

PRIVATE MOTOR INSURANCE MARKET INVESTIGATION

Annotated issues statement

5 July 2013

Introduction

1. In December 2012 we published a [statement of issues](#) for the private motor insurance (PMI) market investigation and in February 2013 we published an [update](#) to this statement. In these documents, we set out the theories of harm (ToHs) we intended to explore in this investigation. We are now providing this document—the annotated issues statement—to summarize our current thinking based on the evidence received and the analyses we have undertaken to date. In this document we highlight those issues which we consider are likely to represent the focus of our investigation in the period up to our provisional findings, and those issues for which we have fewer concerns. We also highlight those areas where further evidence from parties would be particularly helpful.
2. This statement follows the same structure as the statement of issues and the update to the issues statement and considers in turn each of the ToHs. Our detailed analysis on each issue has been published in separate working papers, to which we refer throughout this document. A full list of the working papers we intend to publish is presented in the [Annex](#).
3. At this stage in our inquiry we have not reached any provisional conclusions and our views as set out in this document may change in light of the comments and further evidence we receive and any further analysis we carry out.

Progress of the investigation and next steps

4. Over the last nine months, we have gathered an extensive amount of information from a wide range of parties. Through submissions, responses to questionnaires, meetings, conference calls, site visits, and our own desktop research, we have gathered evidence from insurers, brokers, claims management companies (CMCs), credit hire companies (CHCs), repairers, paint suppliers (including manufacturers, marketing associations and distributors), parts suppliers, repair cost estimation system providers, and price comparison websites (PCWs). We have also consulted trade bodies and other industry experts.
5. We are now publishing this document and the many working papers alongside it to present our current thinking on the basis of this evidence and we invite parties to tell us their views in response. Where there are gaps in our understanding or evidence base, or inaccuracies, we ask parties to provide us with the further necessary evidence.
6. We will shortly be meeting with many of the parties which operate in the various sectors which have been the subject of our investigation in formal hearings. These hearings will provide those parties invited to attend with an opportunity to make their representations to the Group but all parties are invited to respond to this statement and the related working papers in writing, and we would expect such written submissions to be the principal means by which parties respond.

7. **We invite parties to respond in writing to this statement and the related working papers by 5pm on Friday 16 August 2013.**¹

Theories of harm

8. Our ToHs are grouped into five broad areas, as follows:
- ToH 1: Harm arising from the separation of cost liability and cost control (moral hazard).
 - ToH 2: Harm arising from the beneficiary of post-accident services being different from and possibly less well informed than the procurer of those services.
 - ToH 3: Harm due to horizontal effects (market concentration).
 - ToH 4: Harm arising from providers' strategies to soften competition.
 - ToH 5: Harm arising from vertical relationships (vertical integration).

Background analysis

9. The PMI industry is a web of complex and varied interrelationships between many different types of party (see paragraph 4). Therefore, at an early stage in our investigation, we sought to understand the nature of the typical interactions and some of the key trends in the industry. Our analysis is set out in the working paper 'Background to PMI (insurers, brokers and PCWs)'.
10. We also sought at an early stage to understand the typical interactions which occur in relation to claims. Our analysis of this activity is set out in the working paper 'Background to claims management process'.

ToH 1: Harm arising from the separation of cost liability and cost control (moral hazard)

11. This issue was the focus of the Office of Fair Trading's (OFT's) market study which led to the reference to us and has remained the principal focus of our investigation. We have investigated whether the separation of cost liability and cost control in the supply of services (excluding personal injury) to non-fault parties involved in private motor accidents increases the costs of the services supplied (due to a weakened constraint on prices (overcosting) or an unwarranted increase in quality (overprovision)). We have investigated this issue separately with regard to repairs and the supply of temporary replacement vehicles (TRVs).

Repairs

12. Our analysis of whether there is overcosting and/or overprovision in relation to non-fault repairs as a result of the separation of cost liability and cost control is set out in the working paper 'ToH 1: Overcosting and overprovision of repairs'. This working paper shows that we have not found evidence of any significant overprovision of services (ie excessive quality) in relation to vehicle repairs, even when repairs are

¹ Please email pmi@cc.gsi.gov.uk or write to: Inquiry Manager, PMI market investigation, Competition Commission, Victoria House, Southampton Row, London, WC1B 4AD.

carried out by third parties such as credit repairers, but we have found evidence that the costs charged for repairs which are not controlled by the fault insurer can be significantly higher than the cost of those repairs which they do manage. It appears that the separation of cost liability and cost control can increase the average cost of a non-fault repair for the fault insurer compared with a scenario in which the fault insurer manages the repair by up to around £300 if it is a credit repair and by up to around £270 if the non-fault insurer manages the repair. It appears that the average increase for the fault insurer if the non-fault insurer manages the repair is around £200.

