



Response to Office of Fair Trading proposal to refer the  
motor-insurance market to the Competition Commission

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**Important Notice**

This report is issued by the Directors of Chief Vehicle Rentals Limited for the exclusive use of the Office of Fair Trading and the Competition Commission in connection with the Office of Fair Trading's proposal to make a referral of the motor-insurance market to the Competition Commission.

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Shaun Cunningham  
Managing Director

## **1. Introduction**

Chief Vehicle Rentals Limited (Chief Rentals) is the UK's leading provider of accident replacement vehicles to the hire-and-reward sector - i.e. taxis, private-hire vehicles and chauffeur cars.

Chief Rentals works for the UK's major providers of hire-and-reward motor-insurance providing accident replacement vehicles and related services to the country's 280,000-plus drivers of hire-and-reward vehicles.

This document summarises Chief Rentals' response to the Office of Fair Trading's (OFT) recent invitation for comment on its proposal to make a referral of the motor-insurance market to the Competition Commission.

It is important that both the OFT and the Competition Commission are fully aware of the unique circumstances and specialised requirements of drivers of hire-and-reward vehicles. In particular the role which the hire-and-reward sector plays in local economies and the uncommon needs and requirements of hire-and-reward drivers in the event of a Road Traffic Accident (RTA).

This submission will therefore provide an overview of the hire-and-reward sector. It will briefly summarise the size and structure of the sector and its role in local economies. In conclusion it will address directly the concerns raised by the OFT in its recent findings of the motor-insurance market from the perspective of the hire-and-reward sector.

Lastly it will summarise why hire-and-reward drivers should not be (and currently are not) treated in the same manner as drivers of standard vehicles.

## **2. The Hire-and-Reward Sector**

According to Department for Transport data there are approximately 280,000 hire-and-reward vehicles in the UK.

The sector employs more than 300,000 people - similar to the numbers currently working in the City of London, three times the size of the British Army and greater than the number of employees in the entire UK insurance sector. It is by any definition a sizable and important industry.

The hire-and-reward industry is also a crucial element of local and national transport strategy; supplying public-transport and mobility needs which are not (and cannot be) provided by bus and train operators - for example in providing school transportation for disabled children or in supplying a safe door-to-door transportation service to the night-time economy.

The hire-and-reward sector is highly fragmented and complex; vehicles are regulated at local authority level by each of the 360+ local authorities in the UK and the sector has three sub-sectors:

- |                         |   |  |
|-------------------------|---|--|
| • Private-hire          | - | Pre-booked only                                |
| • Taxi/Hackney Carriage | - | Can be hailed on the street (often black cabs) |
| • Chauffeur             | - | Account customers only                         |

Each local authority has a set of standards and regulations on each of the sub-sectors covering permitted vehicle types, vehicle colours, vehicle age, licensing, MOT testing, fare-

meters, fare-meter calibration, radios, license plates, roof signs, other signage, fire-extinguishers, first-aid kits and escape hammers - in all, about 14,000 variables.

In these circumstances it is understandable that traditional car-hire companies have never provided replacement hire-and-reward vehicles and it is for that reason that Chief Rentals was originally founded.

Hire-and-reward vehicles are involved in a higher level of not-at-fault accidents than other vehicles. There are a number of reasons for this; hire-and-reward vehicles are on the road for more hours, are predominantly used for urban journeys and are on the roads at times of higher accident risk such as early mornings. In addition hire-and-reward drivers are usually very experienced drivers and are normally driving on familiar routes so are consequently less likely to cause an RTA.

The key difference between hire-and-reward vehicles and other vehicles is that a hire-and-reward vehicle is a business and virtually all hire-and-reward drivers are self-employed owner-drivers.

For a hire-and-reward driver the consequences of a not-at-fault RTA are therefore quite severe. Unless a like-for-like accident replacement vehicle is provided, high fixed-costs such as vehicle finance, motor insurance and the drivers weekly 'settle' (the fee paid to their taxi operator) will need to be maintained while there is no income coming into the business.

In summary the hire-and-reward sector is sizeable but complex and fragmented; it provides valuable services to local communities. Hire-and-reward drivers are more likely to be victims of not-at-fault accidents than are other drivers and the consequences of a not-at-fault accident for both the hire-and-reward driver and the community which they serve are much greater.

