

**IN THE MATTER OF:**

**Mitchell International, Inc. and its WorkCenter Total Loss Product's  
Application Under R.I. Gen. Laws § 27-9.1-4(25) and 23-RICR-20-40-  
2.8(A)(2) (Formerly Insurance Regulation 73)**

**Mitchell International, Inc.'s  
Written Comments Regarding its  
WorkCenter Total Loss Product, Public Comments and Public Hearing**

Mitchell International Inc. ("Mitchell") submits these final written comments pursuant to the request and timeline established by the Hearing Officer at the March 12, 2018 Pre-Hearing Conference and the subsequent Public Hearing held on April 12, 2018. Mitchell requests that its WorkCenter Total Loss product ("WorkCenter") be approved for use as a Total Loss Valuation Service in Rhode Island under R.I. Gen. Laws § 27-9.1-4(25) and 23-RICR-20-40-2.8(A)(2) pursuant to its application submitted on February 23, 2018.

**I. BACKGROUND**

For purposes of these comments, Mitchell accepts and adopts the "Historical Backdrop" provided by the Division of Insurance of the Department of Business Regulation (the "Division") in its written comments submitted on April 2, 2018.

**II. CRITERIA FOR DETERMINING WHETHER WORKCENTER TOTAL LOSS SHOULD BE APPROVED**

In its written comments, the Division articulated a clear standard of review for the Hearing Officer to apply in its consideration of Mitchell's application. Specifically, in accordance with Rhode Island General Laws § 27- 9.1-4, 23-RICR-20-40-2.8(A)(2) and Insurance Bulletin 2014-2,

the three-part standard of review is: (i) whether the applicant is “a nationally recognized compilation of motor vehicle values”; (ii) whether the applicant is “commonly used by the automotive industry to establish values of motor vehicles”; and (iii) whether the applicant “applies arbitrary deductions taken from comparable vehicle values when calculating the total loss value”. The Auto Body Association of Rhode Island (“ABARI”) likewise expressed in its comments at the April 12, 2018 Public Hearing that the analysis “starts and ends” with a determination of whether WorkCenter satisfies this standard. For the reasons discussed herein, WorkCenter unequivocally satisfies this standard and, therefore, should be approved for use as a Total Loss Valuation Service in Rhode Island.

**a. WorkCenter is a Nationally Recognized Compilation of Motor Vehicle Values**

It is undeniable that WorkCenter satisfies the first part of the standard as it is a “nationally recognized compilation” of motor vehicle values. The WorkCenter comparable vehicle database is a compilation of data from industry leading and nationally recognized sources of data and information to the auto industry (including consumers, dealerships, manufacturers, repair facilities, insurers, and car rental companies) on the retail sale and list prices of new and used automobiles. The sources of this data, which is used to produce WorkCenter comparable vehicle reports and valuations, include Power Information Network from J.D. Power and Associates (“P.I.N.”), Mannheim Auto Auctions, AutoTrader.com, Cars.com, TrueCar, and Vast. Each of the sources of data is, standing alone, a nationally recognized data source. Together, these data sources are even more powerful. The following publically available statements describe each of these sources:<sup>1</sup>

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<sup>1</sup> These statements were pulled directly from websites for the identified entities. *See*, <http://www.jdpower.com/solutions/power-information-network-pin>; <https://www.autotrader.com/about/index.xhtml>!; <http://investor.cars.com/news/press-release-details/2018/Carscom-Announces-Agreement-with-Starboard/default.aspx>; [https://www.truecar.com/about\\_us.html](https://www.truecar.com/about_us.html)!; <https://www.vast.com/carstory/>!; and <https://publish.mannheim.com/en/about-mannheim.html>.

- P.I.N. “provides real-time automotive information and decision-support tools based on the collection and analysis of daily new- and used-vehicle retail transaction data from thousands of automotive franchises”.
- AutoTrader.com “provide[s] the largest selection of vehicles and attract (sic) more than 14 million qualified buyers each month.”
- Cars.com is a “leading two-sided digital automotive marketplace that creates meaningful connections between buyers and sellers” and “empowers consumers with resources and information to make informed buying decisions.”
- TrueCar.com is “a digital automotive marketplace dedicated to being the most transparent brand in the [auto] industry” that “powers car-buying programs for over 500 companies, including some of the most trusted brands in the world such as USAA, AARP, and American Express.” Importantly, “over one third of all new car buyers engage with the TrueCar network during their purchasing process.”
- Vast is a “proven leader in the ‘Automotive Industry’” and the “premier provider of big data solutions for many of the Global 1000’s largest automotive businesses.”
- Manheim “continues to set the industry standard for buying and selling used vehicles . . . as North America’s leading provider of vehicle remarketing services.”

Using the data from these nationally recognized sources, WorkCenter creates an up-to-date comprehensive comparable vehicle database of new and used car retail listings. WorkCenter then uses statistically validated algorithms to select vehicles from its comprehensive database that most closely match the loss vehicle within the specific geographic area of the loss vehicle to create a total loss valuation.