13. We have also considered the effects of the vertical supply contracts between suppliers of inputs into vehicle repairers and insurers or CMCs, under which insurers or CMCs receive referral fees or rebates in return for recommending the use of the supplied input by their owned or approved repairers. We find that when an insurer is in the non-fault position, the referral fees it receives from input suppliers are not typically passed on to the rival fault insurer, which effectively increases the repair costs charged to the fault insurer. This effect is part of the moral hazard problem and included in the estimated overcosting set out in paragraph 12.
14. We have also considered whether the handling of vehicle write-offs might give rise to an uplift in the bills passed on to fault insurers due to the separation of cost liability and cost control. Our working paper on vehicle write-offs relates both to ToH 1 and to ToH 2: 'ToH 1/2: Vehicle write-offs'. This working paper shows that the separation of cost liability and cost control results in the overcosting of non-fault vehicle write-offs, which is achieved by estimated salvage values being set artificially low, increasing payouts by fault insurers. The level of the commission payments and referral fees received by non-fault insurers and CMCs from salvage companies indicates that the extent of the overcosting on average is likely to be up to around £200 per non-fault written-off vehicle.

Temporary replacement vehicles

15. Our analysis of whether there is overcosting and/or overprovision in relation to the supply of TRVs to non-fault claimants as a result of the separation of cost liability and cost control is set out in the working paper 'ToH 1: Overcosting and overprovision of TRVs'.
16. This working paper shows that the cost of TRV services for a non-fault claimant is significantly higher when these services are provided under a credit hire agreement than when they are provided under a direct hire agreement. On average, insurers pay around twice as much for a credit hire vehicle than for a direct hire vehicle. The cause of this higher cost appears to be both a higher daily hire rate (possibly due to overcosting) and a longer hire duration (possibly due to overprovision).
17. The higher daily hire rate reflects in part the additional costs incurred by CMCs/CHCs in the provision of credit hire services and the additional services provided under a credit hire agreement.
18. The two principal additional costs which arise in the provision of credit hire services, which may represent evidence of overcosting, are (a) frictional costs, which represent the additional administrative and legal costs incurred by both the party representing the non-fault claimant and the fault insurer (ie above the costs which would be incurred were the fault insurer to manage the claim); and (b) referral fees, which constitute a cost of acquiring business for a CMC/CHC but, as non-fault insurers and brokers 'control' the non-fault claimant, also, it appears to us, represent a method of

extracting the profits generated by CMCs/CHCs in the provision of credit hire by non-fault insurers and brokers.

19. We have found that credit hire durations are on average 3.7 days longer than direct hire durations, which might indicate the overprovision of TRV services under a credit hire agreement.

Survey evidence

20. In February 2013, we engaged IFF, a market research agency, to conduct two surveys:
 - (a) a survey to investigate the post-accident experiences of 'non-fault' claimants; and
 - (b) a survey to investigate consumers' general attitudes and behaviour in relation to PMI.
21. IFF's report of the results of these surveys has been published in the working paper 'Survey report'.
22. The results of the first survey are relevant primarily to our consideration of ToH 1, though some questions are relevant also to ToH 2. Our analysis of the results relevant to ToH 1 is set out in the working paper 'ToH 1: Analysis of the results of the non-fault survey in relation to overprovision'. This working paper considers respondents' perceptions of the condition of their vehicle post-repair and the adequacy of the TRV with which they were provided.
23. Overall, the majority (75 per cent) of respondents said that their vehicle was in the same condition after the repair as it was prior to the accident, with 13 per cent saying it was in a better condition and 10 per cent saying that it was worse. Of those respondents who received a TRV, the majority (68 per cent) said that it met their needs, with 17 per cent saying that it exceeded their needs and 14 per cent saying it was below their needs. Similarly, the majority (87 per cent) said that they had it for about the right amount of time, with only 4 per cent saying that they had it for longer than needed and 9 per cent saying that they had it for shorter than needed. For these responses, there were no statistically significant differences between those whose claim was handled by the non-fault insurer and those whose claim was handled by the fault insurer liable for the cost. In most cases, non-fault claimants are not aware of the cost of their TRV; however, of those who were aware of this cost (25 per cent of those that received a TRV), 41 per cent said that they would have been content with a less good quality TRV and 21 per cent would have been content with having it for less time. In interpreting these results, we recognize that survey responses are subject to error, that the sources for this analysis are respondents' perceptions, which are inherently subjective and not based on an objective assessment of post-accident services, and that there may be other factors influencing these responses.
24. The results of the second survey are relevant to our consideration of several issues across most of the ToHs.
25. We have incorporated many of the results from both of the surveys conducted by IFF into our analysis, as shown in our various working papers.

