



ADVICE TO THE ACCREDITED REPAIR FACILITIES (c.a.r. Shops)

Alternative Transportation Program

The c.a.r. shops who opted to participate in the Alternative Transportation Program signed a Modification Agreement which includes a "Most Favored Customer" clause by which the body shop agreed not to charge ICBC any more than it charges any other insurance company, or its other customers.

The rationale for this clause was twofold: ICBC, which continues to be responsible for the lion's share of the income generated by body shops, was of the view that it was entitled to be treated at least as well as any other customer of the body shop.

More importantly, however, ICBC felt that if a body shop charged ICBC for courtesy cars, but did not charge ICBC's competitors for the same service, ICBC was in effect subsidizing its competitors.

The clause caused consternation amongst at least one of ICBC's competitors and, as you may recall, Canadian Direct Insurance Incorporated took ICBC to court and challenged its right to insert such a clause into the Agreement, as it interfered with the economic relations between CDI and its accredited body shops. That lawsuit was dismissed.

However, concerns were also expressed by the Competition Bureau, the federal agency that enforces the *Competition Act* and seeks to maintain and encourage competition in Canada. It was felt by the Competition Bureau that, because of the dominant position enjoyed by ICBC in the B.C. market, the continued existence of the "Most Favored Customer" clause might substantially restrict competition.

As a result of our discussions with the Competition Bureau, we wish to announce that we will forthwith withdraw the "Most Favored Customer" clause from the Modification Agreement.

ICBC continues to have concerns that it may end up subsidizing its competitors and will be monitoring the situation. It is understood that the withdrawal of the "Most Favored Customer" clause is without prejudice to the rights of the Corporation to address the issue again if it finds that abuses occur.

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