

**TESTIMONY  
OF  
HONORABLE THOMAS J. DOWNEY**

before the Ad Hoc Subcommittee on Antitrust,  
the Robinson-Patman Act, and Related Matters, of the  
Committee on Small Business  
December 11, 1975

Mr. Chairman, I would like to thank you for this opportunity to bring to the attention of this subcommittee a problem of steadily increasing magnitude, not only in my own Congressional district, but, I believe, throughout the country.

Mr. Chairman, the major insurance companies have embarked on a program of abusive and anti-competitive practices in an unlawful attempt to manipulate the automobile repair industry. In their efforts to bring their tremendous economic power and influence to bear on the automobile repair market in an attempt to control the price of automobile repairs,

- (I) the insurance companies have forced small businesses to choose between performing work at arbitrary prices set by the insurance companies or losing much of their repair business;
- (II) the insurance companies have established "preferred lists" of automobile repair shops which have cooperated with them and have attempted to direct automobile repair business to these shops and away from shops which have attempted to be more independent;
- (III) the insurance companies have so distorted the economics of the automobile repair market that repair shops today must often resort either to cheating the insurance companies or performing inadequate and shoddy repairs on the automobiles which they service if they wish to deal successfully with these insurance companies and still realize a reasonable profit; and
- (IV) at least one of these insurance companies has embarked upon a new nationwide promotional advertising campaign which does not appear to comply with the Magnuson-Moss Warranty Act or the F.T.C. regulations promulgated thereunder.

In sum, the insurance companies, by their actions, are systematically harassing small businessmen, in violation of our antitrust statutes, and are threatening the safety of the motoring public.

Mr. Chairman, the single most important influence upon the quality and cost of automobile repairs today is the insurance industry. The small autobody shops -- which typically consist of an owner and three or four employees -- depend upon these multi-million dollar corporations for about 60 to 85 per cent of their business. This makes the insurance companies the dominant purchaser in the automobile repair marketplace, and gives them a tremendous amount of leverage over these small businessmen.

The insurance companies use their influence over their insureds to harass the small automobile repair shop. The secret of the power of the insurance companies is their ability to assume from their insureds the authority and discretion to decide at which establishment damaged automobiles should be repaired. This is done through suggestion, through encouragement, and occasionally through outright coercion. But however it is accomplished, the insurance companies have developed the ability to influence the automobile owner's choice of repair shop and thus control much of the flow of auto repair business in this country.

The insurance companies then hold this power over the heads of automobile repairmen like the Sword of Damocles. If the repair shop complies fully with the insurance company demands, it may be placed on the insurance company's preferred list. On the other hand, if it tries to strike a more independent course, the repair shop may find its business significantly curtailed.

Through their enormous power in the marketplace, the

insurance companies have thus reduced many repair shops to the status of mere franchises -- dependent almost entirely upon the good relations with the insurance companies and not their automobile owning customers for survival.

With this bargaining power, the insurance companies are usually able to insist that repair shops offer to them a discount from 10 to 20 per cent on automobile parts. If a body shop refuses to go along, it is taken off the insurance company's so-called "preferred list" and will usually find its insurance business significantly curtailed. And at the same time that the insurance companies are exacting this discount from the repair shops they are requiring their insureds to pay the full "amount deductible" under their insurance policy -- those who pay the premiums never see any part of the pound of flesh which the insurance company exacts from the repair shop.

In addition to establishing required parts discounts, the insurance companies also effectively fix the labor charges for crash repair in most regions of the country. Again, body shops which insist on charging more will find that insurance companies avoid doing business with them. The insurance companies in this regard are all price and no pride -- they would rather steer their insureds to cut-rate garages of questionable quality than meet the cost of a first class shop. Basically, the insurance industry makes little or no attempt to assure that the crash repairs which they arrange are satisfactorily and safely performed.

Furthermore, these labor rates are fixed at unreasonably low levels. As an example, it is interesting to note that Sears, Roebuck & Co., which owns Allstate Insurance Co., charges \$12 per hour of its customers for appliance repairs in 1970; however its insurance company subsidiary at the same time refused to pay more than \$7 per hour to autobody shops for car repairs.

Since most repair shops couldn't make it if they were to follow strictly their unrealistically low labor rate, they are forced to do one of two things to compensate. They either short change the consumer -- by taking short cuts on repairs, or using salvaged parts and bill for new ones-- or they may cheat the insurance companies by padding the records of time spent on repairs. The practices of the insurance companies literally compel many repair shops to develop dishonest practices in order to survive.

Mr. Chairman, my testimony this morning is a summary of an inquiry conducted by my office over the last six months. During that time, we have spoken with insurance adjusters, automobile repairmen and consumers in my own Congressional district. In addition, we have received dozens of letters from all parts of the country telling us that the problem is not local in scope, but nationwide.

Mr. Chairman, I ask this subcommittee to take an active interest in this matter by hearing additional testimony at an early date on this problem. If the Committee can hold hearings on this matter, I would be happy to provide as witnesses at that time a claims adjuster employed by a major insurance company, together with a multitude of automobile repairmen who will all confirm the account which I presented here today. I place myself and my staff at the service of this subcommittee and will supply you with any information on this subject which it may require.

Thank you, Mr. Chairman.