Further econometric and statistical evidence

26. In order to assess whether the separation of cost liability and cost control results in higher non-fault claims costs (and therefore higher PMI premiums) than would be the case in the absence of this structural feature of the market, we asked ten of the largest insurers to supply us with an extensive dataset on their various claims costs (fault and non-fault). We intended to use this data to conduct a detailed econometric study comparing non-fault claims costs when controlled by a party other than the fault insurer with claims costs (fault and non-fault) which the fault insurer controls. However, when we received the data which the insurers were able to provide, we found many problems with it. Although all of the insurers provided us with data in response to our request, and helped us to understand how their responses had been compiled, we found that only the data of three insurers could in principle be used for an econometric analysis. We are continuing to work on these datasets to see whether reliable results can be obtained. However, in parallel we have also asked the insurers to supply us with some aggregate statistics of their various claims costs, which we will verify by reference to the datasets which we had received for the econometric work, and which we will use to conduct a more high level analysis. We intend to publish the results of this analysis in the working paper 'ToH 1: Statistical analysis of claims costs' as soon as this work is complete.

Overall current thinking in relation to ToH 1

27. Although there is some ongoing work in relation to our consideration of ToH 1 (see paragraph 26), on the basis of the evidence we have seen and the analysis we have conducted so far, it appears to us that the separation of cost liability and cost control in the provision of post-accident services to non-fault PMI claimants does give rise to a moral hazard problem, whereby the ultimate costs paid by the fault insurer are higher than they would otherwise be. This may be due to the overprovision of some services to non-fault claimants when the claim is handled by a CMC/CHC, for example, a longer credit hire duration, but it appears to be principally due to over-costing. We found little difference in the quality of the repair provided to non-fault claimants between those claims handled by the fault insurer and those handled by another party, but we found a significant difference in average repair costs. We found that the costs of TRV services were also significantly higher. It appears to us that the separation of cost liability and cost control does give rise to an uplift in the costs incurred by fault insurers.
28. We have not at this stage considered fully the effect(s) on competition between insurers and/or between other parties involved in the supply of PMI or the supply of post-accident services. We have also not considered the effect(s) on consumers of the uplift in costs to fault insurers arising from the separation of cost liability and cost control. We note that at least some of the factors which we have identified as giving rise to the higher overall costs to fault insurers are likely to represent inefficiencies (eg the overprovision of TRV services or frictional costs); and we note also that some insurers have a greater proportion of fault claimants or non-fault claimants than other insurers, such that any transfer of value from fault insurers to non-fault insurers might be beneficial or disadvantageous for different insurers. We intend to consider these issues further prior to our provisional findings.

ToH 2: Harm arising from the beneficiary of post-accident services being different from and possibly less well informed than the procurer of those services

29. Under this issue we have considered the various ways in which consumers may be put at a disadvantage due to information asymmetries, leading to a lack of alignment between their interests and those of the parties which procure post-accident services on their behalf. As with ToH 1, we have investigated this issue separately with regard to repairs and TRVs, and we have also considered it in relation to vehicle write-offs. We note that some non-fault claimants appear to have a limited knowledge about their legal entitlements following an accident and the level of a consumer's knowledge might affect the quality of the post-accident services they receive.

Underprovision of repairs

30. Our analysis of whether harm arises from the beneficiary of post-accident repair services being different from and possibly less well informed than the procurer of those services is set out in the working paper 'ToH 2: Underprovision of repairs'.
31. This working paper shows that we have found no systematic evidence that the quality of repair services received by either fault or non-fault claimants is sub-standard (compared with their contractual or legal rights). Our finding is based on a review of survey evidence, how insurers and CMCs monitor the quality of repairs, the standards repairers adhere to when undertaking repairs, and customer feedback and complaints ratios in relation to vehicle repairs.
32. Notwithstanding this evidence, we also received a number of submissions (mainly from repairers, CMCs and other industry participants) suggesting that the repair quality of insurer-managed repairs is often poor; and we also noted that many consumers might not be able to assess whether a repair to their vehicle is adequately performed. Therefore, to consider this issue further, in May 2013, we engaged MSX International (MSXI) to carry out some inspections of vehicles which had been involved in accidents and subsequently repaired. The objectives were to assess the quality of the repairs by comparing the pre-accident condition (as evidenced through documentation) with the post-accident condition (evidenced through physical inspection) of the parts of the vehicle which had been repaired. We also asked MSXI to identify any parts damaged through the accident which had not been repaired. This piece of work is currently ongoing and we do not yet have the results. In due course, we expect to publish MSXI's report of the results of its assessments in a working paper entitled 'Vehicular assessments report'.

Vehicle write-offs

33. Our analysis of whether harm arises from the beneficiary of a write-off settlement being different from and possibly less well informed than the party which determines that the vehicle should be written off is set out in the working paper 'ToH 1/2: Vehicle write offs'.
34. This working paper shows that it is unlikely claimants suffer material harm in relation to the value they receive when their vehicle is written off. This is because consumers can and do challenge their insurers on the assumptions made when calculating the pre-accident value of the vehicle and because customers have the option to retain the written-off vehicle.