The collaborative efforts described above unequivocally result in a “nationally recognized compilation” of motor vehicle values. The fact that this compilation is available electronically does not negate that it is such a compilation. In its comments, the Division acknowledged that the definition of “compilation” is not restricted to a paper format and includes an electronic compilation. As noted by the Division, like WorkCenter, the two valuation products approved by the Division, National Automobile Dealers Association Used Car Guide (“NADA”)<sup>2</sup> and Kelly Blue Book (“KBB”), are used by both insurers and consumers in an electronic format. In fact, KBB is only available in electronic format. Furthermore, like WorkCenter, NADA and KBB are both compilations of other nationally recognized compilations and sources of vehicle value data - only Mitchell captures such data on a frequent basis.

**b. WorkCenter is Commonly Used by the Automotive Industry to Establish Values of Motor Vehicles**

The second part of the Division's standard asks whether WorkCenter is “commonly used by the automotive industry to establish values of motor vehicles”. The answer is “yes”. Like NADA and KBB, WorkCenter is commonly used by the automotive industry - specifically the automobile rental and automobile insurance industries - to determine the fair market value of total loss vehicles. Mitchell agrees with the Divisions' interpretation (as stated in Insurance Bulletin 2014-2) that the term “automotive industry” certainly includes entities that actually sell automobiles. Notably, nothing in § 27-9.1-4(25), 23-RICR-20-40-2.8(A)(2) or Bulletin 2014-2 requires the entity's business activities be exclusively limited to the sale of automobiles. Rather, the question is whether the entity actually sells automobiles.

As noted in Mitchell’s application, WorkCenter is commonly used by the automobile rental industry. In addition to renting automobiles, a significant part of the automobile rental

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<sup>2</sup> NADA Used Car Guide is now J.D. Power Valuation Services, see [www.nada.com/b2b/WhyNADAValues.aspx](http://www.nada.com/b2b/WhyNADAValues.aspx).

industry's revenue is the direct sale of vehicles. All of the major automobile rental companies (e.g., Hertz, Enterprise, Avis and Dollar Thrifty) are actively involved in the direct marketing and sale of vehicles to consumers. According to the annual reports of these companies, automobile rental companies typically hold their vehicles for anywhere between 4 and 22 months, with an average holding period of 13 months. It is estimated that, each year, automobile rental companies turn over roughly 92% of their respective vehicle inventories through vehicle sales - including direct sales to consumers. In doing so, automobile rental companies thus squarely fit within even a narrow definition of "automotive industry" that is limited to entities engaged in the actual sale of vehicles. Accordingly, WorkCenter is used by entities actively engaged in the sale of automobiles to consumers.

In reality, the scope of the term "automotive industry" as used in §27-9.1-4(25) should not be narrowly interpreted to include *only* companies engaged in the sale of automobiles. The automobile insurance industry is a key part of the overall automotive industry and its valuations are connected to a material percentage (up to 20%) of overall vehicle purchases nationally. In so far as approximately 60 national automobile insurers currently use WorkCenter to help settle their total loss claims, WorkCenter is commonly used by the automotive industry to establish values of motor vehicles.

**c. WorkCenter Does Not Apply Arbitrary Deductions Taken from Comparable Vehicle Values When Calculating The Total Loss Value**

The third part of the Division's standard asks whether the applicant applies arbitrary deductions taken from comparable vehicle values when calculating a total loss value as such arbitrary deductions are prohibited by Rhode Island. 230-RICR-20-40-2.8(A)(4)(b). The answer to this question is "no". As recognized in the Division's comments, in Rhode Island, Mitchell

has disabled the specific functionality of WorkCenter that the Division requested be disabled.<sup>3</sup>

Based on this modification, as well as additional product enhancements to WorkCenter since Mitchell's 2014 submission, the Division determined it would not oppose Mitchell's application for approval of WorkCenter for use as a Total Loss Valuation Service in Rhode Island.

### **III. OTHER CONSIDERATIONS**

As indicated by both the Division in its written comments and ABARI in its statements at the April 12, 2018 Hearing, the analysis to be applied by the Hearing Officer starts and ends with a determination of whether WorkCenter is a nationally recognized compilation of motor vehicle values commonly used by the automotive industry to establish values of motor vehicles. Any other factors or unfounded criticisms raised by ABARI or others are simply a distraction from this analysis. For example, ABARI made reference in its comments to total loss class litigation in Louisiana as a basis for rejecting Mitchell's application. There is simply no nexus between this litigation - in which Mitchell is not even a party - and the Hearing Officer's review of this matter.

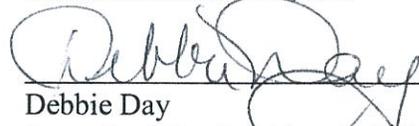
### **IV. CONCLUSION**

As established herein, WorkCenter is a nationally recognized compilation of motor vehicle values commonly used by the automotive industry to establish values of motor vehicles, and thus, Mitchell respectfully requests that the Division should approve WorkCenter for use as a Total Loss Valuation Service in Rhode Island under R.I. Gen. Laws § 27-9.1-4(25) and 23-RICR-20-40-2.8(A)(2).

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<sup>3</sup> Notably, WorkCenter has been statistically validated through a rigorous analysis by a preeminent Professor of Statistics at the MIT Sloan School of Management.

RESPECTFULLY SUBMITTED:  
Mitchell International, Inc.



Debbie Day  
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**CERTIFICATION**

I hereby certify that on this 26th day of April, 2018, a copy of these comments were  
emailed to:

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