



Time for action

BUSINESS SENSE by TIM KELLY

For the past few years, I have hopefully been of assistance in educating readers and providing motivation to improve your businesses. As an industry, we need to be taking responsibility for running our own shops and the sector as a whole.

What I see lacking is collaboration or any structured plan for the industry. But now the NBRA is collaborating with myself and *Bodyshop* magazine to start this change.

What I have seen this past year is a large number of bodyshops going bust or selling up, while groups get larger and stronger. Due to their size and operational efficiencies of scale, these groups can work on contracts that on the surface include completely unrealistic labour rates. But if you are making large profits on the paint and parts, the “recovery rate” (the actual amount of profit per hour) can be significantly different.

For non-insurer contracted repairers to be held hostage to these rates, I believe, is not only unfair, it is unlawful.

Some will say “you are not being forced to work for these rates” or “if you don’t want the work, turn it away”. This angers me and shows the complete ignorance of those who spout it in relation to competition law. There are a number of applicable laws here, but the primary one is the 2002 Enterprise Section 8 for unfair commercial trading practices.

- <https://www.legislation.gov.uk/ukpga/2002/40/contents>

- <https://www.legislation.gov.uk/ukpga/2002/40/part/8>

Another law applicable in this situation

is the Unfair Terms in Consumer Contract Regulations 1999 (now under the 2015 Consumer Rights Act). This law prohibits unfair terms that might “alter consumer behaviour” and “cause financial detriment to consumers”, where “in a pre-drafted contract” those terms and conditions in a contract favour the business over the consumer.

We need to bring profit to you as a participant in the repair industry, either by way of training, career development, better pay and benefits if you are a worker, or a business owner.

I have seen a massive increase in bodyshops contacting me about insurers applying increased excess on consumers wishing to use their own bodyshop, and a second now more frequently heard complaint – “the insurer will only pay £28 per hour” (or whatever rate they can get at their network repairer).

For insurers, this is like speeding. It is only when caught and held accountable in court that their behaviour changes. As they are rarely challenged, they continue with these abhorrent behaviours. Not only is it a very poor way to treat your customer, it is also killing the body repair industry through “unfair commercial trading practices”.

The Financial Conduct Authority has just completely updated the regulations on “The Consumer Duty”: <https://www.fca.org.uk/publications/policy-statements/ps22-9-new-consumer-duty>

The FCA advised and acknowledge that financial institutions, and in particular

insurers, are acting not in the best interest of customers. The FCA is are now tightening things up, there is now potentially more that can be done to fight these practices.

There is much I can do, but when acting directly for a consumer, the cost might outweigh the benefits. However, with the backing of the NBRA, it might well be possible to raise a “super complaint” with what was the Office of Fair Trade and now the Competition and Markets Authority. What can also be done now is raise complaints with the FCA about these practices.

The larger the membership of the NBRA, the bigger the voice that can be heard. The difference now is that the NBRA is providing support to myself so I can challenge these unfair commercial trading practices.

What I would like is for every repairer identifying an issue such as any of the above, to then be making note of the insurer, getting the insurance contract details from the consumer and report it here <https://www.fca.org.uk/consumers/unfair-contracts/report> or contact the NBRA (bodyshops@rmif.co.uk), which has agreed to act as central hub. This applies to members and non-members, though a survey will also be sent out to members and will be on their website.

As a last mention, I heard over the Christmas period that we have lost a lovely gentleman from our industry – Mike Yorke of OutSorc. My condolences to his family and his friends; he will be sorely missed by all, as will our regular chats.