Underprovision of temporary replacement vehicles

35. Our analysis of whether harm arises from the beneficiary of post-accident TRV services being different from and possibly less well informed than the procurer of those services is set out in the working paper 'ToH 2: Underprovision of TRVs'.
36. This working paper shows that the underprovision of TRV services to non-fault claimants is possible given a low level of awareness among non-fault claimants of their legal entitlements in relation to a TRV. From the evidence we have seen, non-fault claimants appear more likely to receive a lower-quality TRV when the TRV is provided by the fault insurer than when it is provided by another party. However, it also appears that the majority of non-fault claimants are satisfied with the TRV services they receive following an accident, both in relation to the quality of the TRV they receive and the hire duration (see paragraph 38). Therefore, overall, in our view, this does not appear to represent the underprovision of TRV services to non-fault claimants whose claims are handled by the fault insurer but may indicate a degree of overprovision of TRV services to non-fault claimants whose claims are managed by a party other than the fault insurer (see ToH 1).

Analysis of the results of the non-fault survey in relation to underprovision

37. IFF's survey of non-fault claimants (see paragraph 22) included questions in relation to claimants' satisfaction with the services they received at the time of their claim. Our summary and an analysis of the results of this survey which are relevant to ToH 2 are set out in the working paper 'ToH 2: Analysis of the results of the non-fault survey in relation to underprovision'.
38. This working paper shows that almost 90 per cent of respondents said that their vehicle was in at least as good condition post-repair as it was before their accident (see paragraph 23). Moreover, there were no significant differences in perceptions between those whose claims were managed by their non-fault insurer and those whose claims were captured by the fault insurer. With regard to the provision of TRV services, the survey found that 85 per cent of non-fault claimants who received a TRV said that it met or exceeded their needs (see paragraph 23), which, as with repairs, did not appear to us to be compelling evidence overall of perceived underprovision. However, in relation to TRVs, we did find a statistically significant difference depending on the party which handled the claim, with 19 per cent of those whose claims were captured and handled by the fault insurer saying their TRV fell short of their needs, which was a significantly higher proportion than for those whose claim was handled by their non-fault insurer.

Overall current thinking in relation to ToH 2

39. Although our commissioned assessment of some post-accident vehicle repairs is ongoing (see paragraph 32), on the basis of the evidence we have seen and the analysis we have conducted so far, it does not appear to us that, overall, it is likely that claimants suffer material harm in relation to the post-accident repairs they receive or the TRV they receive due to another party, possibly with more information and different interests, procuring these services on their behalf. However, we will consider this issue again when we receive MSXI's report. It also does not appear to us that consumers suffer harm in relation to the value they receive when their vehicle is written off.

ToH 3: Harm due to horizontal effects (market concentration)

PMI in Northern Ireland

40. We have investigated whether there are fewer suppliers of PMI in Northern Ireland (NI) than in the rest of the UK and which customer segments those insurers operating in NI supply. We have sought to assess whether the greater concentration of PMI providers in NI results in higher profitability for those providers. Our analysis is set out in the working paper 'ToH 3: Horizontal concentration in PMI providers in Northern Ireland'.
41. This working paper shows that the supply of PMI in NI is more concentrated than in the rest of the UK and that this is particularly true for young drivers and high-risk drivers who face a particularly limited choice of suppliers. We found that several PMI providers which operate in the rest of the UK are either not present in NI or do not appear actively to seek business there. We noted that the small size of the PMI market in NI provided insurers with a limited incentive to enter or expand in this market and that a lack of market knowledge, which limited the ability of insurers to price risks accurately, placed smaller insurers or new entrants at a competitive disadvantage to the large incumbents.
42. We also found that PMI providers achieved lower claims ratios in NI than in the rest of the UK, indicating a higher level of profitability in NI than in Great Britain.
43. We have not conducted a full market definition assessment. Nevertheless, on the basis of the evidence we have seen it appears to us that consumers of PMI in NI face different purchasing conditions to consumers of PMI in the rest of the UK.
44. Overall, it appears that there is a high level of concentration in PMI providers in NI, which is sustained by characteristics of the market that may give large incumbent PMI providers an advantage over potential new entrants and smaller rivals, and so limit competition. This may be a contributing factor to claims ratios being lower in NI than in Great Britain and may also contribute to PMI prices being on average higher in NI than in Great Britain.
45. On this basis, we believe that it is appropriate to consider the supply of PMI in NI separately to the rest of the UK for the purposes of our investigation and we intend to consider this issue further.

