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## INSURANCE AUSTRALIA GROUP'S SUBMISSION TO COMPETITION POLICY REVIEW



June 2014

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# EXECUTIVE SUMMARY

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- All sectors of the economy should be subject to competition unless there is a net public benefit not to do so. Any legislative or regulatory intervention must not prevent organisations, whether they are large or small, from engaging in legitimate competitive behaviour.
- The general insurance industry is highly competitive, and serviced by a large number of insurers. It is also characterised by low barriers to entry, particularly in the retail short tail classes of insurance such as home and motor vehicle insurance. This competition has been increasing in recent years with additional competition from foreign insurers, other financial services providers such as banks and large retailer groups entering the market.
- Distribution arrangements for insurance products, such as the arrangements CGU Insurance has in place with insurance brokers and other intermediaries also plays a significant role in maintaining a high level of competition in the general insurance industry. For example, brokers in effect act as large and sophisticated buyers of insurance on behalf of their clients. Brokers can provide the advice necessary to compare contrasting offerings from insurance providers that represent different trade-offs between price, coverage, service levels and other factors important to customers final decisions.
- The general insurance industry is also highly regulated. This includes regulation by ASIC under the *Corporations Act 2001*, prudential regulation by APRA, regulation under the *Insurance Contracts Act 1984* as well as a variety of state and territory regulations. This regulation brings compliance costs which are ultimately borne by consumers through increased premium price.
- Within this highly regulated and competitive general insurance market, any potential increase in regulations must be very carefully considered and weighed up against their potential to add further compliance costs on the industry. IAG also cautions against legislative and regulatory intervention, no matter how well intentioned, that has the potential to unduly inhibit market forces.
- Increases in general insurance premium prices in recent years are not the result of or an indication of lack of competition but a combination of increased claims costs from large natural disasters, the increasing cost of reinsurance, better use of technology and data to more accurately price underwriting risk and the inclusion of greater coverage in policies (eg. Non-opt out flood coverage in home and contents insurance policies).
- The current misuse of market power and cartel provisions of the *Competition and Consumer Act* ('the CCA') provides an adequate and appropriate legislative framework for preventing anti-competitive conduct. As such IAG does not support the introduction of an 'effects test' into the CCA, as this is neither necessary nor appropriate. An effects test would risk making strong but fair conduct by efficient businesses unlawful, thereby protecting competitors in a market, as opposed to protecting and promoting competition, and is thus not in the interests of consumers.
- Appropriately structured and organised supply chain arrangements between large and small business are good for competition and reward efficient, innovative and customer focussed small businesses. IAG's supply chain arrangements, such as NRMA Insurance's partner smash repair panel network, provides an example of how large and small businesses work together for mutual benefit and how supply chain arrangements can sustain small businesses.
- IAG and its subsidiary companies rely on the services of thousands of small businesses every day. Across our vast and varied supply chain (including motor, home, commercial portfolios) we

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# EXECUTIVE SUMMARY (CONTINUED)

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pursue a business strategy which creates long-term, equitable partnering arrangements with small business. This commitment to partnering is used and promoted each day in all facets of our business, from glass suppliers, home contents restorers and suppliers, to builders and smash repairers.

- This series of strategic partnering arrangements helps to deliver a high quality product and service to our customers, while at the same time supporting and growing local and regional small businesses. These partnerships help ensure we remain competitive: the positive experience we can provide to a customer when they need to make an insurance claim differentiates us and our suppliers.
- IAG supports the use of industry codes as opposed to the expansion of legislation and regulations in relation to protecting small business in commercial relationships where one party may have a more dominant or powerful position over the other and seek to exploit this. Industry codes, due to their flexibility and low cost, may be of greater benefit to small business than legislation and regulations that are by nature adversarial, less flexible, more time consuming and expensive.

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# INTRODUCTION

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Insurance Australia Group (IAG) welcomes the opportunity to make a submission to the Competition Policy Review.

