by the CAC as the external dispute resolution mechanism.<sup>4</sup> It has recently undergone an external review in accordance with its provisions.<sup>5</sup>

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<sup>2</sup> Further information in relation to the review of the Code of Practice can be found at <http://www.insurancecouncil.com.au/for-consumers/code-of-practice/2012-review>

<sup>3</sup> Motor Vehicle Insurance and Repair Industry Code of Conduct, Principles of the Code, page 7.

<sup>4</sup> Op cit, Clauses 11.2 and 11.3, pp19-20.

<sup>5</sup> The code and full external review report are available at <http://www.abrcode.com.au/>

**NSW Parliamentary inquiry into the motor vehicle repair industry**

In addition to the reviews noted above, the NSW government set up a Select Committee on the Motor Vehicle Repair Industry to undertake an inquiry into motor vehicle repairer and insurer relationships. Its terms of reference include:

- *The current Motor Vehicle Insurance and Repair Industry Code of Conduct, its governance structure and dispute resolution mechanisms and whether it is effective at regulating the relationship between repairers and insurers, and in serving consumer interests;*

The ICA participated in this inquiry the Select Committee is expected to report its findings by 31 July 2014.

**Conclusion**

We trust that this information has been of assistance to you. If you have any questions or comments, please do not hesitate to contact Justine Hall, Senior Policy Advisor, Consumer Relations and Market Development on (02) 9253 5122 or [jhall@insurancecouncil.com.au](mailto:jhall@insurancecouncil.com.au) .

Yours sincerely



Robert Whelan  
Executive Director & CEO