



## **Competition Commission Inquiry into the Private Motor Insurance Market Summary of Views from the Motor Accident Solicitors Society**

### **Motor Accident Solicitors Society**

The Motor Accident Solicitors Society is a national association of solicitors representing the victims of road traffic accidents. We are a non-profit organisation and all of our members are experts in handling road traffic accident claims. We campaign to ensure that accident victims can receive access to justice.

We believe strongly that changes must be made across the sector to bring down the cost of motor insurance, reduce the incidence of fraud and address all bad practice within the industry. The industry must be reformed in a measured manner that does not throw good practice out with the bad and ensures that victims in motor accidents get appropriate representation.

### **OFT Inquiry and Referral to the Competition Commission**

MASS contributed to the OFT Inquiry and met the OFT team on several occasions. As requested, we have not re-sent the information we provided to them but would be happy to do so if required.

The OFT has shed light on the complexities of the sector, and the problems within the current market, that are driving up premiums. Our concern is about the elements of costs that are hidden from consumers.

We welcome the OFT's decision to refer the UK private motor insurance market to the Competition Commission and believe it as an important and necessary step in addressing the flaws in a complicated sector that currently is not working in the best interest of consumers.

We hope that the Competition Commission's investigation will take this work further and are keen to assist your work in any way that we can.

### **The Need for Reform**

The Government is introducing a number of changes that will affect the industry and its operation – which will be put in place by April 2013. We hope that many of these new provisions will help to achieve an improved market that we are all striving to attain.

We hope that the work undertaken by the Competition Commission will be conducted in light of this changing landscape and will identify the problems that remain.

## Key Issues

1. **Referral fees:** Referral fees within the industry are one of the factors that contribute to the increasing costs for consumers. Referral fees for personal injury cases have been banned as part of the wave of reforms coming from the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which will be brought into effect in April 2013.

However, referral fees are still prevalent in other aspects of the motor claims system, including referral fee from paint companies to insurers and credit hire referral fees to insurers and garages. As the OFT identified, these are some of the factors contributing to the increasing cost of motor insurance.

Broadening the current ban on referral fees to cover every aspect of claim should help to bring down costs to the at fault insurer, a saving which could be passed on to the consumer.

2. **Controlling the costs of claims:** The OFT report mentions that mechanisms are already in place that do provide the 'at fault' insurer the opportunity to control the cost of hire claims. For example, ABI General Terms Agreement that governs the hire claims process, including and limits time and cost to consumer. There is also established case law which gives the insurer control of the cost of hire. The challenge is to ensure that this works as well as possible.

MASS would be happy to engage in the enquiry to explore why these are insufficient and how modifications can be made without undermining long established legal principles.

3. **Third Party Capture:** MASS are firmly of the view that Third Party Assistance (or Third Party Capture) prevents, restricts or distorts competition and should be considered in more detail.

Third Party Capture includes a wide range of practices, such as insurers seeking to settle personal injury claims without consulting the victim's solicitor. This is one of factors contributing to fraud within the system and the rising cost of premiums.

4. **Focus on Accident Victims and Consumers:** MASS would also wish to emphasise that accident victims and consumers should be the primary concern of the investigation. Accident victims must have access to justice and the opportunity to seek full and proper redress and no one should be priced out of the market.

## How MASS can Assist

MASS is keen to assist the Competition Commission in any way we can. We will be able to provide you with:

- Industry knowledge – we have detailed knowledge of case law in the motor accident and insurance sector;

- Examples and cases studies - we hold examples of specific cases that demonstrate the operation of the system that grant the opportunity for 'at fault' insurers to control the cost of hire and repair claims;
- Survey data – In response to the Government's proposals to tackle whiplash fraud, MASS is currently running a public survey on whiplash claims and the proposed increase to the small claims limit;
- Information from our members – MASS represents nearly 200 solicitors practices. Depending on the scope of the inquiry we may be able to call on information held by our member firms to assist with the investigation.

**Motor Accident Solicitors Society  
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