IAG is particularly encouraged that the *Issues Paper* states: “*Competition policy reform is not just examining the laws that protect and encourage competitive behaviour in key markets – that is crucial – but also removing regulations and restrictions that may impede competition, as well as reforming government business and leveraging market-based benefits in goods and services provided by government*” (p.1)

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# INSURANCE AUSTRALIA GROUP

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IAG is the parent company of a general insurance group with controlled operations in Australia, New Zealand, Thailand and Vietnam, employing over 13,500 people (8,759 are in Australia). General Insurance refers to all forms of commercial or personal insurance but does not include life insurance. IAG has more than 762,000 shareholders. IAG's share register is the fourth largest in Australia.

IAG's current businesses underwrite approaching \$10 billion of gross written premium (GWP) per annum, selling insurance under many leading brands including NRMA Insurance, CGU, SGIO, SGIC and Swann (Australia); NZI, State and AMI (New Zealand); Safety and NZI (Thailand); and AAA Assurance (Vietnam).

Across IAG's portfolio of brands IAG insures 8.4 million cars, 2.9 million homes, 103,000 farms, 123,000 employers and 408,900 businesses.

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# COMPETITION IN THE AUSTRALIAN GENERAL INSURANCE INDUSTRY

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The Australian general insurance market can be characterised as being strongly capitalised and highly competitive. The industry is serviced by a large number of insurers providing a wide range of insurance products. As at 30 June 2013, there were approximately 121 authorised general insurance businesses operating in Australia including numerous foreign insurers (APRA, *Quarterly General Insurance Performance Statistics Report*).

The industry is also characterised by low barriers to entry, particularly in the retail short-tail classes of insurance such as home and motor vehicle insurance. In recent years these classes have been the subject of additional competition from foreign insurers. New competitors are also emerging from other financial services sectors, notably banks, and also from outside the industry, such as motor vehicle retailers and large retail groups, who have engaged in aggressive advertising as well as offering lower premiums and alternative product features (Treasury submission to Financial System Inquiry, p. 64 and *APRA Insight, Issue 3, 2013*).

Competition has also been enhanced through technology, in particular the internet and digital technology, in terms of providing an easier and cheaper way for new competitors to enter the market.

## Distinction between premium price and competition

In analysing competition in the Australian general insurance industry an important distinction must be made between the cost of premiums and the level of competition in the market.

For example, since 2008, retail general insurance products such as home and contents insurance have been increasing, with some consumers paying significantly higher premiums. However, it would be incorrect to conclude that premium increases are reflective of a lack of competition between insurers.

The main drivers behind these increases have been:

- Increased claims costs following series of disasters including Queensland floods, cyclone Yasi etc;
- the increasing cost of reinsurance also linked to recent disasters; and
- better use of technology and data (granular pricing) leading to more accurate pricing of individual insurance risk. This means those customers with high risk are likely to be paying more for their insurance. Equally, many consumers with a lower individual risk will see lower prices, and in the case of IAG, the inclusion of flood cover in home and contents policies. Consumers in flood prone areas have generally seen a significant increase in their premiums depending on the risk to their property.

Similarly, insurance profitability data indicates that increasing premiums does not automatically equate to increased profitability. As highlighted in Treasury's submission to the current Financial System Inquiry, despite rises in home building and home insurance policies since 2008, industry wide profitability has been lower than in the five years preceding 2008 (*Treasury submission to Financial System Inquiry, 3 April 2014, page 64*), with the industry recording an increase in profitability in 2013 for the first time in three years (*APRA Insight Issue 3, 2013*).

## The advice driven model

Intermediaries such as insurance brokers facilitate the distribution of competing products and relevant information, and coordinate the interaction between insurer and insureds. They take an important position as match-makers between the supply and demand sides in commercial insurance.