Price comparison websites

46. We have investigated whether the four large PCWs have market power and, if so, the extent to which any increase in the fee they charge providers of PMI leads to customer harm, and whether this harm is outweighed by any benefits for consumers from there being a limited number of PCWs. Our analysis is set out in the working paper 'ToH 3: Horizontal concentration in PCWs'.
47. This working paper shows that the four large PCWs appear to have some bargaining power when negotiating with PMI providers. This is because some consumers search on only a single PCW and cannot be reached by PMI providers on another PCW or sales channel and, for this reason, PMI providers believe that they would lose significant volumes of sales by delisting from one of the major PCWs.
48. Nevertheless, it appears to us that the ability of PCWs to raise the cost per acquisition (CPA) fees they charge PMI providers may be constrained by the fact that the majority of consumers shop around and can be reached by PMI providers on many

alternative sales routes (eg the PMI providers' own website, other PCWs, by telephone, through intermediaries, etc). Consistent with this, we have been told that, over recent years, CPA fees have risen near or below the rate of general inflation.

49. This working paper also considers the profitability of three of the four large PCWs and shows that in aggregate, they achieved an operating profit margin of around [X] per cent from PMI over the last three years. We did not conduct a more detailed analysis of their profitability but, in our view, this finding could be consistent with the large PCWs having some bargaining power against PMI providers.
50. Overall, because many consumers shop around, using many different sales routes, and because there is evidence of PCWs competing against each other, it appears to us that the high concentration among PCWs is, by itself, only likely to strengthen their bargaining power against PMI providers to a limited extent. Therefore, we currently think that harm to either PMI providers, or consumers of PMI, is unlikely to arise purely as a result of horizontal concentration in PCWs. Nevertheless, it appears to us that there may be some factors arising from the nature of competition between PCWs that may cause consumer detriment, notably the existence of some wide-scoped most-favoured-nation (MFN) clauses in contracts between PCWs and PMI providers (see paragraphs 70 to 77).

Additional sector: cost estimation systems

51. Although in our issues statement and update to the issues statement we said that we were not minded to investigate harm arising from horizontal concentration in any other products or services, through the course of our inquiry we were told by many parties, in particular repairers, that there was a high degree of concentration in relation to repair cost estimation systems, with Audatex having become the industry standard. Some parties told us that the price of Audatex was significantly above its competitors, and this was due to its position as the market leader. Under ToH 5, we considered whether harm arises from the various vertical relationships in the repair industry, and we investigated the effect of the relationships between insurers and other work providers with Audatex, which causes Audatex to be the recommended or required system for those repairers which undertake work for many work providers. Our current thinking on this issue is summarized in paragraph 85. Separately, however, we also considered whether harm might arise as a result of horizontal concentration in repair cost estimation systems and, in particular, from Audatex's substantial market share. Our current thinking on this issue is set out in the working paper 'ToH 3: Horizontal concentration in repair cost estimation systems'.
52. This working paper shows that there are two principal repair cost estimation systems used by repairers in the UK: Audatex and Glassmatix. We found that nine of the ten largest insurers recommended or required their repair networks to use Audatex and the tenth insurer did not mandate any particular system. From evidence we gathered from the parties it appears that Audatex is significantly more expensive, but most parties told us that it is also a superior product, offering significantly more functionality. We noted that Audatex charges a fee for several elements of the estimation process, including a per-estimate fee and a per-photograph fee; while Glassmatix charges an annual subscription fee and a transmission fee if an estimate is sent to an insurer but does not charge a per-estimate fee. We noted that this price structure made Glassmatix the preferred option for repairers which undertake a substantial amount of work for retail customers (ie not through work providers) for whom estimates are required but where there is no transmission.
53. We were told that Audatex is installed in over 60 per cent of repair sites in the UK, while Glassmatix is now in less than 20 per cent of repair sites. However, we were

also told that Audatex had built its large market share recently and over a short period, and had done so principally by offering a better product and by marketing this product in a novel way, ie to the work providers rather than directly to repairers.

54. From the evidence we received, it appeared to us that there might be some barriers for some insurers and other work providers switching between cost estimation systems but not for all insurers and work providers. We noted that common data standards were now in place which had reduced the costs of switching. Moreover, we noted that many of the work providers which contracted with Audatex were large firms, controlling significant numbers of repairs, and therefore had some degree of buying power.
55. Overall, our current thinking is that harm is unlikely to arise as a result of horizontal concentration in repair cost estimation systems.

