

15 October 2012

Roger Witcomb
Competition Commission
Victoria House
Southampton Row
London
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Dear Roger

BIBA response to the Competition Commission's Private Motor Insurance Market Investigation

Thank you for giving BIBA the opportunity to respond with a summary of our position on your market investigation.

The British Insurance Brokers' Association (BIBA) is the UK's leading general insurance organisation representing the interests of insurance brokers, intermediaries and their customers.

BIBA membership includes just over 2,000 regulated firms having merged with the Institute of Insurance Brokers (IIB) in November 2011.

General insurance brokers contribute 1% of GDP to the UK economy and BIBA brokers employ more than 100,000 staff.

BIBA helps more than 400,000 people a year to access insurance protection through its *Find a Broker* service, both online and via the telephone.

Our Position

BIBA is committed to working to drive down insurance premiums for motorists and BIBA brokers offer many specialist products for young drivers, convicted drivers and many other non standard risks in addition to standard risks.

The main cause of the high cost of motor insurance

BIBA believes the main issue that needs to be pursued to reduce the cost of motor insurance is for the Government to take action and start consulting on tackling the £2 Billion cost of whiplash claims, costing every innocent motorist £90 per year.

BIBA attended the government cost of motor insurance summit in May and is disappointed that the MOJ has still not consulted on proposals for an independent panel of medical advisers who can correctly diagnose genuine whiplash claims. Currently it is almost impossible for insurers to defend fraudulent claims and we would encourage progress in this area as a matter of urgency.

BIBA would like to also make the point that although the OFT has highlighted additional costs / customer detriment in its decision to refer to the competition commission, putting this in context, the decision of it had gone against in the recent Simmons case would have cost the insurance industry an additional £300 million which exceeds the total estimate of the OFT concerns. This emphasises the effect that personal injury has on claims costs within the market and as the Government (MOJ) already have this in hand BIBA believe the scope / focus of this investigation should be on the claims management companies and their hire issues.

Credit hire/repair

The market for credit hire and credit repair has developed over the last 20 years, it has significantly improved the claims service to customers and provides access to a suitable vehicle which was not previously available. Insurance brokers have a duty of care under agency law, which could be compromised if they fail to make clients aware of services available to the customer.

BIBA wants to see the correct balance between offering a service to the client and balancing costs. However, BIBA strongly opposes the exaggeration of costs and excessive hire periods made by some rogue claims management companies and believe the **solution is for there to be more appropriate regulatory system for claims management companies (CMC's). CMC's face a far lower level of regulation in comparison to the insurance industry (who are FSA regulated) and this lower level of regulation is the fundamental cause for the problems discussed in this document.** BIBA would like to see a regulatory environment where claims services can be retained for the customer but at a reasonable cost that is fair to all and correctly supervised.

CMCs have a far lighter system of regulation and supervision than insurance intermediaries do and considering the fact that 700 of them have seen their authorisation removed in the last five years demonstrates that their sector needs far stronger rules and tighter supervision.

A framework of more appropriate and effective supervision of CMC's is the long term solution. Specifically the application of the eleven FSA principles that already apply to insurance brokers. This is a fair and reasonable way forward that could lead to better outcomes for motorists.

The FSA Rules below underpin the regulation of Insurance Intermediaries and we believe it is vital that they also apply to claims management companies:

The Principles

1 Integrity	A <i>firm</i> must conduct its business with integrity.
2 Skill, care and	A <i>firm</i> must conduct its business with due skill, care and diligence.

diligence	
3 Management and control	A <i>firm</i> must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
4 Financial prudence	A <i>firm</i> must maintain adequate financial resources.
5 Market conduct	A <i>firm</i> must observe proper standards of market conduct.
6 Customers' interests	A <i>firm</i> must pay due regard to the interests of its <i>customers</i> and treat them fairly.
7 Communications with clients	A <i>firm</i> must pay due regard to the information needs of its <i>clients</i> , and communicate information to them in a way which is clear, fair and not misleading.
8 Conflicts of interest	A <i>firm</i> must manage conflicts of interest fairly, both between itself and its <i>customers</i> and between a <i>customer</i> and another <i>client</i> .
9 Customers: relationships of trust	A <i>firm</i> must take reasonable care to ensure the suitability of its advice and discretionary decisions for any <i>customer</i> who is entitled to rely upon its judgment.
10 Clients' assets	A <i>firm</i> must arrange adequate protection for <i>clients'</i> assets when it is responsible for them.
11 Relations with regulators	A <i>firm</i> must deal with its regulators in an open and cooperative way, and must disclose to the <i>FSA</i> appropriately anything relating to the <i>firm</i> of which the <i>FSA</i> would reasonably expect notice.

Referral Fees

BIBA agrees with the OFT that a ban on referral fees would not automatically mean that credit hire rates would be reduced and would simply mean that such money would potentially be spent on other forms of marketing. Therefore we share the OFT's concerns that this potential remedy would **not** fully address the issue. BIBA members have calculated that the referral fee for the service of a credit hire car adds approximately £3 to a motor policy (approximately half of one percent of a typical premium of £500).

We encourage each insurer to challenge the third party claims costs to cut out any fraud or exaggeration.

Agreement to ensure costs are fair

BIBA agrees with the OFT report that improvements to the General Terms of Agreement (GTA) could be made to reduce the cost of credit hire and credit repair claims, and the efficiency with which claims are processed. The GTA is a voluntary agreement that fixes hire rates and other administrative charges that credit hire organisations can recover from the insurer of the at fault driver. The OFT heard from insurers that this could lead to lower overall claims costs, and potentially lead to fewer disputed claims, and associated costs. We would encourage more focus on this area.

First party remedy

BIBA does not believe that the 'First Party' model discussed by the OFT would be a suitable solution. This is fraught with problems the main one being that there is an inherent **conflict of interest** if the fault insurer takes control of all costs for the other party.

BIBA agree with the concerns the OFT raised, in its original 'proposed decision' (OFT1422) which made reference to the potential for a First party option' model to "generate unintended consequences and costs due to the impact of insurers having to move away from an established risk-based pricing model" (Sec 7.24) BIBA see this as a is a major concern that casts significant doubt over this proposal.

Summary

We believe the focus for the Competition Commission is the need for immediate action to start reviewing the regulation of claims management companies with a view to applying the eleven FSA principles that apply to insurance brokers and insurance companies. This will tackle the prime cause of this problem and ensure a fair claims experience for customers and insurance providers for the future.

Yours sincerely

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