



chuck@livgardandrabase.com

Change Your Way of Looking At Pricing

by Chuck Lloyd



AT THE INDEPENDENT GLASS ASSOCIATION (IGA) convention in Orlando held the first week of April, several speakers challenged attendees to re-think their industry and carefully consider what business they are in. Do you sell goods, namely glass, or is your primary business installation service? When you look at how this industry bills for what it does, you could easily conclude that this industry sells goods. When I negotiate with an insurance company on price, the discussions are dominated by the price of glass. Most of the time kit charges are an afterthought and labor takes no time at all typically.

Many insurance companies chafe over glass costs because they believe they know the price of glass and are appalled at the mark-up. But they don't consider the need to cover costs associated with the installation that the other components of the installed price, particularly labor, do not adequately cover.

Services vs. Goods

The IGA, with its work on standards and other issues, is taking a leading role in this shift in thinking. Kurt Muller, a long-time IGA board member, its newest president and a very savvy glass shop operator out of Connecticut, has spent a lot of time on this dilemma over the last several years and may have hit upon a solution that could turn the industry on its head. Muller's theory begins with the premise that the glass industry is a service-providing industry, not one that sells goods. In that sense, the auto glass industry is no different than the body shop industry, the auto mechanical repair industry or any other auto service industry. Sure, the mechanic down the street sells parts. So does the local Walmart. What distinguishes the mechanic from the sellers of auto parts is the installation service the mechanic provides. We go to a mechanic to fix our car, not to buy parts. The service provided is the critical component of the transaction. It is not a throw-in to entice you to buy the goods.

Consider this comparison. An appliance dealer will often offer free delivery and set-up when you buy an appli-

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ance. Would anyone suggest that the appliance dealer's primary business is the provisional delivery services? Of course not. In that instance, the service provided is entirely incidental to the sale of the good. The same cannot be said of auto glass installers. In this industry, the installation service is the critical component of the transaction; it is not the throw away add-on used to entice the sale of windshields. The well-documented human tragedies related to windshield failures are invariably the result of improper installations, not the failure of materials.

The Muller Model

If this industry is no different than other automobile service industries, why do we handle the billing for labor differently than our brothers and sisters in the mechanical and collision industries? The answer is more likely based on inertia than anything else. This industry has always used the price of glass to make up for the shortcomings in the price charged (and therefore paid) for labor. Under Muller's thinking, it doesn't have to be that way.

The "Muller Model," for lack of a better label, suggests that glass should be priced more like the incidental item it really is. It should be priced fairly, but it should not be the beast of burden upon which all other items are piled. Instead of how things have been traditionally done, one should examine the labor rates available in the market for automobile services. Survey as many body shops, dealer

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service centers and local mechanics as you have the time and patience to do—the more the better. Find out the market rate for labor in your area for auto service. Once you have that data, look at it carefully. My guess is that you will find virtually everyone charging for his labor by the hour. Consider using that information in determining both the appropriate labor rate and method for billing labor for your business. Also, factor in some consideration of the nature of your business—you are selling a service, not a good. Bill your customers in a manner that reflects the nature of your business more accurately. Instead of an afterthought, labor becomes the dominant component of the invoice and materials are billed as incidental.

In reality, the overall dollars you charge on a particular installation will not change very much most likely. Instead, the dollars will be allocated among the various components of the invoice more accurately. If the overall dollars don't change, you may ask, "why advocate for this change in thinking?" From a legal standpoint the answer is simple—it makes it far easier to justify your price, either to an insurer, an insurance regulator or a court. There are several reasons.

Precedents

First, courts have already recognized that this industry is one that provides services, not goods. Several years ago, a federal court in Illinois wrote: "The dominant nature of the transaction, here, as I indicated previously, clearly is service-related. The alleged activities of [the defendants] relate to the repair and servicing of the automobile, not the sale of materials." (*General Glass Co. Inc. v. Globe Glass and Trim Co.*, 1978 U.S. Dist. LEXIS 15559 *1, *13-14 (N.D. Ill. 1978))

Second, insurers constantly complain that people who pay cash for glass replacement services pay less than insurance companies. While there are many good reasons for that, focusing on a labor rate that is related to auto services generally (particularly labor rates that consumers routinely pay out of pocket every day rather than having them paid by their insurance companies) would seem to negate or at least minimize the insurer's position on the cash versus insurance issue. It also allows you to turn the argument around on the insurers. Why should insurers get better labor rates for automobile service than consumers who have to pay out of pocket?

Third, as installation standards come on line for this industry, the service nature of the business will only become that much more clear (*see page 32 for related*

story). Based on what I have seen of the standards, companies that strive to comply with those standards will be forced to focus more on installation techniques than the glass. Accordingly, it is only fair that glass companies be compensated appropriately.

Fourth, from a dispute resolution perspective, it narrowly focuses the argument over price to a single component—what an appropriate price to be paid for labor is. In current cases, the focus is on the glass and the debate tends to center on whether aftermarket glass is as good as glass from OE providers, etc. That will clearly not be the case with the Muller Model. The price for glass may even be lower than what the insurer demands in its pricing letters because the glass company will not be recouping other costs in the price of its glass. Instead, the focus ought to be entirely on labor and whether your hourly rate is fair and reasonable in the market. If you've done your homework, you should be able to fight this battle with insurers.

A Change of Heart

This clearly is a big change in the way most people think about invoicing. Don't misunderstand, I do not suggest, nor do I believe, that insurers will readily embrace the Muller Model—I am much more realistic than that. I believe this model puts you in a better position to fight the inevitable fight when you get short paid. As a lawyer who represents glass companies in litigation over short payments, I know it would make my job and my life much simpler if all I had to fight over was what is reasonable for labor. When you deal with short payments, I suspect you will find it much easier to address other issues when the dispute is focused on labor.

The bottom line is you're in the service business. Recognize it. Act like it. Bill like it.

On a personal note, my thinking about the industry is not the only thing that has changed for me recently. After more than 14 years with Lindquist & Vennum, I have left the large firm and the tall office building and joined some friends in a much smaller firm, still in Minneapolis. My practice hasn't changed a bit but my e-mail address, my telephone number and my surroundings have. I am excited by the new law firm and look forward to continuing to work with my friends and clients in the auto glass industry. ■

 Chuck Lloyd is a partner in the Minneapolis law firm of Livgard & Rabuse, P.L.L.P.