ToH 4: Harm arising from providers' strategies to soften competition

Transparency and complexity of add-on products and services

56. Recognizing that some of the additional products and services which can be bought alongside PMI are complex, and the information which might be available to consumers at the point of sale might not enable them to understand these products fully or estimate their value, we have investigated certain add-on products. We have sought to assess how well these products are understood by consumers and the level of profitability they generate for insurers. Our analysis is set out in the working paper 'ToH 4: Analysis of add-ons'. We have considered the work of the Financial Conduct Authority (FCA), in particular its study into motor legal expenses insurance, and its ongoing study into add-ons across general insurance.
57. This working paper considers the evidence gathered through our consumer survey (see the working paper 'Survey report') and shows that most customers prefer to tailor their policies by having features offered separately as add-ons to their main policy. Most policyholders said that they found add-ons easy to compare across insurers; however it appears that, for some add-on products, most purchasers of these products do not actually make such comparisons.
58. The results of the questions in our survey which tested the comprehension of consumers about different add-ons suggest that many consumers do not fully understand what insurance coverage some add-ons provide, even for those consumers who claim to have a good understanding of these products. We note also that the proportion of PMI policyholders who said that they had no claims bonus (NCB) protection was much higher than we know to be the case from information provided to us by insurers, which also suggests some misunderstanding of the difference between having an NCB and having NCB protection.
59. This working paper also considers the profitability of some of the most popular add-ons bought with PMI. However, this analysis is ongoing so we are not yet at a stage to disclose our results. These results will be published in the working paper in due course.

Increasing the obstacles to customers switching PMI provider

60. We have investigated whether there are factors which might make it hard for consumers to switch their PMI provider, enabling providers to increase their prices

(or reduce the quality of their policies) on renewal. Our analysis is set out in the working paper 'ToH 4: Obstacles to switching'.

61. This working paper shows that switching levels for PMI are high relative to comparable products. Our customer survey found that 72 per cent of PMI policyholders had previously insured their vehicle with another provider (see 'Survey report'); and an OFT study from 2008 found that 61 per cent of PMI customers had switched their provider in the previous five years, which was the highest rate of switching in the markets considered by the OFT.
62. Notwithstanding this evidence of high rates of switching relative to other comparable products, we considered whether there were any obstacles to switching PMI provider. We focused on three candidate obstacles in particular: automatic renewals, cancellation fees and NCB protection. We noted that automatic renewal may discourage customers from shopping around; cancellation fees may mean that customers stay with their provider, in particular if they miss the chance to switch prior to renewal; and, with respect to NCB protection, we considered whether customers who bought this add-on might be concerned about losing the benefit were they to switch their PMI provider. An open question asking about the important factors for consumers in their decision to stay with or switch their PMI provider in our consumer survey did not identify any additional obstacles to switching.
63. In our assessment we considered information provided by PMI providers and the responses to our consumer survey. On the basis of this evidence, it does not appear to us that automatic renewals or cancellation fees are obstacles to switching which are likely to give rise to customer harm. With regard to NCB protection, the findings were less clear, with mixed evidence from our consumer survey, but given that respondents to our survey appeared to have a poor understanding of NCB protection (see paragraph 58), we interpreted the survey results on this issue with some caution.
64. Overall, given the high switching levels and the limited evidence of any of the three candidate factors representing an obstacle to switching, we do not believe that harm is likely to arise for consumers in this area.

ToH 5: Harm arising from vertical relationships (vertical integration)

Ownership of price comparison websites by insurers/brokers

65. We have considered whether the ownership of PCWs by insurers/brokers might give rise to harm through the undercutting of prices or the direct manipulation of quotes. Our analysis on this issue is set out in the working paper 'ToH 5: Vertical relationships involving PCWs'.
66. This working paper considers information provided by the integrated PCW-PMI providers and finds no suggestion from this information that these PCWs would currently undercut the price of the top-quoted PMI policy in order to favour the brands of their integrated PMI provider. More generally, PMI providers which own a PCW do not appear to be favoured in terms of the information made available to consumers by their PCW. While it appears that software allowing the manipulation of PCW results does exist, we did not find evidence that it was used by integrated PCW-PMI providers.
67. We also considered whether PCW-integrated PMI providers might manipulate directly their rivals' quotes on their PCW in order to ensure that their PMI policies appeared at the top of the ranking. We considered the constraints to this behaviour,

such as PMI providers choosing to delist from the PCW or the PCW losing informed consumers, but it was unclear the extent to which any of these constraints was effective. We found that the threat of delisting was usually considered as a last resort by a PMI provider and had never been used but, equally, we found no evidence that the direct manipulation of quotes had ever actually occurred.

68. With relevance to both of the potential means by which a PCW-integrated PMI provider might gain an advantage over its PMI rivals, we found no evidence to suggest that such providers sell a higher share of their policies on their own PCW than on PCWs with which they are not integrated.
69. Overall, it appears to us that there is the possibility for a distortion of competition between PMI providers due to the vertical integration of some PMI providers with the large PCWs. However, we have found no evidence to suggest that such a distortion has occurred to date and we have no basis for expecting PMI-integrated PCWs to engage in the undercutting of prices or the direct manipulation of quotes in the future.