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# COMPETITION IN THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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Insurance brokers assist in concluding an insurance contract by economising on transaction and information costs. They provide information to consumers about their risk profiles, insurance needs and suitable insurance products, thus reducing complexity for consumers.

The presence of brokers adds further source of competitive pressure between insurers in the general insurance industry. As sophisticated intermediaries that represent the customer interest, brokers exercise countervailing power in a number of ways:

- (a) Brokers have the market knowledge and the means to direct their customers away from overpriced products and towards the products of competitors. This is the case with even modest increases in price, if those increases do not represent additional value for the customer.
- (b) Given the complicated nature of some commercial insurance lines, brokers can provide the advice necessary to compare contrasting offerings from insurance providers that represent different trade-offs between price, coverage, service levels and other factors important to customers final decisions.
- (c) It is common practice for brokers to disaggregate the insurance needs of their clients to spread the placement of insurance among a number of providers. This allows the broker to select the best offering (in terms of price or coverage, for example) for each component of the insurance sought. This facilitates both a spread of insurance contracts among providers, and discourages cross-subsidisation that could lead to an increase in prices.
- (d) Brokers typically assert 'ownership' of their client data and records as against underwriters and this 'client ownership' enables brokers to frequently be the agent for movement of individual clients and portfolios between underwriters.
- (e) Brokers in Australia join together in 'clusters' such as ASX-listed Austbrokers and Steadfast

These groups use their aggregated scale to exert significant countervailing power. IAG estimates that more than 75% of domestic Australian brokers are members of cluster groups such as these.

In considering Suncorp's acquisition of Promina in 2007, the ACCC recognised that "*brokers play an important role acting as agents for purchasers of commercial insurance, enhancing the degree of competitive vigour in the relevant market by reducing purchasers' search and switching costs*". This is consistent with the conclusion of other regulators internationally. For example, the European Commission has observed: *Brokers usually have a profound knowledge of their markets and contribute to effective competition ... by helping customers to exercise and consolidate their buying power.*

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY

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Government regulations also have a bearing on the level of competition in a given market, which in turn affects the cost and quality of products and services can provide to consumers.

General insurers are subject to the extensive corporate regulatory regime that applies to Australian incorporated businesses generally. This includes the legislative regimes of the *Corporations Act 2001 (the Corporations Act)*, the *Australian Securities and Investments Commission Act 2001 (the ASIC Act)*, the *Competition and Consumer Act 2010 (CCA)* and, for public listed companies, the requirements of the Listing Rules of the Australian Securities Exchange.

In addition, general insurers are also subject to a range of industry specific regulations at Federal (e.g. *Insurance Act 1973*, *Insurance Contracts Act 1984*), State and Territory levels. These regulations subject insurers to prudential supervision. They also deal with aspects of market conduct and consumer protection and the various statutory insurance schemes, which operate in each State and Territory.

IAG is of the view that any evaluation and review of competition policy must be considered within the broader regulatory context within which insurers operate<sup>1</sup>.

As financial service providers IAG's regulatory compliance obligations are extensive and add to the cost of our business operations. These costs are ultimately born by consumers when passed through to premiums or they lead to restraints on our service. Therefore any changes to the competition framework and the introduction of any additional regulatory burden must be carefully evaluated and a cost-benefit analysis undertaken on their impact for large business, small business and consumers.

Similarly, in the global context, competition regulation must create the right balance between Australia's interests in becoming more internationally competitive, and the need to protect strong competition in domestic markets. There are dangers for Australia if competition regulatory frameworks fail to ensure the productivity, efficiency and growth of an open, integrated Australian economy.

## The competitive process

The fundamental premise that underpins competition policy is that all sectors of the economy should be subject to competition unless it can be shown that there is a net public benefit not to do so. This includes statutory insurance schemes, many of which do not operate in a competitive market and are not subject to the principle of competitive neutrality. IAG endorses the submission of the Insurance Council of Australia to the Competition Review that these schemes should be the subject of competition.