### **3. Response to OFT Findings on Credit-Hire**

This section aims to address the concerns raised by the OFT in its report of May 2012 '*Private Motor Insurance - Report on the market study and proposed decision to make a market investigation reference*' from the perspective of the hire-and-reward sector and in particular for the unique standpoint of hire-and-reward drivers.

Paragraph 3.4 *Given that the not-at-fault driver is not usually responsible for meeting the cost of a replacement vehicle, they have no incentive to keep the resulting claims costs low. Not-at-fault drivers are likely to prioritise convenience, obtaining the replacement vehicle as quickly and easily as possible, and quality, obtaining as high a specification vehicle as they are entitled to. They are likely to be less concerned with the potential cost of the service.*

It is important to reiterate here that all hire-and-reward vehicles are businesses and virtually all hire-and-reward drivers are self-employed owner-drivers.

A hire-and-reward driver who is the victim of a not-at-fault RTA will always require a replacement vehicle to maintain business activity, retain regular customers and contracts (schools, hospitals, etc), cover the business' fixed costs and maintain income.

Few hire-and-reward drivers have sufficient personal savings to wait for an at-fault insurer to pay a loss-of-earnings claim which can take several months.

In the event of a not-at-fault RTA a self-employed owner-driver's major concern will be to continue trading. Given that traditional car-hire companies such as Hertz, Enterprise and Sixt do not provide replacement hire-and-reward vehicles a credit-hire vehicle is the hire-and-reward drivers' only realistic option to facilitate this.

*Paragraph 3.5 Credit hire organisations have the incentive to identify potential credit hire users by offering referral fees to insurers of not-at-fault drivers, brokers, repairers and others in exchange for leads.*

Referral fees and introduction fees are a standard means of promoting a business' goods and services in order to recruit customers. In this sense they are no different to other forms of promotional spend such as advertising, sales-promotions, direct-mail and the use of sales personnel.

For every business there is a cost to recruit customers which is ultimately built into the cost of that business' products or services.

This might include the estimated £140m annual spend on television advertising by the UK's major motor-insurers and comparison websites or the tens-of-millions of pounds they spend on search-engine pay-per-click advertising or the commissions they pay to brokers and agents or the salaries they pay to their large sales forces.

All of these are legitimate means of promoting their businesses and recruiting customers.

The payment of referral or introduction fees is a normal promotional activity in any business-to-business sector and is standard practice in the banking, insurance, legal and medical professions.

Without doubt it is built into those organisations' pricing models - just as is the massive promotional spends of the UK's major motor insurers and comparison websites. In each case the cost of recruiting that business' customers is reflected in the price of the product or service provided.

It is unreasonable to seek to ban any business from legitimately and legally promoting its products and services where there is a clear consumer benefit from the provision of those products and services.

*Paragraph 3.5 Each time a credit hire organisation identifies a not-at-fault driver they have an incentive to provide a high-quality replacement vehicle for as long as required.*

*Paragraph 3.12 (Point 3) We have received a limited amount of evidence from market participants that suggests that certain practices may be carried out by credit hire organisations that could further increase the cost of supplying replacement vehicles to not-at-fault drivers. Examples of such practices include: providing higher specification credit hire replacement vehicles to the not-at-fault driver than is necessary, resulting in a higher daily hire rate being charged to insurers of at-fault drivers.*

The Association of British Insurers GTA rates for hire-and-reward vehicles are very narrow having just twelve vehicle groups and making supply of a vehicle with a higher specification than the driver's own unrealistic.

Furthermore the GTA rates for hire-and-reward vehicles relate to the drivers' local authority licence and not necessarily to their own vehicle. Third Party Insurers will verify this as part of the claims process further ensuring that the accident replacement vehicle supplied is of the appropriate GTA vehicle group.

Paragraph 5.8 *When challenging credit hire rates claimed, insurers of at-fault drivers may look to query:*

- *need for a vehicle - the claimant has a common law duty to mitigate their losses, and has to have an established 'need' for a replacement car<sup>39</sup>*
- *type of vehicle provided - to check that the claimant has been put into a class of replacement vehicle that they are entitled to*
- *rates - to confirm whether rates charged are reasonable, or as agreed, and*
- *hire period - to check that the hire period is reasonable or in line with the repair duration.*

1.) Need for a vehicle: For hire-and-reward drivers there is an urgent need for a replacement vehicle in order to return to work and to maintain their business and income. In the event of a not-at-fault RTA the hire-and-reward driver's first priority will be to continue trading - in the simplest of terms their livelihood depends on this.

