

MEMORANDUM

TO: Department of Justice, Federal Trade Commission
ATR.LPS-MFNPublicWorkshop@usdoj.gov

FROM: Alliance of Automotive Service Providers of Minnesota (AASP-MN)

AASP-MN is the state trade association which represents Minnesota's independently owned mechanical and collision repair shops. The existence of most-favored-nation clauses in direct repair contracts between insurers and collision repair shops has become an increasing concern for our membership.

Direct Repair Contracts establish terms whereby a collision repair shop will be deemed an approved provider of repair services for an insurance company's insureds and claimants, provided the shop agrees to comply with specific insurance company requirements.

Collision repair shops are finding it increasingly difficult to survive in the marketplace unless they strive to comply with insurance company demands to become "approved" repair businesses by entering into Direct Repair Contracts.

The marketplace is most significantly skewed in circumstances where an insurance company holds a significant market share of the automobile insurance coverage in a particular state. For example, State Farm Insurance Company insures the largest segment of Minnesota's auto insurance market – approximately 20% of the state's insureds. Collision repair shops strive to meet the State Farm direct repair program standards in order to have a reasonable chance of securing a portion of the repair work from State Farm's insureds.

One of the terms State Farm imposes in its Direct Repair Program is that participating collision repair shops must grant State Farm most-favored-nation status with respect to the rates the shop charges for repairs to vehicles of State Farm insureds or claimants.

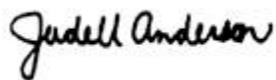
This most-favored-nation requirement has been an impediment to any adjustment to collision repair labor rates in Minnesota for several years. State Farm will not accept anything but the lowest rates in the marketplace and all other insurers point to the fact that State Farm commands the lowest labor rates and therefore they cannot or will not allow for an upward adjustment of the labor rates they will pay.

The collision repair shops find themselves in a Catch 22 where they need to strive to be accepted on the State Farm Direct Repair Program yet, in so doing, they are limiting market opportunities for adjustment to labor rates which would more accurately reflect the increase in costs the collision repair industry is facing.

The special circumstance of having a most-favored-nation clause in market-leader State Farm's Direct Repair Contract creates asymmetry in the marketplace relationship between insurers and repair shops – in this case, solely benefiting the insurer and restricting the ability of the repair industry to adjust labor rates.

AASP-MN appreciates this opportunity to share our concerns with respect to most-favored-nation clauses and would welcome the opportunity to visit further with Department of Justice and Federal Trade Commission staff on this matter.

Sincerely,

A handwritten signature in black ink that reads "Judell Anderson". The signature is written in a cursive, flowing style.

Judell Anderson, CAE, Executive Director

Alliance of Automotive Service Providers of Minnesota, Inc.

1970 Oakcrest Avenue, Suite 102 (We've moved! Please note our new address)

Roseville, MN 55113

Phone: 612-623-1110 - Fax: 612-623-1122

Website: www.aaspmn.org