IAG opposes any legislative or regulatory change that results in legitimate competitive behaviour being prohibited or stymied to protect some businesses from facing fair competition.

IAG believes it is essential to ensure that the application of Australia's competition laws remain in step with the competitive pressures faced by the Australian economy and businesses. The fundamental premise that underpins competition policy is that all sectors of the economy should be

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<sup>1</sup> A detailed analysis of the regulatory arrangements in general insurance was outlined in the HIH Royal Commission at <http://www.hihroyalcom.gov.au/finalreport/index.htm>

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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subject to competition unless it can be shown that there is a net public benefit not to do so. IAG opposes any legislative or regulatory change that results in legitimate competitive behaviour being prohibited or stymied to protect some businesses from facing fair competition.

IAG also cautions against legislative or regulatory intervention, no matter how apparently well intentioned, that has the potential to unduly inhibit market influences. Legislative or regulatory initiatives should protect the competitive process rather than a specific market structure or individual competitors. As the OECD (2011) notes, “There is broad agreement among competition agencies from OECD countries that the purpose of competition policy is to protect competition, not competitors” (*OECD, Bank Competition and Financial Stability 2011*).

IAG notes the general policy adopted by successive Australian Governments in recent times, to the effect that where commercial markets operate efficiently and effectively on their own, the government should be reluctant to intervene.

## Regulatory overreach

IAG supports nationally consistent frameworks that remove unnecessary costs and compliance burdens while at the same time provide businesses with a regulatory environment better attuned to modern business practices.

The Australian Government needs to ensure that regulators do not overstep their mandate and start developing policy – this clearly is the realm of Executive Government. In recent years we have witnessed a ‘creep’ in this direction. It is important to reinforce that responsibility for the legislative framework and policy settings rests not with regulators, but with the Government.

There should be scope for increased co-ordination amongst regulators to ensure that duplication and overlap in regulatory compliance is minimised. For example, differences in definitions, documentation and overly prescriptive compliance requirements limiting the discretion available to responsible company boards and managements should be avoided.

Similarly, unwarranted and unjustified intrusion by regulators into the business management of organisations with no public benefit should be avoided. For example, APRA’s recent proposal requiring general insurers to release confidential business data is not only inconsistent with the approach taken by ASIC and the ASX with respect to balancing confidentiality and disclosure obligations, but will not provide any public benefit yet cause detriment to the commercial interests of industry participants.

Governments, policy-makers and regulators need to do more in relation to the high regulatory cost burden by addressing inter-jurisdictional overlaps and inconsistencies that impact competition. In particular, inconsistencies /or duplication across State and Territory Government regulatory regimes add unnecessary costs and compliance burdens and are a major impediment to a common market in Australia.

Increasingly, businesses have been concerned about duplicated and inconsistent regulation, as many operate across jurisdictions and are already subject to a considerable degree of regulation.

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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## **A model of success: Partnering with small business**

IAG pursues a business strategy which creates long-term, equitable partnering arrangements with small business. Our approach to partnering with small business is best exemplified by the experiences our customers and Partner Smash Repairers have had with the NRMA Insurance Partner Repairer model.

### **NRMA Insurance Partner Repairer Model**

NRMA Insurance Partner Repairers are a team of independent small businesses who share our values of integrity, quality and focus on ensuring a great outcome for our customers.

The model was established via an open, fair and rigorous Request for Proposal (RFP) process that every repairer nationally in the markets where we operate (NSW, ACT, VIC, WA, and QLD) had an opportunity to take part in.

The model is sound and has been subject to regulatory oversight. It is an example of how our commitment to delivering a superior product and service offering to our customers, in true partnership with small business, works in practice. The model, in concert with the decisions we have made to improve the way we work day-to-day with the vast majority of smash repairers, has removed many of the adversarial confrontations which have beset insurer-repairer/large business-small business relationships over a number of years.