Whilst some other drivers may be able to continue their lives without a vehicle at all, or with a smaller vehicle than the damaged vehicle, this is not the case with a hire-and-reward driver.

2.) Type of vehicle provided: The ABI GTA groups for hire-and-reward vehicles are very specific and ensure that the vehicle supplied is exactly the same group as the claimant's own - which in turn is driven by the hire-and-reward driver's clientele and the type of work regularly undertaken. The ABI GTA specifies hire-and-reward vehicles in twelve groupings according to the specifications, to ensure that a correct replacement vehicle is supplied, or at least that the correct rate is charged equivalent to the damaged vehicle.

3.) Rates: The ABI GTA prevents a credit hire organisation from recovering a rate that exceeds the rate equivalent to his vehicle type without prior agreement by the at-fault driver's insurance company. The rates are reviewed on an annual basis and there is provision for independent review by the GTA in the event that the rate review cannot be agreed.

4.) Hire period: The ABI GTA provides guidelines that credit hire companies must adhere to if the hire charges are to be seen as being reasonably incurred.

#### **4. Summary**

This report has clarified that the circumstances in which hire-and-reward drivers operate and the requirements of the hire-and-reward driver in the event of a not-at-fault RTA are radically different to those of drivers of standard vehicles.

All hire-and-reward vehicles are businesses and virtually all hire-and-reward drivers are self-employed owner-drivers; a hire-and-reward driver who is the victim of a not-at-fault RTA will therefore always require a replacement vehicle to maintain business activity - their livelihood depends on this.

Few hire-and-reward drivers have sufficient personal savings to wait for an at-fault insurer to pay a loss-of-earnings claim - which can take several months. Furthermore many hire-and-reward vehicles are used by more than one driver; often several livelihoods will be affected because of a not-at-fault RTA.

For these reasons the provision of a replacement hire-and-reward vehicle on credit-hire vehicle is the most effective and efficient solution to the problems caused for hire-and-reward drivers in the event of a not-at-fault RTA.

Finally, the service which Chief Rentals provides clearly delivers real and tangible value to a very significant group of consumers. It would be unreasonable to reduce consumer awareness of Chief Rentals' services and to limit the consumer's access to those services through any ban on referral fees or on any other method of promoting those services.



## Addendum

Following receipt of the OFT's decision to make a market referral to the Competition Commission, Chief Rentals wishes to highlight certain elements of the report for further consideration.

*2.6 The two features of the market that the OFT considered it had reasonable grounds for suspecting that prevented, restricted or distorted competition were:*

- the insurers of at-fault drivers that are responsible for meeting claims for the provision of repairs or replacement vehicles to not-at-fault drivers often appear unable to exercise choice over how these services are provided. Insurers of at-fault drivers also appear to find it difficult to assess the extent to which the costs claimed are reasonable, and appear to exercise only limited control over the cost of these services*
- the insurers of not-at-fault drivers, brokers, credit vehicle hire providers, credit repairers and others that supply services to motor insurers therefore have the opportunity, and the incentive, to take advantage of the insurer of the at-fault drivers' lack of control over costs. They do this by carrying out practices that allow them to generate revenues through referral fees or rebates, while simultaneously increasing the costs that the insurer of the at-fault driver has to meet.*

1.) The insurers of at-fault drivers may find it difficult to exercise control over how the provision of repairs or replacement vehicles are provided but the market has evolved in this way because of the insurer's general inability to provide time effective solutions that the motorist requires.

Insurers often delay dealing with claims, to the detriment of the motorist. The development of the personal injury portal perfectly illustrates the insurer's inability to benefit from the theoretical advantages provided to them.

The personal injury portal was designed to allow the insurers to control solicitor's costs in road traffic accident cases. The insurers are given 15 working days in which to admit liability and benefit from agreed costs. Many personal injury claims are withdrawn from the portal because the insurers do not comment on liability within the 15 working days.

The personal injury portal has not had the desired effect of reducing solicitor's costs and it has now been necessary for the law to change in an attempt to deal with this issue. A motorist cannot wait for three weeks or more for a replacement vehicle or repairs to be arranged – this is especially true for drivers of taxis, private-hire vehicles or chauffeur cars. There are also a number of insurers who refuse to take calls from third parties or third party representatives following an accident. How will the motorist be provided with mobility solutions with insurers who take such a stance?