Price comparison websites requiring insurers and brokers to accept most-favoured-nation clauses

70. We have considered whether the restrictions which arise due to MFN clauses in the contracts between PCWs and some PMI providers are harmful to competition. Our analysis of this issue is set out in the working paper 'ToH 5: Impact of MFN clauses in contracts between PCWs and PMI providers'.
71. We found that 91 per cent of PMI policies sold through PCWs are covered by some form of MFN clause, which restricts (to varying degrees, depending on whether their scope is wide or narrow) the ability of the provider to offer the same policy for less on some alternative platform or channel.
72. We considered four possible anticompetitive effects of MFN clauses and two possible pro-competitive effects.
73. The anticompetitive effects we considered were:
 - (a) upward price pressure on CPA fees;
 - (b) upward price pressure on PMI premiums;
 - (c) entry restrictions; and
 - (d) excess advertising expenditure.
74. The pro-competitive effects we considered were:
 - (a) improved search utility; and
 - (b) the protection of sunk investment costs.
75. Our current view is that narrow MFN clauses (eg which prohibit lower pricing on the PMI provider's own website) are likely to have few anticompetitive effects. However, wide MFNs (which prohibit lower pricing through multiple sales channels) might create upward pricing pressure on CPAs (and therefore on PMI policy premiums); might increase PMI premiums directly; might restrict entry; and might lead to excessive spending on advertising.

76. We also believe that MFNs might have beneficial effects by improving the value of a PCW search for consumers and by allowing PCW firms to earn a return on their investment, but it appears to us that some other devices might achieve these benefits without causing the anticompetitive effects of MFNs.
77. We have not yet formed a view on the balance of the possible anticompetitive and pro-competitive effects but intend to do more work in this area.

Insurer—parts/paint manufacturer/distributor/cost estimation relationships (through contract)—foreclosure issues

78. We have investigated whether harm might arise as a result of the vertical contracts between insurers and the manufacturers or distributors of (a) parts (including glass); (b) paint; and (c) repair cost estimation systems. Our analysis is set out in the working paper 'ToH 5: Analysis of potential foreclosure as a result of vertical relationships'.
79. As our guidelines explain, in case of vertical integration (eg through supply contracts) foreclosure may be achieved by practices that restrict access to essential inputs or raise rivals' costs [input foreclosure], or limit rivals' ability to acquire sufficient customers to benefit from economies of scale, learning effects and/or network effects [reducing rivals' revenues upstream/customer foreclosure]. Foreclosure can be total (where rivals are forced to exit from the market or are prevented from entering) or partial (where rivals or potential entrants are materially disadvantaged and consequently compete less effectively).²
80. We followed the usual approach for assessing such foreclosure concerns by looking at the ability and incentives of parties to foreclose and the effect of foreclosure (the latter only where we thought that the parties to vertical agreements were able to achieve it).
81. We noted that the importance of the input price in the overall repair bill was a good screen for such concerns. If the input accounts for only a small part of the total repair costs incurred, the integrated companies will not be able to harm downstream rivals by raising their costs (ie input foreclosure). This is part of analysing 'ability'. For customer foreclosure, the input price is also a good screen since rival repairers downstream will not be significantly affected if the input price increases due to reduced competition upstream unless the input price is an important part of their total costs (and rival insurers or repairers or PMI customers would hence also not be affected). This is often discussed under 'effect'. We applied this screen to our consideration of both parts (see paragraph 84) and repair cost estimation systems (see paragraph 85).
82. For refinish paint the supply shares of paint manufacturers (and distributors) appear fairly low, customers appear to be price sensitive and likely to switch in response to price increases and expansion by rivals appears to be relatively easy. For these reasons, it does not appear to us that repairers (or PMI providers or other work providers to repairers not involved in paint supply contracts) face input foreclosure as a result of the vertical agreements between some paint manufacturers or distributors and some PMI insurers (or CMCs).

² Competition Commission, *Guidelines for market investigations: Their role, procedures, assessment and remedies (CC3)*, April 2013, [paragraphs 268–269](#).

83. We noted that there are many available customers for both paint manufacturers and distributors as many PMI insurers and repairers are not involved in such vertical agreements. Moreover, we noted that paint manufacturers produce paint for the wider European market and beyond. For these reasons, it appears unlikely that paint agreements involving PMI insurers (and other work providers) in the UK prevent them from reaching an efficient scale and thus from being an effective competitor upstream. Overall, it does not appear to us that paint manufacturers or distributors face customer foreclosure as a result of these vertical agreements for the supply of paint.
84. We found that the proportion of total repair costs represented by both original equipment manufacturer (OEM) parts from individual manufacturers and non-OEM parts was low. Since glass is a subset of the parts used in the repair of post-accident vehicles (ie excluding glass-only repairs) its importance in the overall repair bill was also small. For this reason, it does not appear to us that repairers (or PMI providers or other work providers to repairers not involved in paint supply contracts) face input or customer foreclosure as a result of the vertical agreements between some parts suppliers and some PMI insurers (ie we relied on the input price as a screen as explained in paragraph 81).
85. We currently believe that contracts for the provision of repair cost estimates (eg by Audatex or Glassmatix) cannot lead to such harm given the very low share of the costs of such estimates in the total repair bill (ie again we relied on the input price as a screen).