When it comes to competition policy, positive outcomes for the consumer remain paramount. The development and implementation of our Partner Repairer model started and finished with one key premise: quality outcomes for our customers. The by-product of that model is sustainable, certain and positive futures for the small business Partner Repairers in our network.

IAG is the first to acknowledge there are many excellent small businesses that we cannot work with. When it comes to smash repairs, there are many good repairers who aren't members of our National Partner Repairer Network. These repairers run highly professional and organised shops, however the Australian insurance industry cannot feed enough work to every repairer in a market where there is a substantial oversupply of smash repairers for the declining number of repairs available.

As with many small businesses who compete with one another, there exists a vast divide between businesses who have invested in their businesses to meet rapidly advancing standards and those who have not. No more so is this true than in the smash repair industry. These businesses should not be afforded protection from other small businesses that have developed a competitive advantage through innovation and relationships with larger businesses.

Our small business partnerships apply the same principles government uses when selecting preferred suppliers: no insurer or government department can have a strong working relationship with every individual supplier in the market, nor should they be expected to.

In the end our decision to implement a national repair model which supports and forms meaningful partnering arrangements with highly skilled small businesses was designed to benefit our customers and protect them from other small businesses who are underequipped to meet their demands, be it customer service or quality of repair.

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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## **A model for Small and Large Business Sustainability**

We remain committed to small business and supporting an independent and sustainable smash repair industry.

Fundamental structural change within the smash repair industry continues at a rapid rate, driven by changes in technology and consumer demand. Across Australia motorists are choosing to drive cars with increasingly complex safety features, technology, design and manufacturing materials. This affects industry sustainability given there are elements of the smash repair industry that are at best challenged, and at worst unable to safely repair modern day vehicles to manufacturers' standards.

Equally, the evolution in the industry is providing opportunities, competitive advantage and new growth for progressive smash repair businesses that have responded positively to change. NRMA Insurance is proud to contribute to this opportunity for renewed growth and sustainability in the smash repair industry through its professional and mutually beneficial partnering arrangements it has formed with its Partner repairers. It should be noted, however, that we have enough work to support a portion of repairers, but not enough to sustain the entire industry.

As a further demonstration of our commitment to support, and not overrun, small business, we continue to work on a daily basis with the majority of repairers nationally through our stated policy of offering all customers choice of repairer.

However, despite the unique merits of our model and choice policy, demand and supply forces and new vehicle technology will continue to shape and change the smash repair industry for years to come.

Five years ago IAG's Direct Insurance, the division behind the NRMA Insurance brand, evaluated a number of strategic options to enable it to remain competitive in an increasingly crowded and price-driven comprehensive motor vehicle insurance market.

Among the options was to follow the path of IAG's major competitor and own and operate smash repair shops. This option was quickly dismissed based on two key factors: the first outcome-based, the second on a commitment to supporting the sustainability of an industry upon which NRMA Insurance has relied for over 85 years.

NRMA Insurance quickly concluded that its strengths lie in knowing insurance exceptionally well and having a long-standing history of being there when people need us most. While we employ highly qualified and trained Assessors to ensure cars are repaired to a high standard we are not the experts in the profession of repairing modern day motor vehicles and believe that task should be placed in the hands of highly skilled and innovative small business people who dedicate their career to performing quality repairs and delivering great customer service.

## **Delivering initiatives to assist small business**

NRMA Insurance's new model has produced significant benefits for not just our Partner repairers, but the majority of repairers we deal with on a day-to-day basis.

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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For all repairers we authorise to carry out repairs we have streamlined our quoting system and invoicing practices, including providing repairers with access to our online repair management system.

Our industry leading quality standards have driven improvements in workshop standards, even among repairers who were unsuccessful in joining our Partner network.

