

MPs hear it first! Andrew Moody reveals joint RML/VBRA price fixing complaint against RBS Insurance, Akzo Nobel and ACIS to the All-party Parliamentary Group on Insurance

Retail Motor Law and the Vehicle Builders & Repairers Association have made a formal complaint to the Office of Fair Trading accusing RBS Insurance, Akzo Nobel (the world's largest paint company) and the paint distributor ACIS of price fixing.

This complaint has now been passed to the Competition Commission as part of its Private Motor Insurance Market Investigation. Price fixing is considered a 'hardcore' violation of competition law and severe sanctions can be imposed of up to 10% of a company's global turnover.

As a result of his appearance on TV's Dispatches: Secrets of Your Car Insurance, Andrew Moody (former panel beater now barrister and solicitor) was invited to the House of Commons to address the MPs and Lords on the All-party Parliamentary Group (APPG) on Insurance and Financial Services on 29 January.

The meeting was attended by, among others, Jonathan Evans, MP for Cardiff North, the Rt Hon Lord Hunt of Wirral MBE, Heather Wheeler, MP for South Derbyshire, and Steve Maddock, managing director of claims at Direct Line.

Andrew Moody outlined his research that led to the documentary and explained that in his view insurers wield too much power in the crash repair sector. He then revealed some pertinent facts not yet in the public domain:

- 1) In July 2012, Retail Motor Law and the VBRA submitted a formal complaint to the OFT alleging that RBS Insurance, Akzo Nobel and ACIS have been engaged in a price fixing agreement contrary to the Chapter 1 prohibition of the Competition Act 1998.
- 2) As long ago as July 2010, Andrew Moody wrote to Stephen Hester, chief executive of RBS, warning that confidentially negotiating a discount and rebate system with a paint manufacturer could "prevent, restrict or distort competition in the crash repair market".

Andrew Moody, managing director of Retail Motor Law (who spent 15 years working as a car mechanic and panel beater before retraining as a barrister and solicitor), commented: "Price fixing is an extremely serious allegation but I firmly believe I have sufficient evidence to substantiate the complaint. I had hoped to resolve my concern by working with RBS, but they refused to engage with me.

"The Dispatches programme demonstrated that the issues in this sector are not restricted to whiplash claims and car hire fees, but that insurers themselves have serious questions to answer. I believe the removal of independence – with insurers having their own engineers and operating their own 'approved repairer networks' – works to the detriment of repairers, who are mostly SMEs. It also works to the detriment of consumers, both in terms of the quality of repairs and, ultimately, in higher premiums.

"During 2008, I became aware that RBS Insurance had entered into an agreement with Akzo Nobel, which acquired ICI that same year. Under the deal, RBS insists – or 'mandates' to use the industry term – that its repairers must use Akzo's most expensive paint brand, Sikkens, rather than its other brand, Lesonal. Lesonal and Sikkens carry the

same warranty and paint experts will tell you they are, to all intents and purposes, identical, but Lesonal products are significantly cheaper. RBS also insists that its repairers purchase a minimum amount of paint per vehicle, almost twice as much as experts consider necessary. Perhaps worst of all, RBS insists that its repairers buy their Sikkens paint from a certain distributor, ACIS, even if they can get it cheaper elsewhere.

“In March 2011, I completed a report on paint supply and I believe that certain agreements, and/or concerted practices, seemed to have as their object the prevention, restriction or distortion of competition. Further, it is possible that certain ‘rebate’ payments might constitute a bribe under the Bribery Act 2010.

“The evidence suggests that RBS is profiting from these rebate agreements while hundreds of small repair businesses are closing, ruining peoples’ livelihoods and damaging local communities. The end result is that consumers are left paying a high price for, in some instances, substandard and unsafe repairs. We now wait to see what action the Competition Commission will take.”

Malcolm Tagg, director general at the VBRA, commented: “In my 30+ years in the body repair and insurance sectors I have witnessed the development of ever more draconian control over the repair industry, to the point where many workshops exist only at the behest of their insurance masters.

“Our members tell us their customers are consistently unhappy at their treatment by insurers, particularly when it comes to the choice of repairer and the stipulation of certain repair items. As a consumer I have personally experienced the severe tactics employed by claims call centre staff when I expressed a desire to have my car repaired at a garage I knew and trusted.

“These issues of lack of choice are getting worse not better. In this sector, in these circumstances, Andrew’s intimate knowledge of the repairers’ world adds significantly to his argument. I am very comfortable standing shoulder to shoulder with Retail Motor Law in making this complaint, secure in the knowledge that Andrew is an expert in insurer challenges to repairer common sense.

“While the law is paramount, this is as much a question of ethics. All we are asking for is fair treatment for all parties with an interest in getting suitable repairs carried out. The main thing that was impressed on me at the start of my insurance career was the doctrine of Utmost Good Faith. While this was usually taken to mean the policyholder must be honest, it should work both ways.”

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(Words = 914)

Notes To Editors

Retail Motor Law (RML) is based in Cambridgeshire and specialises in providing legal expertise for the UK automotive industry.

The Vehicle Builders & Repairers Association (VBRA) is a trade association with a mission to ensure high standards among vehicle builders and car body repairers.