Insurer—paint manufacturer/distributor (through contract)—non-foreclosure issues

86. In addition to considering the possible foreclosure effects of the various supply agreements in relation to post-accident repairs, we have also considered possible non-foreclosure effects in relation specifically to the supply of paint. We discuss these issues in the working paper 'ToH 5: Analysis of vertical agreements for the supply of paint (excluding foreclosure)'.
87. This working paper looks at supply contracts which typically stipulate that the PMI insurer or CMC will recommend a paint brand or paint manufacturer to its repair network in exchange for a per-repair referral fee (and sometimes an additional fixed fee) paid by the paint manufacturer. It appears to us that these contracts reduce competition at the retail level, which might have led to a higher cost of paint for repairers. We find that contracts which stipulate a minimum purchase volume are likely to have had a stronger effect. Moreover, since the minimum volume appears often to be higher than required for an average repair, some of this paint is most likely used on repairs for work providers not involved in the contract and, to the extent that the stipulated paint is more expensive than the alternative paint which would have been used, is likely to increase the cost of paint for these repairs. We intend to consider these effects further.
88. We noted that in one specific paint supply contract the agreement mandates repairers to use a specific paint brand for the insurer's repairs and, for some repairers, also mandates the distributor. We believe that this exclusivity in conjunction with the fee structure used may provide an incentive to inflate the cost of paint invoiced to insurers which are not a party to the agreement and may generate higher differentials between the paint costs faced by the insurer involved in the contract and other insurers (see ToH 1). We intend to consider the effects of this agreement further.
89. One party suggested that the fact that the Audatex paint basket price was calculated as a weighted average of list prices provided annually by four large paint manufac-

turers would contribute to cost increases for paint. This may occur since repairers negotiate paint prices billed to PMI insurers as discounts off the Audatex paint basket price. However, we found that insurers could renegotiate the paint price (or the discount off the basket price) if they thought that the price increase caused by an increase in the Audatex paint basket price was not justified and negotiations could be undertaken without any reference price.

Summary conclusions

90. Our current thinking, based on the evidence we have seen, is that the separation of cost liability and cost control in the provision of post-accident services to non-fault PMI claimants does appear to give rise to a moral hazard problem, whereby the ultimate costs paid by the fault insurer are higher than they would otherwise be (ie ToH 1). We intend to consider this issue further, in particular by considering the effect(s) on competition between insurers and/or between other parties involved in the supply of PMI or the supply of post-accident services, and the effect(s) on consumers of the uplift in costs to fault insurers.
91. We also intend to consider further:
 - whether there is underprovision in post-accident repairs due to the procurer of these services being different to the beneficiary (ToH 2), in particular by considering the results of research we have commissioned on the quality of post-accident repairs;
 - the effects of the high concentration of PMI providers in NI (ie one issue under ToH 3);
 - the transparency and complexity of add-ons (ie one issue under ToH 4);
 - the balance of effects which arise from the MFN clauses in contracts between PCWs and PMI providers (ie one issue under ToH 5); and
 - the effects of vertical paint supply contracts (ie one issue under ToH 5).
92. On all the other issues we have considered, as set out in this statement, our current thinking is that harm is unlikely to arise, though further work is ongoing in some areas.

List of working papers we intend to publish

We currently intend to publish the following working papers over the next few weeks. However, please note that these plans and the titles of papers may change in light of further analysis.

Annotated issues statement

ToH 1: Overcosting and overprovision of repairs

ToH 1: Overcosting and overprovision of TRVs

ToH 1: Analysis of the results of the non-fault survey in relation to overprovision

ToH 1/2: Statistical analysis of claims costs

ToH 1/2: Vehicle write-offs

ToH 2: Underprovision of repairs

ToH 2: Underprovision of TRVs

ToH 2: Analysis of the results of the non-fault survey in relation to underprovision

ToH 3: Horizontal concentration in PMI providers in Northern Ireland

ToH 3: Horizontal concentration in PCWs

ToH 3: Horizontal concentration in repair cost estimation systems

ToH 4: Analysis of add-ons

ToH 4: Obstacles to switching

ToH 5: Vertical relationships involving PCWs

ToH 5: Impact of MFN clauses in contracts between PCWs and PMI providers

ToH 5: Analysis of vertical agreements for the supply of paint (excl. foreclosure)

ToH 5: Analysis of potential foreclosure as a result of vertical relationships

Background to PMI (insurers, brokers and PCWs)

Background to claims management process

Survey report

Vehicular assessments report