For our partners we have delivered:

- growth opportunities through networking and knowledge sharing;
- powerful marketing through their ability to link their business with a nationally recognised and trusted brand;
- tangible contracts that can potentially be used to secure finance from institutions;
- a state-of-the-art workshop booking system;
- support through technical data gathered by our Research Centre via our relationships with manufacturers;
- dedicated Relationship Managers and Customer Relations specialists to assist with business issues that they encounter each day;
- transport options for customers, including taxi and hire cars to and from their repair shops; and
- modern workshop management practices to help repairers work out ways to best utilise their premises and make them more profitable.

As a business we have made a conscious decision to work more closely together with industry and support a sustainable, independent smash repair industry for the future.

We have achieved many of the goals we set at the beginning of this process and applied the positive experiences to our broader supply chain. We look forward to continuing our work to lead positive evolution and development in the smash repair industry and to sharing our experiences of the benefits that come from a partnership approach.

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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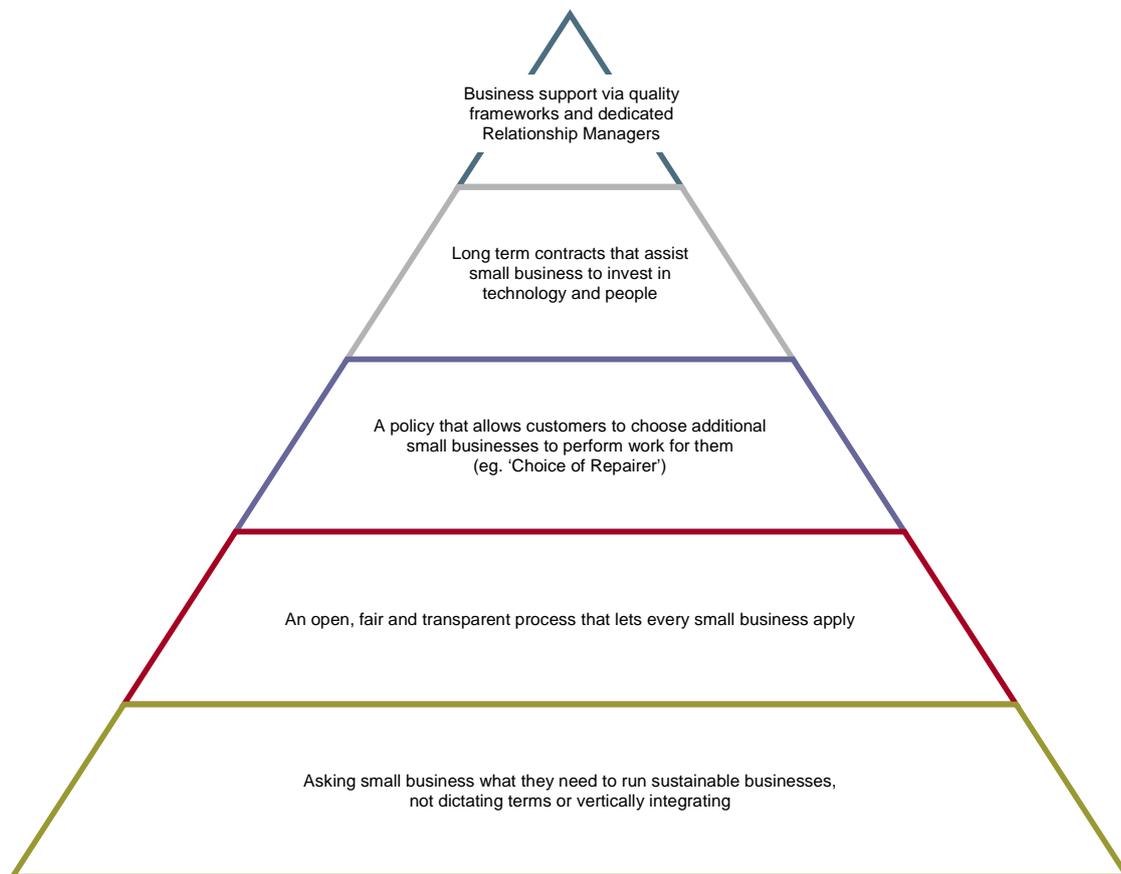


Image: A model for small and large business: delivering a superior product and service offering to our customers, in true partnership with small business.