2.) It is possible for the at-fault driver's insurers to assess whether the costs claimed are reasonable. By all parties subscribing to the ABI GTA, the daily rate of the hire vehicle is known from the outset of the claim.

If the at-fault insurer is repairing the damaged motorist's vehicle, they are in control of the repair process and will be able to control the length of the hire period. If the credit hire provider is arranging the repairs, the repair addendum to the ABI GTA provides strict guidelines regarding how the repairs should be dealt with.

These guidelines are far more restrictive than the periods that insurers commonly take to repair a damaged vehicle. The only circumstances in which the insurer will not have an ability to assess the reasonableness of the costs is where the motorist's own insurance company arranges the repairs under the terms of a comprehensive insurance policy.

As the OFT report has highlighted, some insurers deal with claims differently if they are expecting a fellow insurer to have to reimburse the costs of the claim. If insurers were to deal with all claims the same, regardless of who pays the final bill, and in a time-effective manner, the repair periods and costs would be reduced.

3.) If the hire and repair is provided by a company abiding to the terms of the ABI GTA, Chief Rentals maintains that the overall cost to the insurers does not increase. Whilst the GTA credit hire rates may be slightly higher than the rates that the at-fault driver's insurance company can achieve and the repair costs may not include discounts that the at-fault driver's insurance company are able to take advantage of, the fact that the ABI GTA restricts the repair process means that the overall repair time is shorter and therefore the overall claim costs are lower.

Chief Rentals have been told by a major insurance company in the UK market that they would rather repairs be arranged within the terms of the ABI GTA protocol as the time to authorise repairs is quicker than their own repair processes. If the hire company takes longer to get repairs authorised than the GTA process allows, they simply do not recover the hire charges for the duration of the delay. Therefore the insurer has a degree of certainty regarding the expected costs of the repairs and hire.

*2.8 During the OFT's market study, as examined in Chapter 3 of the report, the OFT found evidence that not-at-fault drivers' replacement vehicle costs appear to have been higher than they might otherwise be because:*

- many insurers, brokers and repairers were referring not-at-fault drivers to credit hire organisations when credit hire vehicles tend to be charged at higher daily rates than other options, in exchange for a referral fee*
- not-at-fault drivers appeared to receive replacement vehicles for longer periods than necessary, leading to further increased costs for insurers of at-fault drivers.*

1.) It is the insurance and claims management industry that has driven the increase in referral fees by requesting increasing amounts for the referral of their customers who require a vehicle.

It is not credit hire companies who have requested an increase in paying referral fees. The rates agreed by the ABI in the GTA do not take referral fees into consideration. The rates of hire were agreed as being fair rates for the provision of a vehicle and are reviewed on an annual basis to ensure that they remain competitive and reasonable.

2.) The ABI GTA provides guidelines for monitoring claims to ensure that the recoverable hire costs are not longer than were necessary.

### **Addendum Summary**

It is the view of Chief Vehicle Rentals that further development of the ABI GTA could provide the results that are required to allow the at-fault insurer some certainty and control over the hire and repair costs whilst also ensuring that the motorist is provided with a service to meet the motorists needs.

Chief Vehicle Rentals takes its obligations to deal with claims in accordance with the ABI GTA seriously and works closely with a number of insurers to ensure that the cost of the claim is settled in accordance with the ABI GTA protocol.

A number of insurance companies are now using credit hire and repair verification systems, operated by Sherwood Compliance Services and Validus, to ensure the settlement of claims within the terms of the GTA.

It is understood that the insurance companies who successfully use these systems are experiencing lower claims costs and it is Chief Vehicle Rentals belief that such options should be considered in order to assess whether they may be developed further to achieve the outcomes that are required.

Chief Vehicle Rentals is in no doubt that the motorist will not be best served by allowing insurance companies to control the provision of mobility solutions. It is clear that insurance companies are unable to deal with claims swiftly enough to provide the service that motorists require.

This is a belief held in respect of all mobility solutions but especially in respect of the niche markets that Chief Vehicle Rentals provides vehicles for. The complexities of providing plated taxis, private-hire vehicles and chauffeur cars means that only specialist companies such as Chief Vehicle Rentals provide such services.

If the replacement vehicle is not provided swiftly, the at-fault insurer is likely to receive a loss of earnings claim that exceeds the cost of the credit hire vehicle and the motorist who relies on a vehicle for their livelihood will face financial hardship and the potential loss of future business if contracts and service level agreements are breached.