## Current competition law and small business

### Misuse of market power

Under the CCA there are a number of provisions that protect against certain conduct that undermines competitive markets.

These include provisions outlawing cartel conduct (section 44ZZR), collective boycotts and anti-competitive agreements (section 45) that have the effect of substantially lessening competition.

There are also provisions against the misuse of market power (section 46) that make conduct by a company that has substantial market share or power from using that power for the purposes of eliminating or damaging a competitor or preventing or deterring other potential competitors from entering a market. Further, the CCA outlaws exclusive dealing arrangements that have the purpose or likely effect of substantially lessening competition in a market (section 47).

The ACCC has broad powers under the CCA to investigate and prosecute suspected breaches of these provisions.

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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IAG supports the underlying philosophy of this legislation that a degree of government legislation is required to maintain and protect competition as opposed to the protection of competitors from organisations with substantial market power.

These provisions, in particular section 46, strike the right balance by having a legislative framework in place that prevents organisations from abusing or misusing their market power in the form of anti-competitive conduct. This is in contrast to preventing organisations engaging in competitive conduct that may give them advantage over their competition which can ultimately benefit consumers by way of cheaper prices through efficiency and economies of scale.

To this extent section 46 of the CCA draws an appropriate distinction between preventing organisations from abusing market power while allowing for competitive advantage.

## **No 'Effects Test' under section 46 CCA**

IAG shares the view of Monash Business Policy Forum that the aim of competition law should be the protection of competition as opposed to the protection of specific competitors<sup>2</sup>. IAG does not support changes to competition law that would introduce an 'effects test' in determining whether a business has abused its market power. An effects test would turn section 46 into a 'blunt' instrument whereby there would be no differentiation between legitimate (pro-competitive) behaviour and illegitimate (anti-competitive) behaviour by prohibiting any organisation with market power from doing anything that may lessen competition or injure competitors.

Ultimately, in some situations, this would preclude businesses large and small from legitimately competing with no real benefit to consumers. It would also capture behaviour that had an adverse affect on competitors, but not necessarily on competition.

For example, an effects test would render unlawful any competitive behaviour of a dominant player in a market even if the conduct was motivated by good business practice such as increasing efficiency<sup>3</sup> (as distinct from a deliberate attempt to drive out a competitor through, for example, the use of predatory pricing).

By contrast, the current law allows organisations to engage in vigorous but fair competition while prohibiting wilful conduct deliberately designed to eradicate or cripple competitors that is not in the interests of competition or consumers.

The introduction of an effects test would also place a significant compliance cost on any organisation at risk of being considered to have significant market power. As mentioned previously in this submission, the general insurance industry already operates under significant compliance burdens. IAG does support implementation of an effects test that, in our view, is not in the interests of competition but also adds to regulation and compliance costs on business.

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<sup>2</sup> *Agenda for National Competition Policy Inquiry* (2013), Monash Business Policy Forum, Monash University, Faculty of Business and Economics, Caulfield, Victoria, Australia, p 5.

<sup>3</sup> *ibid*, p. 13

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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## **The role of industry codes in supporting small business**

IAG's partnership model underpins strong and successful relationships with small business.

Nonetheless IAG acknowledges that in some industries the relationship between large and small business may be less productive where one party may have more dominant or powerful position in the commercial relationship and may seek to exploit this.

Self regulation through industry codes of conduct can be an effective tool to avoid exploitation and unfair treatment of small business and more effective (for outcome and cost) than legislative alternatives such as the expansion of complex unconscionable conduct provisions covering small business.

Legislative changes to address issues between small and large business, while well intentioned, are adversarial in nature and are not always best placed to assist small business. For example, the ability of legislation to assist small business in dispute resolution is arguably limited given its inherent inflexibility and the time and legal costs involved in enforcement through the court system.

Alternatively, industry codes and voluntary industry codes in particular, have a number of distinct advantages over legislation including:

- their flexibility and ability to adapt to the needs of a particular industry;
- they give industry participants a greater sense of ownership of a code which leads to a greater commitment to comply with the codes terms;
- Industry codes act as a form of quality control within an industry; and
- Complaints handling procedures under a code are generally more cost effective, time efficient and user friendly in resolving complaints than government bodies.

Of course, any industry code must not remove or limit legitimate competitive pressures between competitors and market supply and demand factors that encourage efficiency and promote innovation, all of which ultimately benefit consumers.

In order for industry codes to be effective, those businesses regulated by them must also have a clear understanding and appreciation of how codes work and their obligations under any relevant codes. Therefore an appropriate level of engagement and education is required in their implementation.

## **The motor vehicle and repair industry code of conduct**

One example of how industry codes can be effective tools to support small business is the Motor Vehicle and Repair Industry Code of Conduct (the Code). The Code has been operational since 1 September, 2006. It is a voluntary in all states and territories of Australia except in NSW where it is a mandatory.

The Code was introduced at a time when relationships between insurers and repairers required significant improvement and the Code was viewed as a major way forward.

In terms of measuring the effectiveness of the Code in regulating relationships between repairers and insurers, it has been one important pathway to improved relationships in an environment of consistent industry change. It remains relevant despite this environment of change.

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# REGULATION OF THE AUSTRALIAN GENERAL INSURANCE INDUSTRY (CONTINUED)

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We continue to support the Code, although the reality of our modern and mature business partnerships with our own Partner network makes the Code redundant in terms of the majority of our business dealings with the industry on a day-to-day basis.

Our approach which is based on trust, respect and mutual reward ultimately is of greatest benefit to the interests of the consumer who, rather than becoming a victim of Code based disputes, is able to have their car quickly and safely repaired in an environment where the customer comes first.

However, outside of our model we acknowledge the Code has an important role to play.

NRMA Insurance submitted an extensive response to the MVIRI Code of Conduct Review 2013 providing a series of recommendation to improve the code for the benefit of consumers and small-large business relationships. This review continues. We do not view the role of the Code, nor is its purpose, to seek to affect the nature or pace of fundamental structural change within the smash repair industry. This change continues at a rapid rate, driven by changes in technology and consumer demand, not at the hands of most insurers (with the exception of those insurers who vertically integrate).

The Code cannot remove the pressures these market “supply and demand” factors place on repairers’ abilities to run sustainable small businesses, nor can the Code and its principles provide a single solution to addressing all issues and challenges within the industry.

Generally, NRMA Insurance believes the Code of Conduct is working reasonably effectively and it provides a level of protection for small businesses. NRMA Insurance is committed to the Code, in the same way we are committed to supporting an independent and sustainable smash repair industry. There are, however, areas of the Code that could be significantly improved for the benefit of repairers, insurers and ultimately the general motoring public.

In that context, NRMA Insurance strongly believes that any proposed amendments to the Code must not impede or restrict the fair, reasonable and mutually beneficial commercial relationships which exist between individual insurers and repairers. This was a fundamental principle of the Code’s establishment.

Of equal importance, changes should not be made to the Code that remove the competitive advantage some smash repairers have built through investment, innovation and collaboration with the insurance industry or other partners such as motor vehicle manufacturers.

## **Unfair contract terms**

Notwithstanding limitation of regulation in addressing issues faced by small business, IAG supports the principle that contractual arrangements with small business should not include unilateral terms that impose obligations on small business that go beyond the protection of legitimate business interests and are unfair. This is consistent with the partnership approach.

The extension of unfair contract terms legislation to small business is now subject to a separate consultation process. IAG looks forward to contributing to that consultation.